Report

of the

North Dakota

Legislative Research Committee

Pursuant to Chapter 54-35 of the 1953 Supplement

to the North Dakota Revised Code of 1943

Thirty-fifth Legislative Assembly

1957

North Dakota
Legislative Research Committee

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The Honorable John E. Davis
Governor of North Dakota

Members, Thirty-fifth Legislative Assembly
of North Dakota

Pursuant to law we have the honor to transmit to you the report and recommendations of the Legislative Research Committee to the Thirty-fifth Legislative Assembly.

This report includes the reports and recommendations of the Legislative Research Committee in the fields of assessment and taxation, business and cooperative corporations, game and fish, Indian affairs, licensing and inspections, mental health, mill storage of grain, social security, public welfare, statutory revision, transportation, and other miscellaneous subjects considered by the Committee. In addition, you will find a short explanation of all bills being introduced by the Legislative Research Committee.

Respectfully submitted,

NORTH DAKOTA LEGISLATIVE
RESEARCH COMMITTEE

Ralph Beede

Ralph Beede
Chairman

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Summary

Briefly - - - This Report Says

Mental Health

The Committee in its study found our laws governing the commitment and care of the mentally ill to be very cumbersome, outmoded, and actually of a criminal nature. The Committee has, therefore, prepared a bill completely revising and modernizing all of our laws dealing with the care and treatment of the mentally ill. The proposed bill attempts to carry out the philosophy that a mentally ill person is actually a sick person and should at all times be treated as such. It also attempts to remove the stigma that has often previously prevented individuals from voluntarily seeking admission to mental hospitals for early treatment.

In evaluating our present mental health program, it became the firm conclusion of the Committee that the most necessary step in further improvement involved obtaining additional qualified personnel, especially psychiatrists, to staff our mental health agencies. Because of the extreme national shortage, it is impossible to even buy such personnel with high salaries. The value of having an adequate qualified staff to carry on an intensive treatment program has already been demonstrated in our state hospital where even with its limited program the average population of the hospital has declined while admissions have more than doubled. It has been proven in Kansas and a few other states having an advanced intensive treatment program that large numbers of mentally ill persons can be returned to society as useful citizens instead of wasting away their lives in institutions. In the long run, it is also probably less expensive for the state to spend an adequate amount of money to provide such a treatment program than to continually construct additional buildings to house the increasing numbers of mentally ill under a custodial program.

After contacting Kansas and Nebraska, both states agreed to make their very excellent psychiatric training facilities available to resident physicians from North Dakota. However, because of the length of time involved in completing such a residency in psychiatry it will probably be necessary to

provide a limited scholarship program to physicians who agree to enter the program and return to North Dakota institutions and agencies after the completion of their training. The Committee therefore recommends a bill authorizing the Medical Center to encourage the provision of psychiatric training facilities and to provide scholarships from Medical Center funds to physicians agreeing to enter the residency training in psychiatry and to return to North Dakota thereafter and serve in our mental health institutions and agencies.

Business Corporations

In North Dakota we have seen, and will continue to see, a great growth in the use of the corporate structure as a means to do business. Our laws in this respect must be suitably geared to serve the needs of industrial growth today and in the future. Where the corporation is the ordinary three-man or family corporation, our law today (basic provisions enacted in 1895, with some amendment in the 1920's) may be adequate. But it is unrealistic, expensive, and unduly restrictive for the modern corporation consisting of many people who are pooling their resources to further a joint enterprise. Such corporate investors rely on good management to do the job. What they need and want is management which can be called to account for fraud or gross errors in judgment, but which will have a relatively free hand in directing the business, except where the capital assets or individual shareholders' rights are concerned.

A corporation and its managers have only the powers allowed by statute, its charter, or bylaws. The recommended bill spells out powers that were merely implied in the past, and grants permission for much more power if agreeable to the shareholders, who have basic control of the corporation.

The secretary of state and attorney general continue as the public officials charged with supervision of corporate activity, but they are given more definite authority with their responsibilities.

The new Business Corporation Act does not apply to cooperatives, benevolent, charitable, fraternal, banking, or building and loan corporations, nor to other special corporations unless the laws governing them make express reference to the general corporation law.

The law will not be effective for existing corporations until July 1, 1959, unless elected earlier by resolution of the shareholders. For corporations organized after July 1, 1957, it is immediately effective.

Cooperative Associations

Cooperatives are presently governed by several overlapping, ambig-

uous, and uncoordinated statutes, complicated by implied or expressed incorporation of some provisions of the general corporation laws.

A cooperative partakes of many characteristics of a general corporation, yet in operation and under public policy they are considerably different from corporations.

The recommended bill will provide a single general cooperative law, independent of general corporation statutes. Special cooperatives such as electric or telephone cooperatives will retain necessary specially applicable provisions, but refer to the general cooperative Act for general operation.

The bill is based largely on the Wisconsin law, which was adopted there after a comprehensive and scholarly study. Cooperative officials and members have gone over the Act and are favorable to its adoption. Credit unions, electric, mutual aid, grazing and insurance cooperatives are exempt from its application except where the special laws governing them clearly adopt or refer to the general cooperative law. For existing cooperatives, the Act will not be effective until July 1, 1959.

Indian Affairs

The Committee was directed by the Legislative Assembly to negotiate with the Federal Government to obtain reimbursement for the costs to the state and political subdivisions in assuming the duties of law enforcement on Indian lands. However, since the constitutional amendment to allow the State to assume such functions failed to pass at the June, 1956 Primary Election no action was taken in this field. It came to the Committee's attention, however, that the State of North Dakota and other Midwestern States were not receiving adequate reimbursement for services presently performed for Indian people in the fields of education, welfare, and others. The Committee has therefore worked jointly with similar committees of the States of Minnesota, South Dakota, and Wisconsin in an attempt to arrive at a common program for presentation to the Congress by the congressional delegations of the four states in an attempt to obtain adequate reimbursement for services performed, or at least obtain the same reimbursement as the Southwestern States. The Committee believes that the final solution to the Indian problems is full integration of the Indian people with the white citizens of the state. As an important step in attaining such integration, the educational, welfare, and law enforcement services of the state must be made available to our Indian citizens on the same basis as for white citizens. However, the State can afford to do this only if the Federal Government will recognize its full responsibility in this field and provide adequate reimbursement to the State for services performed for Indian people.

Statutory Revision

A revision of general business corporation laws and the laws governing cooperative associations was conducted under supervision of separate subcommittees, as was a revision and study of mental health laws, separately reported herein.

The Committee recommends deletion of statutory restrictions on the form of introduction of bills, since this is duplicated and controlled by Senate and House Rules. Likewise, an amendment to legislative rules is recommended to require Committee-sponsored, long, amendatory bills, not using the device of bracketing deleted language and underlining new language, to substitute appropriate notations outlining the change to be effected. The notation method in such cases would be more realistic and economical, so that the legislator will know in a less confusing way the difference between the old and the proposed law.

The Committee studied an analysis of legislative activity since 1943, by Code title and volume, and considered various plans for continuous revision of the Code as well as republication of the volumes. They feel that the main portion of the Revisor's work should be directed to preparation of revision bills rather than mere republication of volumes. Such republication would mean compilation without improvement, unless entire volumes were submitted for the Assembly to pass upon, and this is what continuous revision is intended to avoid.

The Committee recommends the coming biennium be devoted to publication of the 1957 Session Laws and publication of a 1957 Supplement including session laws from 1943 through 1957, followed by preparation of desirable revision bills for the 1959 Legislature.

Mill Storage

The Committee was directed by the past Legislature to attempt to obtain interstate cooperation of the legislative research committees of the States of Minnesota and South Dakota and other officials in the State of Montana in an attempt to have all such states enact laws to prohibit the practice of mill storage or overshipment of grain to the Minneapolis market. After preliminary surveys, Minnesota and South Dakota reported that there appeared to be no evidence that such practices were widespread in those states and therefore did not feel there would be interest in legislation in the field. The Committee therefore contacted the North Dakota congressional delegation in an attempt to obtain federal action. As a result of this, the Senate Committees on Agriculture and Monopolies have taken an interest, and action from these sources may be forthcoming. In addition, the Justice Department has also begun investigations of this practice. The Committee has reason to believe that action on the federal level will be forthcoming.

It has come to the Committee's attention that the "Roving Grain Buyer" bonding law does not give any protection to country elevators for the issuance of bad checks by roving grain buyers. Since a number of private and cooperative elevators have suffered substantial losses from this source during the biennium, it is recommended that the bonding law be extended to cover dealings with elevator operators.

Public Welfare

After surveying the level of payments in the Old Age Assistance and the Aid to Dependent Children programs, the Committee finds that North Dakota ranks seventh and thirteenth respectively in the nation in level of average payments per recipient. Average payments for OAA increased $7.56 per recipient per month during the biennium while average ADC payments increased $4.54 per month. The Committee does not believe the budget of the state for welfare purposes will decrease in the foreseeable future. Appropriation requests allowed by the Budget Board exceed the income to the Welfare Fund by about two million dollars. In view of these factors, the Committee does not recommend any increase in the level of OAA or ADC payments during the coming biennium. The change in the county matching formula of OAA payments made by the past Legislative Assembly has reduced the county share of this program, but increases in other welfare costs have prevented any decrease in the total county welfare budgets.

The Committee has also reviewed the present requirements for the care of the mentally retarded at the Grafton State School and of tubercular patients at San Haven. At present, the Grafton School is overcrowded by approximately 200 patients and has a waiting list of 125 patients. The waiting list is growing at the rate of five per month and would at least double if facilities were available to give hope of admission within a reasonable period of time. The new building under construction at the School will take care of only the immediate waiting list and will not relieve the crowded conditions or take care of the new waiting list that will immediately occur. The large institution at San Haven will have only 60 to 70 tubercular patients within two years, but could be renovated for less than $500,000 to care for approximately 300 mentally retarded patients. Because new central facilities would have to be constructed to care for 300 patients at the Grafton School, the cost of expanding the School to care for this number would be approximately $2.5 million. A new tuberculosis hospital could be constructed in connection with the Medical Center at Grand Forks through the use of Medical Center Funds and federal hospital grant moneys without use of General Fund revenues. The economies of a small modern hospital over the large San Haven institution with its small patient load would probably pay for the state's investment in the hospital over a period of years. The Committee therefore recommends the construction of a new tuberculosis hospital at the Medical Center and the renovation of the institution at San Haven for the care of the mentally retarded.

Assessment and Taxation

The soil reconnaissance survey being carried on by the Agricultural College as directed by previous legislative assemblies will be completed during the summer of 1957. This survey has included the mapping and classification of all major soil types in all areas of the state. Data is also being gathered to obtain the average crop yield on certain bench mark farms of each soil type in the various portions of the state from which can be calculated the average income per acre. This income when capitalized will give the average value per acre of each soil type on the bench mark farms. These farms with known valuations can then be used as yardsticks in determining the assessed valuation of other farms in each county having similar soils and characteristics and for equalization purposes. When detailed soil mapping of the state is complete, it will be possible to use the same method in determining the value of each acre of land in the state and thereby remove the guesswork from rural land assessment and equalization.

In the Committee's opinion, this improved method of assessment and equalization of rural lands cannot be carried on with untrained part-time assessors as now is done under the township and municipal assessment system. The Committee therefore recommends the establishment of a county assessor system under which trained persons would be appointed to the office of county assessor on a full-time basis. This system is now used in thirty states in the country, with only ten having the township assessor system presently used in North Dakota.

The adoption of the county assessor system will necessitate a change to the self-listing of personal property by the taxpayer with the valuation to be placed thereon by the county assessor on the basis of average or book value. Of the forty-five states having a personal property tax, thirty-nine use the self-listing system.

In order that the listing of personal property on household and personal items does not become too burdensome, it is recommended that such items be classified into groups and that the taxpayer be allowed to place a blanket valuation thereon. Unless such total valuation exceeds $100 in each class, it is recommended that such property be exempt. The assessor would be required to make sufficient spot checks to assure the accuracy of such self-listings. It is also recommended that the poll tax be repealed. These changes would have the result of removing a number of extremely small taxpayers from the tax rolls, but the loss of revenue would be small because cost of collection of such taxes even today leaves little net revenue. In addition, it has been the experience of other states that self-listing procedures place an increased amount of property on the tax rolls, and in the Committee's opinion this would more than make up any losses resulting from the additional exemptions and the repeal of the poll tax.

It is recommended that the office of city assessor in cities having a

population in excess of 10,000 be retained in all cases, and retained on a local-option basis in cities having a population of 5,000 or more, but that such assessors be under the supervision of the county assessor.

The entire purpose of the Committee's recommendations is to equalize taxes between taxpayers and between political subdivisions—not to increase taxes from property. Therefore, the Committee recommends that all political subdivisions be prohibited from levying more taxes in dollars and cents than would have resulted from the application of the maximum mill levy available to any political subdivision to the 1956 valuations plus three percent. New property added to the tax rolls after 1956 would not be subject to this limitation.

Public Employees' Insurance and Retirement

The Committee and the North Dakota Old Age and Survivors System employed the Bureau of Business and Economic Research of the University of North Dakota, under the direction of Dr. S. C. Kelley, Jr., to conduct an actuarial study of the state OASIS fund. Copies of his report are in the hands of all legislators.

The actuarial study shows that the financial basis of the OASIS fund is unsound, and that the present system is not accomplishing its avowed purposes of inducing public employees to continue in employment, of making public employment more attractive to qualified people nor of encouraging superannuated employees to retire and be replaced. There is presently about $2 million in the fund, and $8.5 million current vested liability. There is a total of over $41 million present potential liability.

The benefits for employees under federal social security are substantially greater than under state OASIS.

The alternatives open to the legislature depend on whether or not public employees vote favorably for Federal Social Security coverage, on December 20, 1956.

If the employees vote no federal coverage, the present system can be continued only by drastically increased contribution rates; actually it might be best to discontinue the program in such case, providing only for payment of vested benefits and gradual dissolution of the fund.

If the employees vote for federal coverage, emergency legislation should be passed to allow execution of a federal-state agreement prior to July 1, 1957. This would permit retroactive coverage for employees commencing January 1, 1955, with the approximately $2 million balance in the OASIS fund going to pay the necessary back contributions for employer and employee.

If federal social security is adopted, OASIS should be continued on a modified basis to:

a. Pay benefits to persons entitled before the effective date of the agreement.

b. Pay a "Prior Service Benefit" for retirement only, in return for the contributions already made by employees between July 1, 1947 and January 1, 1955.

c. Retain the OASIS fund temporarily as a trust fund, contributed to only by the employer through a 1% payroll tax, to liquidate the above existing liabilities.

Dr. Kelley recommends adoption of a supplemental program if social security is voted, which would be in the nature of a retirement annuity. This is because social security alone is not deemed adequate to meet all objectives of a complete system. The benefit levels otherwise would not be competitive with those offered in private employmnt or in many areas of public employment. This annuity program is also vigorously urged by public employee groups. The Committee feels that this supplemental program is advisable and necessary for a complete insurance and retirement system, and would be in the best interests of both state and employee. The elements of this supplemental program would be:

a. 1% tax on employer and 1% on employee on the first $4,200 salary.

b. Retirement annuity payable at termination of employment or retirement at age 55 or older, for those contributing for ten years, or at retirement for members attaining 65.

c. The retirement annuity benefit should be equal to the actuarial equivalent of three times the member's contribution with 2½% compound interest.

d. Refund of employees' contribution if desired after four quarters of employment, at 2% compound interest, should be provided.

Adoption of the recommended program is needed to rescue the state from our present completely inadequate insurance and retirement program.

Licensing and Inspection

Considerable duplication of inspection efforts exists between the Attorney General's Licensing Department and the State Laboratories Department. Of all the licenses issued by the Attorney General's Licensing Department, only the licensing of retail liquor sales and of amusement devices

serves any real useful purpose. Since such licenses do not bring in sufficient revenue to pay administration costs, they are recommended for repeal. The licensing and inspection of retail liquor dealers and of amusement devices is recommended for transfer to the State Laboratories Department. This will eliminate the Attorney General's Licensing Department entirely together with the positions of six field inspectors and the chief inspector.

Inspectors of the State Laboratories Department duplicate many of the inspections of District Health Units in the twenty-nine counties having such health districts. Thirteen out of fifteen counties replying to a questionnaire have requested that only the District Health Units carry out these inspections. It is therefore recommended that the State Laboratories Department discontinue the inspection of restaurants, hotels and lodging houses, tourist camps and cabins, and general food processors in the twenty-nine counties included in District Health Units and that the inspections be handled by District Health Units.

The State Laboratories Department maintains two oil and gas inspectors in addition to the seven regular district inspectors. No valid justification can be found why such inspections cannot be handled by the seven regular inspectors. It is recommended that the Appropriation Committees eliminate the funds for such purposes, thereby entirely removing two inspection positions.

It is recommended that the Livestock Dealers Department of the Public Service Commission be transferred to the Dairy Department which can handle all such inspections without any additional inspectors thereby eliminating one inspector position.

The Auto Transportation Division of the Public Service Commission has six field inspectors enforcing safety regulations and checking licensed carriers. To remove confusion resulting from so many agencies inspecting or enforcing motor vehicle laws and to promote efficiency, it is recommended that such field enforcement be transferred to the State Highway Patrol.

The Weight Control Division of the State Highway Department has fifty persons engaged in operating scales and enforcing weight laws, motor vehicle tax laws and similar items. For the purpose of removing confusion and the promotion of the most efficient use of personnel in the enforcement of all motor vehicle laws, it is recommended that this division be transferred to the State Highway Patrol effective January 1, 1959.

The State Dairy Department and State and District Health Units duplicate each others' inspections of milk and dairy products. It is recommended that each agency be required to accept the inspections made by the other agency and that uniform standards be used.

In order to aid the State Laboratories Department in obtaining and retaining competent inspectors, it is recommended that a limited merit system be adopted.

The Committee believes the adoption of its recommendations will result in substantial economies, provide improved enforcement and inspection, and remove the nuisance to businessmen and farmers of duplicate inspections.

Game and Fish

Generally in the forty-eight states, two types of management for the administration of wildlife resources have developed: these are the executive or director type and the commission type agency. Since these systems are being used in the several states, the Legislative Research Committee has undertaken the study of the advantages and disadvantages of both systems.

It is generally agreed that the executive or director type system affords the administrator an opportunity to make his own decisions without delay. This system also creates a direct line of command running from the people to the Governor and through him to the Game and Fish Commissioner. The appointment of exceptionally able men to the position of department head and the employment of a merit system for employees of the Game and Fish Department have been the principal factors in the success of this system. Some potential deficiencies in this single type game and fish management are the appointment of a commissioner on a political basis without regard to interest or qualifications, and then in turn making changes within the department for political reasons.

The appointment of a game and fish commission from a list of applicants submitted by agencies having no direct political interests does greatly remove the danger of active partisan politics in game and fish management. At the same time, this type of management system encourages trained career-type persons to enter the employ of the Game and Fish Department and to be judged upon their individual merit rather than upon a political basis. The staggered terms of these commissioners would always assure experience on the commission, and would substantially eliminate the void that occurs when a single commissioner leaves the office and a less experienced man takes over. It should be pointed out, however, that the commission members must limit their activities to a policy-making level, leaving all administrative details to the director.

It is the recommendation of the Committee that a middle ground using the advantages of each system should be established—that of a commissioner with an advisory board. The members of this advisory board would be appointed on an area basis and for staggered terms. It would be their function to advise the commissioner on all major policies and proposed hunting and fishing regulations of the department.

The Committee also recommends a limited merit system for employees of the Game and Fish Department, to remove the possibility of the dismissal of trained personnel for political reasons. This would be of substantial

assistance in obtaining and retaining highly competent employees for the Game and Fish Department.

Weight-Distance Tax

An objective and searching analysis of tax distribution of highway costs by the Bureau of Business and Economic Research of the University of North Dakota, for the Committee, was published and is in the hands of each legislator ("Equitable Highway Cost Allocation in North Dakota" by Dr. Koenker).

This report discloses that highway costs are not distributed fairly among the various highway users, so that the heavy (20,000 pounds gross weight and over) long distance hauler is not paying his fair share of the costs, and that this is particularly true of the foreign chartered heavy truck. The report, and highway department data, also reveal that our present system of "reciprocity" for truck licensing is functioning to the disadvantage of domestic trucks, the state, and the general taxpayer, through evasion.

Dr. Koenker's report, and personal observations of Committee members in personally visiting Kansas, Wyoming, Idaho and Oregon where weight-distance taxes are, or have been, in force, show that such a tax would not be administratively burdensome nor costly, nor have an adverse economic effect on the state.

The recommended weight-distance tax bill is not a "ton-mile" tax. It would apply only to trucks over 24,000 pounds gross weight (i.e., three axle trucks), except public vehicles and those coming less than ten miles inside state borders. The Highway Commissioner would administer the tax, using existing equipment and personnel of the department and of the highway patrol. Operators will file monthly mileage reports for the preceding month, unless the highway department permits quarterly filing.

The rate of the tax would be calculated to yield not significantly more than the present yield of registration and ton-tax payments for over 24,000 pound trucks, while their present registration fees would be substantially reduced and the ton-tax eliminated. However, it is anticipated that overall revenue will increase from increased domestic registration because of the favorable low registration rates. This added revenue will be money that truck operators now not registered here are presently paying other states, while using our highways practically free of cost except for fuel taxes.

Weight-distance taxes, in themselves, are not designed to get more revenue—this is dependent on the rate. However, the weight-distance method will more easily and accurately procure from each class its proper share of costs. The recommended rates will adjust inequities in the over

24,000 pound class of trucks but will not completely adjust unfairness between these heavier trucks and the light trucks and passenger cars. By first adjusting the inequities in this heavy weight group, a step will be taken in the right direction. However, if reduction in registration fees results in increased registrants as anticipated, some adjustment of the inequity between light and heavy vehicles will be effected. The trucking industry may not at this time be able to pay its full fair share of highway costs, so that it may be that they should continue in part to be subsidized by other highway users and taxpayers.

A Montana interim legislative committee has also prepared a weight-distance tax bill for the consideration of the Montana legislature. Six other states (Oregon, Idaho, Wyoming, Colorado, Ohio, and New York) already have enacted such a weight-distance tax.

Informational Reports

At the request of Senators Davis, Hernett, and Meidinger a report upon the subject of **Industrial Development and Promotional Activities** has been prepared. A tabulation on **Oil and Gas Taxation in the States** has also been prepared at the request of Senator Leier. Since these reports are of general interest to all legislators, the Senators requesting them suggested that they be included in the Committee's biennial report. These reports are not suitable to summarization, and therefore it is suggested that the full text of such reports be read at a later point in this publication.

Included also are recommendations for possible improvement in the **House and Senate Committee System,** in order to cut down the number of committees on which one member need serve and to avoid conflicting committee meetings.

Notes

History and Functions of Legislative Research Committee

HISTORY OF THE COMMITTEE

The North Dakota Legislative Research Committee was established by act of the 1945 Legislative Assembly with amendments to this law passed during the 1947 Assembly.

The legislative research committee movement began in the State of Kansas in 1933 and has now grown until 35 states and territories have established such interim committees, with further states considering this matter at their 1957 legislative assemblies.

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

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

The work and stature of the North Dakota Legislative Research Committee has grown each year since it was established in 1945. Among its major projects since that time have been revision of the House and Senate rules, soldiers' bonus financing, study of the feasibility of a state-operated automobile insurance plan, a study of highway engineering and finance problems, a study of oil and gas regulation and taxation, tax assessment, drainage laws, reorganization of state education functions, and highway safety. Among the major studies included in the work of the Committee during the present biennium are assessment and taxation, business and cooperative corporations, game and fish, Indian affairs, licensing and inspections, mental health, mill storage of grain, social security, public welfare, statutory revision, and transportation. In addition, many subjects of lesser importance were studied and considered by the Committee, some of which will be the subjects of legislation introduced by the Committee during the 1957 Session of the Legislature.

FUNCTIONS OF THE COMMITTEE

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

laws of the State of North Dakota into one cumulative Supplement to the Revised Code of 1943.

METHODS OF RESEARCH AND INVESTIGATIONS

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

During the past interim, on such major and technical studies as the weight-distance tax study and the actuarial study of OASIS, the Committee by contract obtained the services of the Bureau of Business and Economic Research of the University of North Dakota to assist in the studies and to make a report to the Committee. In this manner, the services of highly competent personnel were obtained for the Committee, and the Committee feels that it has obtained extremely sound and unbiased studies at a very economical cost.

In all other instances, the studies carried on by the Legislative Research Committee during this interim were handled entirely by the subcommittee concerned and the regular staff of the Committee. On certain occasions the advice and counsel of other people employed by state government has been requested and their cooperation obtained.

REGIONAL MEETINGS AND INTERSTATE COOPERATION

The Legislative Research Committee is designated by statute as the State's committee on interstate cooperation. The most important and noteworthy activity of the Committee in this field has been through the North Central Legislative Conference, which held its biennial meeting at St. Paul. While a number of matters of an interstate nature were discussed, a concrete proposal for joint action by the States of Minnesota, North Dakota, South Dakota, and Wisconsin through their congressional delegations to obtain equal treatment in reimbursement from the federal government for services provided Indian people was approved. A full explanation of this plan and its expected result in aiding in the solution of Indian problems is to be found later in this report.

Current Legislative Problems

CONDITION OF STATE FINANCES

Without question, the most difficult problems facing the Thirty-fifth Legislative Assembly are financial in nature. The General Fund, which supports the normal governmental activities of the State plus its charitable and penal institutions and the institutions of higher learning, is especially hard pressed. Requests for appropriations from the General Fund to the State Budget Board totaled over $42 million not including requests for funds for new buildings at institutions of higher learning. Because money available in the General Fund during the next biennium is expected to total only about $32.5 million, the Budget Board was forced to trim over $10 million from these requests.

While the Legislative Assembly would probably not see fit to grant all of such requests in their entirety even if money were available, the budget cuts to the degree found necessary by the Budget Board will very definitely make it impossible to adequately provide services in a number of important fields. For instance, even with the provision of additional facilities for the care of the feebleminded through the use of the institution at San Haven, as recommended later in this report, the Grafton State School very badly needs additional facilities to care for the existing waiting list and to overcome crowded conditions. The State Hospital needs new facilities to replace certain obsolete and dangerous buildings presently in use. Many governmental agencies are having an extremely difficult time in obtaining or retaining competent personnel because of inadequate salaries. These are only a few of the problems facing the Legislative Assembly because of inadequate General Fund revenues.

The matter of a shortage of highway revenue to match federal highway aid moneys is still not completely solved in spite of the action of the previous Legislature in providing additional permanent revenue. The State Highway Department has estimated that an additional $3 million annually will be needed to carry on the full program as provided in the new federal highway aid Act. In addition, the expanded federal highway program has created a definite need for additional office space not presently available in the Capitol Building to house the additional engineering staff required in the expanded program.

Ample funds for existing appropriations appear to exist, however, in the Welfare Fund, Equalization Fund, Game and Fish Fund, and other smaller special earmarked funds.

A complicating factor in government finance in North Dakota and many other states which has been making the problem of state finance more difficult in recent years is the trend toward the earmarking of state tax revenues for specific purposes. In North Dakota, for instance, almost 75% of our tax revenue is so earmarked, including such major revenue producing taxes as gasoline taxes, motor vehicle registration fees, sales taxes, game and fish license fees, the greater portion of the liquor taxes, and many others. As a result of this practice, the flexibility and discretion of the Legislature in balancing the total needs for funds by the various arms of state government against total state revenues has been substantially impaired.

STATE HAIL INSURANCE PROGRAM

In spite of changes made by the past Session of the Legislature in the laws governing the operation of the State Hail Insurance Department, the present biennium has seen a further substantial drop in the surplus and reserves of the department. The department had reserves of approximately $1,400,000 at the beginning of the 1956 hail insurance season, but had reserves of only about $500,000 at the end of the season. This reserve is very inadequate, and if changes are not made, it is very uncertain that the department will be able to continue through another season and still be able to pay its claims in full. It appears that the main difficulties of the department can be traced to the fact that it is unable to sell enough insurance in the low-loss areas to equalize the losses suffered in high-loss areas in

which the greater proportion of its insurance is sold. This in turn seems to be due to the fact that old line and mutual insurance companies are very active in writing hail insurance in the low-loss areas. Since their activities are not so great in the high-loss areas, the state writes the greater portion of the hail insurance in these areas.

The State Insurance Commissioner has recommended that the department be authorized to appoint resident agents for selling hail insurance in the same manner as private companies instead of attempting to sell it through local assessors, and that the department be allowed to determine a fixed rate for insurance on a township basis in the same manner as private companies. In the Insurance Commissioner's opinion, the only alternative to placing the State Hail Insurance Department on the same competitive footing as private companies is to withdraw the department from the field.

Since the Legislative Research Committee has not made a detailed study of these recommendations affecting the State Hail Insurance Department, it expresses no opinion in regard to them.

PUBLIC BUILDING NEEDS

The requests for funds for the construction of new buildings, primarily at state penal, charitable and higher educational institutions, are truly staggering. Total requests for immediate construction during the coming biennium for institutions of higher learning total $2,845,000. Requests from the State Board of Administration for additional or replacement facilities during the next biennium for the State Hospital, Grafton State School, School for the Blind, Training School, Penitentiary, and capitol office space add up to $6,590,000. In addition, the long range building program being requested for institutions of higher learning total $7,261,000 for dormitory facilities and $10,975,000 for other buildings. Because of shortage of General Fund revenue, the State Budget Board was unable to allow a single major building in its recommendations to the Legislature for construction during the next biennium, to say nothing of any commitments for any future long range building program.

Again, it is probably true that the Legislative Assembly would probably not provide for all such requests in full even if adequate funds existed, but many such buildings represent a real present and future need. If such requests are not met at least in part during the near future, there will be a definite decline in future years of both the amount and quality of education, service or care that the state agencies involved will be able to provide.

Reports and Recommendations

Mental Health

Senate Concurrent Resolution "0" in its title directed the Legislative Research Committee to study the mental health problems of the State of North Dakota with a view of introducing appropriate legislation. More specifically, in the body of the resolution the Committee was directed to conduct a comprehensive study and analysis of the mental health laws of the State in order to provide for the introduction of a bill for a single Mental Health Act for consideration by the Thirty-fifth Legislative Assembly. The Committee has interpreted this resolution as a directive requiring a substantive revision of all our mental health commitment and treatment laws, as well as considering means of generally improving the mental health program of the State of North Dakota. To carry on this study, the Committee appointed a subcommittee consisting of Representative Leland Roen, Chairman, Representatives Adam Gefreh and Guy Larson, and Senators C. W. Schrock and Iver Solberg.

Upon examination of the present statutes for the commitment and the care and treatment of the mentally ill, the Committee found them to be very archaic and outmoded. The commitment statutes are criminal in nature and proceedings thereunder are hardly conducive to the recovery of mentally ill persons. It became the Committee's intention to recommend modernization of these statutes in line with action taken by many other states and in accordance with modern thinking upon the care and treatment of the mentally ill. In addition, many of the statutes existing today were found to be administratively burdensome, the language often conflicting and ambiguous, and much of it served no useful purpose. The Committee, therefore, has completed a draft Act which completely revises our laws governing the care and treatment of the mentally ill.

The Committee will not attempt to give a detailed explanation of the new recommended Mental Health Commitment and Treatment Act in this report, but refers the reader to the bill which accompanies the report. The recommended bill, in effect, follows the principle that a mentally ill person should be treated like a sick person and anything in the commitment and treatment procedures that worked to the detriment of the patient should be avoided. However, it is necessary that there be some formalized procedure in order to protect the basic rights of the individual, both as to his property and his personal freedom. The Committee has, therefore, attempted to make the proceedings as informal as possible and conducted in a manner and in surroundings not likely to further injure the mental health of the patient, but at the same time protect his rights and property. In addition, the law attempts to carry out the philosophy that a mentally ill person is actually a sick person and to remove the stigma that has previously been present in the law which often prevented individuals from voluntarily seeking admission to mental hospitals for early treatment.

The new Act in effect retains the county insanity board as the board which must consider the involuntary hospitalization of mental patients. Its name, however, has been changed to the county mental health board which is a term more consistent with present concepts of mental illness. This board is also charged with the duty of making a determination as to the ability of patients or certain responsible relatives to pay for the costs of treatment in the case of both voluntarily and involuntarily admitted patients. Conferences upon the operation of the county mental health board were had with county judges of several counties and the present form of the Act was approved and recommended by them after certain changes.

In general, the Act requires the counties to provide for the care and treatment of all mentally ill persons in the county if it is determined by the superintendent of the State Hospital that they can be beneficially treated. If the patient or responsible relatives are unable to pay for such costs, it

becomes the obligation of the county, with normal State assistance, to provide such treatment. In addition, the Act provides for temporary emergency detention and treatment of mentally ill persons upon order of the county judge in instances where such patients are likely to injure themselves or others. However, safeguards are provided under which the patient must be released unless formal commitment procedures are promptly commenced. Provision is also made for the formal commitment of patients to the State Hospital who have previously entered the Hospital on a voluntary basis. In such instances, the commitment may be made by the Stutsman County Mental Health Board upon the petition of the Superintendent of the State Hospital when the release of such patient is deemed inadvisable. The costs to Stutsman County in such cases are to be borne by the county of the patient's residence.

It is believed by the Committee that the provisions of Chapter 50-05, relating to the care and treatment of alcoholics, are archaic and unworkable. The chapter apparently has not been used for many years and is, therefore, recommended for repeal by the Committee. Provision is made for the voluntary admittance of alcoholics and drug addicts to the State Hospital and, if their affliction is such that it affects their entire mental health, they may be committed involuntarily to the State Hospital by the county mental health board in the same manner as other mental patients.

In addition, the bill removes epileptics from the category of the mentally ill and feebleminded and also removes the prohibition against their marriage. It has been found through medical research that epilepsy is not inherited and present methods of treatment have shown conclusively that epilepsy can be controlled in a large majority of cases. In the light of present medical knowledge, therefore, it is improper to consider an epileptic as a mentally ill person or as feebleminded, unless the epilepsy is of such a nature that it has affected the mental health of the patient, in which case he may be hospitalized or cared for in the same manner as any other mentally ill or feebleminded person.

In addition, many other sections have been amended to remove the classification of "insane" for those patients entering the State Hospital. The Committee has not, however, in any way changed the definition of the word "insane" as used in criminal proceedings, since a large body of case law exists interpreting this word when used in that capacity and should not be disturbed by changes in statutory definitions. The bill specifically sets forth the fact that commitment to the State Hospital for treatment of a mental illness is not an automatic declaration of incompetency. The question of incompetency must be determined in the manner provided by law. This has always been the law in the State of North Dakota, but it has at times been confusing and the statement upon this subject will confirm the law as established by several Supreme Court cases.

In evaluating our present mental health program it has become the firm conclusion of the Committee that the most necessary step in further improvement involves obtaining additional adequately qualified personnel to staff our mental health agencies. It was found that North Dakota, in common with the rest of the nation, has only about one-third of the needed psychiatrists and other psychiatric personnel. In view of such a national shortage, it is not possible for North Dakota to provide an adequate psychiatric staff for its mental health program, regardless of the salaries offered. A few states, however, have taken steps to meet this shortage and the results in the mental health programs of those states have been remarkable. Even in North Dakota in the past four years, with its limited treatment program the average population of our State Hospital has declined, while the number of admissions has doubled. This is indicative of the fact that an intensive treatment program can return large numbers of mentally ill persons to society as useful citizens instead of wasting away their lives under custodial care in an institution.

It was found by the Committee that it was impossible for the State of North Dakota to provide for the training of psychiatrists since it was impossible to obtain qualified instructors. It therefore appeared that any program that might be encouraged by the State would have to use training facilities already established in other states. In order to evaluate the intensive treatment program of the States of Kansas and Nebraska and to de-

termine the possibility of using existing psychiatric training programs, three members of the Committee visited those states. The Committee found that it was possible for the State of North Dakota to send physicians to the Menninger Foundation at Topeka in order to obtain formal training in psychiatry. The Menninger Foundation is the outstanding psychiatric training institute in the country, and works in cooperation with the State of Kansas. The three State, Federal, and private psychiatric mental hospitals at Topeka are used in the training program of the Menninger Foundation. Under the 5-year residency program in psychiatry, three years are spent at the Menninger Foundation and at the Topeka State Hospital in formal training. The following two years are spent in residency at other institutions in the state. Therefore, in addition to the three years' formal training and the services performed at the Topeka State Hospital, the State of Kansas obtains an additional two years' service at other institutions while the psychiatric residents are completing the final two years of their residency program. Some of these psychiatrists stay on at the institutions after the completion of their residency program as permanent members of the staff.

In Kansas, therefore, the mental health program places brains before bricks. For instance, in 1950 it was estimated that the State of Kansas needed 4800 additional beds for its mental patients. Today Kansas does not need those beds, and instead of constructing such custodial institutions for the permanent long-time care of the mentally ill, they have invested their funds in providing trained personnel and have instead returned large numbers of these mental patients to society. In fact, from 1947 to 1953 Kansas hospitals decreased their population by 7.3% while the number of admissions more than doubled. At Topeka State Hospital, which has benefited most from the training program, being used as a training facility by the Menninger Foundation, a decrease in population of 26% was reported,with admissions more than doubled.

In Nebraska the Committee found a superbly equipped, newly established training facility for training of psychiatrists. While newer in years than the program of the State of Kansas, they are providing excellent training for psychiatrists. The State of Nebraska will also make this facility available to doctors from North Dakota to take their residency in psychiatry.

It is, therefore, the opinion of the Committee that the State should enter upon an intensive treatment program and that the first step to facilitate this program is obtaining an adequate staff. Since, because of the national shortage, we cannot buy a professionally trained staff, it will be necessary for us to provide the training for them. Because few doctors, upon completion of their formal medical training and normal internship and residency, desire to enter into an additional 5-year residency in psychiatry, it has been found necessary by all states participating in a training program to provide scholarships or stipends to the psychiatric residents during the 5-year period of their training. Arrangements can be made for the State of North Dakota to send two to four qualified physicians into such a residency program each year. Upon the completion of their three years of formal training in Kansas or Nebraska, the psychiatrists can then return to the State Hospital or other institutions or agencies in this state to complete the final two years of their residency. Therefore, in consideration of paying a stipend for five years while serving their residency, the psychiatric residents will perform services for the State for two years in its mental health program. It is hoped that some of the residents participating in this program will stay on with North Dakota mental health agencies as permanent members of their staffs. It appears probable that the total amount of stipend during the entire five years of the residency program will not be greater than the salary normally paid a psychiatrist for two years of service. Therefore, in substance, we will obtain two years of definite service from such psychiatrists at a cost not greater than the salary normally paid during such period, and will in fact be able to obtain psychiatrists when they are now unobtainable at any price. In addition, it is probable that some of the psychiatrists participating in the residency program will stay at the institution or agency upon the completion of their residency program.

Another facet of our mental health program which appears very promising is the establishment of out-patient clinics at several points in the State. Such out-patient clinics have several real advan-

tages. First, they provide a place where the mentally ill may obtain treatment without being formally admitted to the State Hospital. In addition, it is likely that mentally ill persons will voluntarily obtain early treatment before the illness becomes too severe and therefore prevent, in many cases, their subsequent admission to the State Hospital as formal patients. In addition, it would then be possible to release patients from the State Hospital at an earlier date if they participate in an out-patient treatment program in their home area. An out-patient clinic is now being operated at the State Hospital for residents from all over the state, but because of the limited staff and the great distance many persons must travel, it cannot begin to meet the needs of the people of the State without expansion. If an adequate staff for out-patients can be provided through the training program discussed in this report, it is probable that the population at our State Hospital can be further reduced. It would appear to the Committee that such out-patient programs should be connected with the State Hospital, but should provide service to all mentally ill persons who could be directed to such clinics by state and local health departments and agencies, public welfare agencies, educational agencies, and any other agency that may come in contact with mentally ill persons.

It is true that an intensive treatment program together with an out-patient program as discussed in this report is not inexpensive. However, it can result in substantial savings in dollars and cents to the State over what it would cost the State to provide a custodial type program for the mentally ill. The difference would primarily be that instead of allowing the State's mental patients to waste away their lives in our institutions and requiring the State to continually build new buildings to house them, we would expend our money and efforts in the field of intensive treatment and thereby return such mentally ill persons to their families and to society as useful citizens.

The Committee is, therefore, recommending the passage of a bill authorizing and directing the Medical Center at the University of North Dakota to encourage the training of psychiatric personnel for the staffing of the mental health agencies of the State and to specifically provide for the training of psychiatrists. The Medical Center would be authorized to select physicians to enter the psychiatric training program and to use funds of the Medical Center in the payment of scholarships or stipends during the period of training. It is contemplated that the agency with whom the psychiatrist serves during the final two years of his residency program will pay the stipend during that period. The matter of the establishment of out-patient clinics will have to be considered by the Legislature at a later date when personnel becomes available and therefore no legislation upon this subject has been recommended at present.

All state and local agencies dealing with the field of mental health have been extremely helpful to the Committee in the course of this study. The Committee especially wishes to thank Dr. Russell Saxvik and the members of his staff at the State Hospital, Dean Theodore Harwood of the Medical School at the University, and Dr. G. D. Icenogle of Bismarck for their fine cooperation and assistance.

Business Corporations

The Thirty-fourth Legislative Assembly through Senate Concurrent Resolution C-1, directed the Legislative Research Committee to study and revise the laws of this state governing business corporations and to submit suitable legislation to the Thirty-fifth Legislative Assembly to accomplish this revision.

To carry on this revision a subcommittee was appointed, consisting of Representatives Adam Gefreh, Chairman, Ralph Beede, and Ivan Erickson, plus Senators Clyde Duffy and Carroll E. Day.

The Committee examined first into the status of our present laws. The basic provisions governing profit corporations were enacted in 1895. The amendments that have been made were passed mainly in the years before 1925. Because a set of statutes is old and relatively unchanged does not necessarily mean that it is obsolete or bad—indeed, the reverse would seem to be true and to indicate a certain satisfaction and worth. But in the case of corporations, with their phenomenal growth in numbers, size, and importance throughout the nation, it is unfortunately true that our corporation law has not kept pace with the progress and practice of its subject.

Our basic corporation statutes were drafted in a time when the corporation was not the commonplace business organization it is today, in a time when corporate activity was regarded with suspicion and managerial powers were restricted, and in a time before the impact and omnipresence of income tax laws and modern accounting procedures. Since a corporation has only those powers expressly allowed by statute and permissible charter provisions, or those necessarily implied therefrom, the result in North Dakota has been that managerial power is hemmed in by procedural difficulties and corporate activity is limited by rigid requirements.

In North Dakota we have seen, and are expecting to see increasingly, a great growth in the use of the corporate structure as a means to do business. Our laws in this respect must be suitably geared to serve the needs of our industrial growth today and in the future.

Where the corporation is the ordinary three-man or family corporation, our law today is probably adequate. But it becomes unrealistic, unnecessarily time-consuming and expensive for the modern corporation consisting of many people who are pooling their resources to further a joint enterprise. Such corporate investors rely upon good management to do the job. What they need and want is management which can be called to account for fraud or gross errors in judgment, but which will have a relatively free hand in directing the business, except for consolidations, mergers, dissolution, charter amendments, or where the basic capital structure or their individual shareholders' rights are concerned.

The Committee concluded that to bring the general corporation law up to date by amendment of particular sections would be well-nigh impossible, there being too many additions and corrections required, and the inadequacies being in some instances too basic. The North Dakota Bar Association Committee on Corporations had previously come to this same conclusion.

The North Dakota Bar Association Committee on Corporations reviewed the adequacy of corporation laws and reported in 1954, 1955, and 1956 that they were hopelessly inadequate without complete revision, and has recommended adoption of the Model Business Corporation Act as prepared by the Committee on Corporate Laws of the American Bar Association.

An examination of the Model Corporation Act resulted in the decision that, with several amendments, this Act would give us a well-planned, correlated and comprehensive law governing profit corporations.

This Model Act has previously been adopted practically verbatim by Texas, Oregon, Maryland, Wisconsin, Virginia and the District of Columbia. The new Acts of Indiana, Pennsylvania, Illinois, Missouri and Oklahoma are all direct ancestors of the Model Act in that the new Acts of those

states were followed closely by the American Bar Association Committee in drafting the recommended Model Act. In the 1930's many states, including Minnesota, adopted a "Uniform Business Corporation Act" which was an attempt to provide more realistic corporation laws, and which is basically similar to the Model Act, but this Model Act is a further improvement upon those laws.

This Model Act is not a Uniform Act to be rigidly followed, but is to be changed and modified to fit the needs of the state adopting it.

The fact that such an Act would have to govern existing corporations as well as future organizations poses several difficult problems, if we are to avoid unnecessary confusion, expensive procedure, and litigation. In order to acquaint existing corporations with the law and to give them time to make any necessary or desirable changes in charter or bylaws, the effective date of the Act as applied to corporations existing before July 1, 1957, is deferred until July 1, 1959, or to whenever the shareholders vote to be governed thereunder, whichever first occurs. For all other corporations the law is effective July 1, 1957. This will also provide a trial period under which unforeseen impractical elements in the law may be deleted and corrected by the 1959 Legislative Session.

All the changes and additions provided in this law could not adequately be set forth in this report, and must be determined from an examination of the bill itself, but it may be well to highlight some of the major items here:

1. Perpetual existence is granted all corporations unless otherwise elected by charter (Section 4);
2. More definite terms and definitions, such as "shares", "shareholders", "authorized shares" are used instead of "stock", "stockholder", and "capital stock", and definition of terms of an accounting nature are incorporated to clarify the law regarding dividends and distribution (Section 2);
3. One thousand dollars in value must be paid in for shares before commencing business (Section 52);
4. No residential or shareholding requirement for directors or incorporators (Sections 32 and 48);
5. Lack of corporate capacity and power can be asserted only in proceedings by shareholders against the corporation, in proceedings against officers or directors, or in dissolution or injunction proceedings instituted by the attorney general (Section 6);
6. The secretary of state is given definite authority and responsibility regarding certification and reports of corporations (Sections 130, 131, 132);
7. License and miscellaneous fees are generally adjusted realistically upward (Sections 125-128);
8. Nonliability of subscribers and shareholders after full consideration for their shares has been paid, no assessment of shares (Section 22);
9. The general powers of corporations are expanded to include such powers as to make charitable donations, lend money for corporate purposes, indemnify officers and directors against costs of unwarranted lawsuits, establish pension and other incentive plans for officers, directors and employees (Section 4);
10. Directors are jointly and severally liable to the corporation for provisions as to dividends or other distributions of assets, or for making loans prohibited by this Act (Section 43), and penalties are imposed for failure, falsehood, or fraud in dealings with the State (Section 129);
11. The bill will expressly exclude from its application such special corporations as public utilities, insurance, banking, cooperative, building and loan, annuity, safe deposit, surety, and trust companies, except where the special laws governing them make reference to the general corporation laws (Section 140);
12. The bill replaces chapters 10-01, 10-02, 10-03, 10-05, 10-14, 10-16, and 10-17 in the

Code, those chapters being repealed effective July 1, 1959. Provisions of Title 10 relating to corporate farming, stock transfers, cooperatives, charitable, fraternal and benevolent, and cemetery corporations, and supervision of securities are not disturbed; and

13. A separate bill amending reference statutes will bring outside sections of the Code into conformity.

Cooperative Associations

The same resolution directing a study and revision of the general business corporation law directed a study and revision of the cooperative statutes, and the business corporations subcommittee supervised this revision also.

The study immediately revealed that cooperatives are governed by several overlapping, ambiguous and uncoordinated statutes. Complications are present under the law because of incorporation by reference to the general corporation law, the possibility of choosing organization for the same purpose under one of two or more different cooperative chapters, and the use of skeleton statutory language governing some special cooperatives.

A cooperative partakes of many of the characteristics of a general corporation—in fact, as a legal entity a cooperative is in the same status. Yet in operation, and under public policy, cooperatives are considerably different from corporations. For example, a cooperative belongs to its members or patrons, not to outside interests or creditors; each member is allowed only one vote regardless of equity interest or stock, and proxy voting is prohibited; and earnings are distributed on a patronage rather than ownership basis.

There are other differences, too, not essential to the cooperative idea but nevertheless existent. Cooperatives are usually in rural areas, small in size, and need fairly simple and inexpensive procedures for organization and operation. There is usually available to interested laymen free, or at low cost, detailed advice on the operation of cooperatives, which is unobtainable in other fields except through retention of legal counsel. And there has been a continuing federal and state public policy to protect and foster cooperatives, giving them tax exemptions and protection from the anti-trust laws.

In conferring with cooperative association officials and their attorneys, a desire was expressed by them to have a single cooperative law applicable to all such associations, with special provisions for special cooperatives keyed to this general Act. The general provisions and form of Wisconsin's revised cooperative law was recommended for comparison and adoption.

Wisconsin adopted in 1951 a new business corporation code and in 1955 it adopted a new, independent, cooperative code, after a comprehensive study by legislators, attorneys, and officials of cooperatives. This cooperative code is very complete, and geared nicely to the philosophy and operational needs of the cooperative idea. The Committee feels that the Wisconsin approach is worthwhile and realistic, and the legislation recommended by the Committee is based largely on Wisconsin law, but incorporates desirable aspects of existing North Dakota statutes.

The recommended legislation is in two bills: House Bill 540 and House Bill 541. House Bill 540 is the general cooperative law, taking the form of amendment of Chapter 10-15, which is the broadest law under which cooperatives are now organized. This bill also repeals Chapter 4-07 (Cooperative Marketing Law) effective July 1, 1959, since that chapter is largely obsolete and its desirable features are included in the general cooperative law. The general cooperative law (H. B. 540) governs all cooperatives organized after June 30, 1957. Existing cooperatives shall retain their present status until July 1, 1959, or until they make suitable election otherwise, whichever is earlier, after which time they will be governed by the general cooperative law. These different effective dates are necessary to provide orderly transition to the new law, and to provide a trial period with a legislative session intervening for correction or inadequacies which may become apparent in applying the statute.

House Bill 541 contains a series of amendments to statutes which govern special cooperatives such as electric, telephone, grazing, and mutual aid cooperatives, likewise not effective until July 1, 1959. These amendments delete duplicate provisions applicable to those special cooperatives which are to be in the general cooperative law, making those cooperatives subject to the general statutes except for particular provisions retained which are peculiar to their businesses.

The revision of the cooperative law specifically exempts from its application, credit unions and electric, mutual aid, grazing, or insurance cooperatives, except where the special laws governing such associations clearly adopt or refer to the general cooperative law or Chapter 10-15.

Indian Affairs

House Concurrent Resolution Q-1 directed the Legislative Research Committee to study the matter of law enforcement upon Indian Reservations and to confer with the executive and legislative branches of government in regard to an equitable solution to the problems involved in the transfer of law enforcement upon Indian Reservations from the Federal Government to state authorities. This resolution was the result of a separate resolution of the Legislative Assembly referring to the electorate of the State a constitutional amendment which would permit the State of North Dakota to assume criminal jurisdiction over Indian lands. It was contemplated that the Committee would negotiate with the Federal Government in order to provide a suitable basis of reimbursement to this State and its political subdivisions to compensate them for their costs in assuming the law enforcement on Indian reservations. However, this proposed constitutional amendment was defeated by the electorate when submitted for a vote at the primary election in June of 1956. Since the failure of this constitutional amendment to pass made it impossible for the State to assume criminal jurisdiction over Indian lands, the purpose for which the subcommittee was appointed no longer existed. The subcommittee appointed for this purpose therefore did not function as such during the biennium. This subcommittee consisted of Representative Oscar Solberg, Chairman, Representatives Richard J. Thompson, Ralph Beede, and T. O. Rohde, and Senator John Leier.

The Legislative Research Committee however, upon its own motion, has been active in the field of Indian affairs. It has long been the opinion of many members of the Legislative Assembly, as borne out by previous resolutions from the Assembly, that the present Federal-State policies and activities in regard to the Indian population of this State were far from satisfactory. Such resolutions have stressed the point that the welfare of Indian people in this State is a Federal responsibility but that to date the Federal Government has not adequately fulfilled its responsibility in regard to Indian people.

It has been the opinion of the North Dakota Indian Affairs Commission and concurred in by the Legislative Assembly on several occasions that every move to improve the conditions of Indians in this State must be based upon two conclusions. One is the conclusion that Indians should be assimilated into the general citizenry of the State by a process of association with non-Indians in their day to day business, education and social relationship. The second conclusion is that although the welfare of Indians is properly accepted as a moral and financial responsibility of the Federal Government, administration of many of the present activities relating to Indians might well be transferred from the Indian Service to other agencies.

It is therefore the opinion of the Committee that so far as possible the Indian citizens of this State should be treated exactly as any other non-Indian citizen in every respect possible. Such equal treatment would generally involve the education of Indian people on the same basis as non-Indian people in integrated schools; making all the services of our various state welfare and special education programs available to Indians upon the same basis as non-Indians; and, the provision that all laws of this State would be equally applicable to Indian people as well as non-Indian people. If this policy could be put into force the Indian population would soon be integrated with the non-Indian population and the problem as such would cease to exist. If all such services were made available to Indians in all areas of the State, there would no longer be the need for Indian people to tie themselves to the reservations in order to obtain them. It is the firm opinion of the Committee that the perpetuation of the reservation system of Federal paternalism will merely perpetuate the Indian problem and anything that seeks to perpetuate this problem should be eliminated.

It is the opinion of the Committee however that, in view of the strained financial circumstances of the State and its political subdivisions, it cannot offer all of its facilities to Indians on the same basis as non-Indians without reimbursement from the Federal Government until such a time as Indian people do not constitute a liability

to the State which is greater than the liability of the State for its citizens in general. In the past the Congress, and more especially the Bureau of Indian Affairs, has been unwilling to adequately reimburse the State for any services provided to Indians. The State, at times, has offered assistance to the Indians on the basis of humanitarianism without reimbursement whatsoever, but this practice cannot be sustained by the State on a permanent basis. The State has in certain instances made some of its established institutional and educational facilities available to the Bureau of Indian Affairs for Indian people on a contractual basis which was supposed to reimburse the State for the costs involved. In most cases, however, the Bureau of Indian Affairs has failed to adequately reimburse the State, especially in the fields of elementary and secondary education, and the Committee believes that the State should at this time be very hesitant to enter any contracts for the provision of services without firm directives upon this subject to the Bureau of Indian Affairs from the Congress.

It has come to the Committee's attention that the Bureau of Indian Affairs attempts to negotiate with each state upon a different basis, and that no uniform pattern for the reimbursement of states exists. Many states, especially in the Southwest, have in the past been able to obtain much more favorable reimbursement agreements than states in the Midwest as a result of contracts with the Bureau of Indian Affairs and Acts of Congress.

Since the states in the upper Midwest have in general received unequal treatment in this field in comparison with certain other states, it appeared that this matter would be a fit subject for interstate action by states in this region.

In order to further interstate action upon this subject, representatives of the North Dakota Legislative Research Committee met with representatives of similar committees in the States of Wisconsin, Minnesota, and South Dakota in an attempt to agree to a common basis of action. As a result of this meeting, a statement of policy in this field, which statement of policy is in agreement with previous resolutions of the North Dakota Legislative Assembly, was agreed upon as a basis upon which all states should work. This statement of policy is set forth in full in this report and reads as follows:

NORTH CENTRAL STATES INDIAN POLICY DECLARATION

1. The scope of this proposed joint action and program is not to solve all Indian problems, but to crystallize inter-governmental relationships between the Federal Government on one hand and the states and political subdivisions on the other, as an essential first and necessary step to solving Indian problems.

2. Basic premise is that Indian welfare is a Federal responsibility.

3. The Federal Government is not meeting its total responsibility in providing services for Indian people.

4. The states and political subdivisions in many instances have established facilities that can be made available on a nonprofit cost basis to the Federal Government to assist it in adequately and economically meeting its legal and moral responsibilities.

5. The Federal Government has failed to provide necessary services; therefore, the states and political subdivisions have, on the basis of humanitarianism, been forced to provide certain vital services to sustain minimum levels of health, education and welfare for Indian people.

6. The policy of special privilege, crisis, and expediency as a necessary basis of negotiation in forcing the Federal Government to provide for the needs of Indian people is not conducive to the solution of Indian problems or to orderly inter-governmental state-federal relationships. It is unfortunate that some states have found it necessary to utilize these deplorable devices in order to force the United States Government to assume their proper responsibility in the field of Indian affairs.

7. There is no uniform, logical, or understandable Federal plan or pattern among the various states and even within states for providing such services to Indians, or for reimbursing

states or political subdivisions for services provided by states or subdivisions.

8. There should be uniformity among the various states in the provision of services by the Federal Government, or in the full reimbursement to the states or political subdivisions for providing such services in the following areas: (1)

(a) OLD AGE ASSISTANCE

Under Sections 303 (a), 603 (a), and 1203 (a) of Title 42, U.S.C., a regular matching formula of assistance from the Social Security Administration is given to the States participating in such program. Under the rehabilitation of the Navajo-Hopi tribe in the States of New Mexico and Arizona, and specifically, Section 639 of Title 25 of the United States Code, in addition to the regular contributions by the Federal Government made under Title 42 equal to eighty per cent of the total amount of contributions by the States is given to such States (New Mexico and Arizona) for Old Age Assistance of the Navajo-Hopi Indians.

(b) AID TO DEPENDENT CHILDREN

The identical situation is found in the program of Aid to Dependent Children as is found in A above.

(c) AID TO THE BLIND

In regard to Aid to the Blind, an identical situation is found under the citations contained in paragraph A and the citations specified therein.

(d) GENERAL ASSISTANCE

The enclosed survey shows that the Bureau of Indian Affairs takes care of the general assistance needs of Indians in the State of North Dakota, but the State and counties in the State of Minnesota finance this program. See Appendix A.

(e) FOSTER HOME CARE

According to the enclosed survey, in Minnesota the State administers the foster home care program for Indian children, but the cost is reimbursed by the Bureau of Indian Affairs, the same survey indicates that the State of North Dakota administers the foster home care program for Indian children and the State pays the cost thereof. See Appendix A.

(f) AID TO DISABLED

Under Title 42 of the United States Code, a certain matching formula is set up for all states participating in this program. There has been introduced in the Senate of the United States S. 3548 introduced on March 28, 1956, providing, in effect, that the same preference in special matching grants shall be given to the Navajo-Hopis of the States of New Mexico and Arizona under this program as is now given under Section 693 of Title 25 of the United States Code mentioned in paragraph A herein. A copy of S. 3548 is enclosed herewith. See Appendix B.

(g) CRIPPLED CHILDREN

The attached survey shows that the State of North Dakota and the State of Minnesota provide crippled children's care for Indian children on Indian reservations without reimbursement from the Bureau of Indian Affairs or the Federal Government, except under regular formulas. The attached survey also shows that the States of Arizona, Nebraska, and Nevada receive surgical and hospital expense re-

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(1) Appendix A and C show lack of uniformity of Indian Bureau policy for states having a large number of Indians. No attempt has been made in other areas to present policy in all such states. One or two examples were considered sufficient.

imbursed by the Federal Public Health Service for such expenditures for Indian children.

(h) CARE OF THE TUBERCULAR

There does not appear to be any discrepancy in the matter of the care of the tubercular. From the information available, it appears to indicate that the Public Health Service pays the complete per capita cost for the care of Indian tubercular patients by State institutions.

(i) CARE OF THE INSANE

In North Dakota, the Public Health Service pays the per capita cost of caring for such insane Indian people in the State Hospital. In the State of Minnesota, the Public Health Service does not pay the State Institution anything for the care of insane Indian people in the State Institution.

(j) CARE OF THE MENTALLY DEFICIENT

In the State of North Dakota the Public Health Service or the Bureau of Indian Affairs pays the per capita cost for the care of the mentally deficient in the State School for the Mentally Deficient. In the State of Minnesota, the State takes care of such mentally deficient without reimbursement.

(k) CORRECTION AND REHABILITATION OF JUVENILE DELINQUENTS

Page 208 of the Report of the Committee on the Judiciary, Subcommittee to Investigate Juvenile Delinquency, Report No. 1483, 84th Congress, 2d. Session, indicates that 45 Indian boys are in Federal correctional institutions in Colorado, Washington, D. C., Ohio, and Nevada. There are several Indian children in the North Dakota reformatory at Mandan and there are several children of Indian descent in the Minnesota correctional institution. No reimbursement is made to either the State of North Dakota or the State of Minnesota for such children being supervised and rehabilitated by either State. Federal correctional institutions are supported by Federal funds and Indian children cared for in such institutions are not a responsibility of the State of domicile.

(l) PRIMARY AND SECONDARY EDUCATIONAL SERVICES

The attached information secured from the Department of the Interior, Justifications for Appropriations, Fiscal Year Ending June 30, 1957, indicates that the State of South Dakota is receiving for Indian children attending the public schools $245 per pupil, the State of Minnesota $118 per pupil, the State of Oklahoma $42 per pupil, and the State of Iowa $487 per pupil. See Appendix C.

(m) LAW ENFORCEMENT ON INDIAN RESERVATIONS

The letter of the Secretary of the Interior under date of April 14, 1955, found at page 71 of the Interim Report of the Subcommittee to Investigate Juvenile Delinquency, Report No. 1483, 84th Congress, 2d Session, indicates that Klamath County, Oregon receives $50,000 to be used for the purpose of lending assistance in the law enforcement program on the Klamath Indian Reservation. Neither Minnesota nor North Dakota received such financial reimbursement.

9. To correct existing discrimination between and within states and present deficiencies, it is manifestly necessary that the states take concerted action before Congress and in securing uniform and equal administrative consideration from the Bureau of Indian Affairs.

10. Unless the existing deficiencies and practices are corrected the present discrimination against the Indian people and certain states

will continue and our Indian citizens will be prevented from achieving their rightful place in our society.

APPENDIX A

ADMINISTRATION AND FINANCING OF INDIAN WELFARE PROGRAMS IN SELECTED STATES

(Financing in Reference to Tax Dollars—State or Federal)

	General Assistance			Foster Home Care			Crippled Children		
State	Bureau	State	County	Bureau	State	County	Bureau	State	County
Arizona	x	–	–	x	x	–	x	x[b]	–
Colorado	–	–	x	–	–	x	–	x	–
California	–	–	x	–	–	x	–	–	x
Idaho	–	–	–	–	x	–	–	x	–
Minnesota	–	x	x	–	x[a]	–	–	x	x
Montana	x	–	x	x	x[e]	–	x	x[e]	–
Nebraska[d]	–	–	x	–	x	x	–	x[b]	–
Nevada	x	x[e]	–	–	x[a]	–	–	x[b]	–
New Mexico	x	–	–	x	x[a]	–	–	x	–
North Dakota	x	–	–	–	x	x	–	x	x
Oklahoma[d]	x	x	x	x	x	–	x	x[c]	–
Oregon	–	–	x	–	–	x[a]	–	x	–
South Dakota	x	–	x[e]	x	x[ef]	x[e]	–	x	–
Texas[d]	–	–	x	–	–	x	–	x	–
Utah	x	–	–	x	x	–	–	x	–
Wisconsin	–	–	x	–	x	x[al.]	NA	NA	NA
Wyoming	x	–	–	x	–	–	–	x	–

[a] Reimbursed by Bureau of Indian Affairs NA Not Available
[b] Surgical and hospital expense reimbursed by Federal Public Health Service
[c] Some Federal Funds are available
[d] No distinction made as to "on reservation" Indians; all are treated as other citizens of state
[e] Off reservation Indians
[f] Off reservation Indians with reservation residence
1. Contract to end June 30, 1956, and thereafter no federal funds will be available

SOURCE: Questionnaire replies received by North Dakota Indian Affairs Commission from state departments of welfare, May, 1956.

It was agreed by representatives of the four states that efforts should be made to gain the cooperation of the congressional delegation of each state concerned. It was hoped that the joint support in Congress by the congressional delegations of all four states plus such additional states as may be interested might stand some possibility of obtaining favorable congressional action and thereby place the upper Midwestern States upon the same footing as Southwestern States in reimbursement for services provided to Indian people. Following contacts with the congressional delegations, legislation has been prepared for introduction at the next session of Congress which would in effect provide for full reimbursement by the Federal Government to the states and political subdivisions for services provided to Indians. The congressional delegation of North Dakota has agreed to sponsor and support such legislation.

If such legislation is passed by Congress, it is recommended by the Committee that the State of North Dakota expand its services to Indians to the maximum possible extent upon the same basis as such services and facilities are extended to non-Indians. The only difference would be that when such services are extended to Indians the Federal Government should reimburse the State and its political subdivisions for the costs involved.

It is not contemplated that any immediate and sweeping transfers of responsibility would take place as a result of the passage of such legislation by Congress, but rather it is presumed that the State and its political subdivisions would gradually offer their educational and welfare services and facilities to Indian people upon a nonprofit, cost basis with reimbursement from the Federal Government. It is firmly believed by the Committee that only by this means can the present discrimination against Indian people be eliminated and the Indian people be fully integrated into the non-Indian population. As soon as full integration of Indian people is achieved, the Indian citizens will have achieved their rightful place in our society and the Indian problems as we have known them will cease to exist.

Statutory Revision

The powers and duties of the Legislative Research Committee under Chapter 54-35 and Section 46-0311 of the 1953 Supplement to the Code include correlating each legislative assembly's laws with session laws of preceding legislative assemblies and the North Dakota Revised Code of 1943, and by legislative resolution the Committee was directed to complete certain specific revisions.

A Statute Revision subcommittee consisting of Representative Ralph Beede, Chairman, and Representative Adam Gefreh, besides Senators Clyde Duffy, Don Holand and Carroll E. Day, was appointed to direct the program; assisted by an Advisory Committee consisting of Professor Ross Tisdale of the University of North Dakota Law School, Attorney Joseph A. Donahue representing the State Bar Association of North Dakota, and District Judge Eugene A. Burdick representing the North Dakota Judicial Council.

A revision of general business corporation laws and laws governing cooperative associations was conducted under auspices of a separate subcommittee, as was a revision and study of mental health laws. In addition to problems of general revision, the Committee was directed to make the revision of estray laws by House Concurrent Resolution W.

Existing estray law is mainly found in Chapter 36-13 of the Code, and is substantially the same as that adopted by the Revised Code of 1895. Those proceedings for taking up a lost animal are so burdensome and restrictive that they are virtually not used any more, although often estrays will be arbitrarily shipped to a stockyard or sales ring, there to be sold as estrays by the inspectors of the North Dakota Stockmen's Association.

The bill recommended by the Committee provides for summary notice by a possessor to the sheriff and for posting in the court house of notice of estray possession and its description by the sheriff, and then for public sale at a sales ring or private sale by the sheriff at not less than fair market value, with retention of proceeds, after costs, for one year for any claimant. The form of revision is amendment of Chapter 36-13, repeal of some duplicating authority in Chapter 36-22, and conforming amendments to harmonize statutes which refer to the old estray law. Chapter 17-02, relating to fences in stock districts, is repealed in a separate bill, since stock districts are no more in the law.

The Committee recommends amendment of section 46-0305 to delete the second paragraph requiring brackets and underlining in bills to show deleted or added material. This provision is a matter for the Senate and House Rules, since the statute does not bind any succeeding Legislature if they see fit to act otherwise. An amendment is likewise recommended for the Senate and House Rules adding language which will require Legislative Research Committee amendatory bills not using the device of brackets and underlining to substitute appropriate notations outlining the change effected. In long amendments of chapters or titles, the notation method would be more realistic and economical and allow the legislator to know in a less confusing way what the difference is between the old and the proposed law.

An office cross index file was established showing each instance wherein a statute is referred to in another statute, for the convenience and efficiency of bill drafters and legislators. Hence, in the future when a statute is amended, all other statutes referring to that statute may be checked for possible need on conforming amendments. Unless such amendments are made, there is often confusion and uncertainty as to the extent of the reference—whether to the law before being amended or after being amended.

The Committee studied an analysis of legislative activity by Code title and volume since 1943 and considered various plans for continuous revision of the Code as well as for republication of the published volumes. It was determined that although Volume 2 of the Code is probably most in need of republication, it was also true that two titles therein (namely Education and Elections) are most in need of revision, and it would not be economical to republish a volume which will likely be greatly amended in the near future. In addition,

there is a great desire for improving the index volume, and the Committee favorably considered the possibility of publishing a looseleaf index, when time and money permitted, in order to have a facility for continuously upgrading the index and for including a current index for the session laws and any compilations. Furthermore, there is a need for publication of a new Supplement to the Code, compiling the laws in the 1953 Supplement with those of the 1955 and 1957 Sessions.

The Committee feels that the main portion of the Code Revisor's work should be directed to preparation of revision bills rather than mere republication of any one of the Code volumes. Such republication at this time would mean simply a compilation without actual improvement, unless an entire volume were to be submitted as a bill for the Assembly to pass upon, and this is what continuous revision is intended to avoid. Therefore, they recommend that the coming biennium be devoted to publication of the 1957 Session Laws and publication of a 1957 Supplement to include the Session Laws from 1943 through 1957, followed by preparation of desirable revision bills for consideration of the 1959 Legislative Assembly. The necessary appropriation for the Session Laws and the 1957 Supplement has been included in the secretary of state's printing appropriation.

Mill Storage

House Resolution No. 10 directed the Legislative Research Committee to study the practice of mill storage as used in the grain trade for the purpose of obtaining cooperative action by other states selling their grain to the Minneapolis Grain Exchange to prohibit this practice. In the words of the resolution, the Legislative Research Committee was directed to "confer with similar bodies in the States of Montana, South Dakota, and Minnesota for the purpose of developing sound laws to prevent the practice of mill storage, thereby improving the market price of durum, hard spring wheat, flax and other small grains grown in this area, and that the Legislative Research Committee make its report of recommendations to the Thirty-fifth Legislative Assembly in such form as it may deem expedient." A subcommittee consisting of Senator O. S. Johnson, Chairman, and Representatives Louis Leet, Oscar Solberg, Thomas Snortland and Halvor Rolfsrud was appointed to carry these duties.

House Resolution No. 10 grew out of a report of a Select Committee of the House of Representatives to the Thirty-fourth Legislative Assembly upon the subject of mill storage. This Committee found the practice to be widespread in the State of North Dakota. Under this practice, grain held in storage for farmers by local country elevators is shipped to mills to be processed into flour or other products without the permission of the farmer or owner. It is in effect a sale of such grain by the country elevator to the mill, with the price to be determined at a later date. In practice, the mill proceeds to process the grain into flour or other products, and when informed by the country elevator that the elevator operator desires to sell the grain, the mill then pays for the grain in accordance with the price of grain on the day of notification. Normally the country elevator operator notifies the mill of the date of sale when the farmer requests the elevator to sell stored grain. The effect of this practice is to place grain upon the market and to satisfy the market demand with grain owned by the farmers without their consent. If sufficient grain is placed upon the market through this practice, it can have the effect of lowering the cash price of grain. The farmer, therefore, who has attempted to withhold his grain from the market for a higher price at a later date may be completely frustrated since his own grain goes to satisfy current demands and the price at the subsequent date may never rise. In addition, the farmer pays storage on grain that is no longer in existence, since it has already been processed into flour or other products.

It was recognized by the House Select Committee originally investigating this subject, that the prohibition of this practice by the State of North Dakota alone would not materially affect the Minneapolis Grain Market, since mills would simply fill their demands from the States of South Dakota, Montana and Minnesota. Therefore, the Legislative Research Committee was directed to attempt to obtain the cooperation of other states in prohibiting this practice.

Pursuant to this directive members of the Committee met with representatives of the legislative research committees of the States of South Dakota and Minnesota at the time of the North Central Legislative Conference in Minneapolis during November of 1955. After an explanation of the practice, the States of South Dakota and Minnesota, through their legislative research committees, agreed to make a survey of the mill storage situation in their own states. The preliminary inquiries made by these committees, however, did not reveal a substantial amount of mill storage, and although it was pointed out by the North Dakota Legislative Research Committee that this was also the result in North Dakota until a detailed investigation was made, neither Minnesota nor South Dakota were able to find any interest in the subject in those states. Therefore, the legislative research committees of both Minnesota and South Dakota reported that it was doubtful that they could obtain any legislative action in their states.

In view of these facts, the Committee felt that the only possibility of preventing mill storage on an interstate basis must be on a federal level. It was the opinion of the Committee that there were at least four separate grounds for action upon

the practice of mill storage by the Federal Government.
These grounds are:

1. Mill storage or overshipment of grain amounts to conversion and such converted property is shipped in interstate commerce;
2. That the practice of mill storage or overshipment of grain is in effect a criminal conspiracy between grain brokers, mills, and elevator operators, and that the conspiracy to sell such grain involves interstate commerce;
3. That the acceptance of storage payments from farmers and the Commodity Credit Corporation for nonexistent grain is in effect a fraud involving interstate commerce;
4. That the practice of mill storage or overshipment of grain is a violation of storage agreements between country elevators and the Commodity Credit Corporation.

As a first step to obtaining federal action the Committee contacted all members of the North Dakota congressional delegation and a meeting between such members and the Committee was held in Bismarck on September 28, 1956. Prior to such meeting, and on the basis of correspondence, Senator Langer made a preliminary request to the Justice Department and this department agreed to give the matter consideration and attention through their criminal division with the cooperation of the United States District Attorney for North Dakota. Representative Krueger also contacted the Assistant Secretary of Agriculture and requested that department to make a survey in regard to the effect of mill storage practices upon Commodity Credit Corporation grain.

Senator Young met with the Committee on September 28, 1956 and the practice of mill storage and the overshipment of grain was thoroughly discussed. Senator Young agreed to present this matter to the Senate Committee on Agriculture with a request that such committee make a thorough investigation of the matter. In addition, Senator Langer was requested to present the matter to the Senate Committee on Monopolies with a request that that committee also take action to investigate the practice.

At this date, the Committee cannot be certain of what action will be taken by the Federal Government as a result of its activities to prohibit the practice of mill storage and the overshipment of grain. However, in view of the excellent cooperation of the North Dakota congressional delegation, the Committee has reason to believe that action upon this subject from the Federal Government will be forthcoming.

The Committee also reviewed the adequacy of North Dakota laws in regard to prohibiting the practice of mill storage and the overshipment of grain. It is the opinion of the Committee that under present statutes and case law, the practice of mill storage and overshipment of grain in effect amounts to conversion of property and is presently a criminal offense in North Dakota. Therefore, no additional legislation upon this subject is being recommended by the Committee.

In addition to the subject of mill storage another matter was brought to the attention of the Legislative Research Committee and referred to the subcommittee on mill storage. This matter involves the licensing or bonding of roving grain buyers. It appears that in recent years there has been a growing practice on the part of small truck operators to engage in the practice of purchasing grain from small country elevators and hauling it to other points both within and without the State for resale. However, because some of these persons are not financially responsible, a number of elevators in this State have suffered substantial losses through bad checks issued in payment of the grain by such persons.

North Dakota at present has a law requiring the bonding of roving grain buyers who purchase grain from producers. The purpose of this law is to protect the producer from losses resulting from dealings with roving grain buyers. Since this law does not afford any protection to anyone but the producers, the bond of such roving grain buyers has not been available to elevators to protect themselves from losses resulting from the issuance of bad checks when these buyers purchase from elevators. Other states including Minnesota and South

Dakota have broadened their roving grain buyer laws to include elevators under the protection of the bond of the roving grain buyer.

It is recommended by the Committee that the laws governing roving grain buyers of this State be amended to include elevator operators so that they might be protected from irresponsible roving grain buyers in the same manner as producers. It is recommended that a minimum bond of $10,000 be required with additional bond to be posted in accordance with the volume of business being done. It is recommended that this bonding law be administered by the Public Service Commission in the same manner the present roving grain buyer licensing and bonding law is administered.

It is not recommended by the Committee that the Public Service Commission provide any field enforcement of this Act, but with such law in existence it will be possible for elevator operators to demand proof from roving grain buyers that they are bonded by the Public Service Commission before dealing with them and thereby adequately protect themselves. A bill to carry out the provisions of this recommendation will be introduced by the Committee.

Public Welfare

Senate Concurrent Resolution A-1 directed the Legislative Research Committee to conduct a comparative study of the old age assistance and the aid to dependent children programs of the State of North Dakota. Specifically, the resolution directed the Committee to make an analysis of per capita costs, average payments, basis of payments, costs of the state and county of any increased benefits, and equitable reapportionment of costs between state and county in regard to old age assistance. The Committee was directed to conduct a parallel study of the aid to dependent children program and to survey county and state welfare boards to determine their views as to any existing deficiencies in the welfare programs.

A subcommittee composed of Representative Richard J. Thompson, Chairman, Senators A. W. Luick, Ralph Dewing, and S. C. Thomas, and Representative Brynhild Haugland was appointed to conduct this study.

The Committee began its work by considering the level of North Dakota public welfare payments as compared to those of other states. The latest national figures available upon the level of public assistance payments in the nation are those of the month of June 1956. As of June 1956 the national average payment for old age assistance per recipient was $54.29, and during this period the average North Dakota payment for old age assistance was $71.73. North Dakota's national standing in regard to the level of payments was, therefore, 7th in the nation.

During the same month the average U.S. payment per recipient under the aid to dependent children program was $24.35. At the time the average North Dakota payment per recipient under the aid to dependent children program was $33.53, thereby placing North Dakota 13th in the nation in height of payments.

The June 1956 average U.S. payments under the aid to the blind program were $60.42. North Dakota's average payment was $57.50, placing North Dakota 33rd in the nation.

The figures show that the U.S. average payment under the aid to the permanently and totally disabled program was $56.72. The North Dakota average payment per recipient during the period was $80.96, thereby placing North Dakota 8th in the nation in the level of payments.

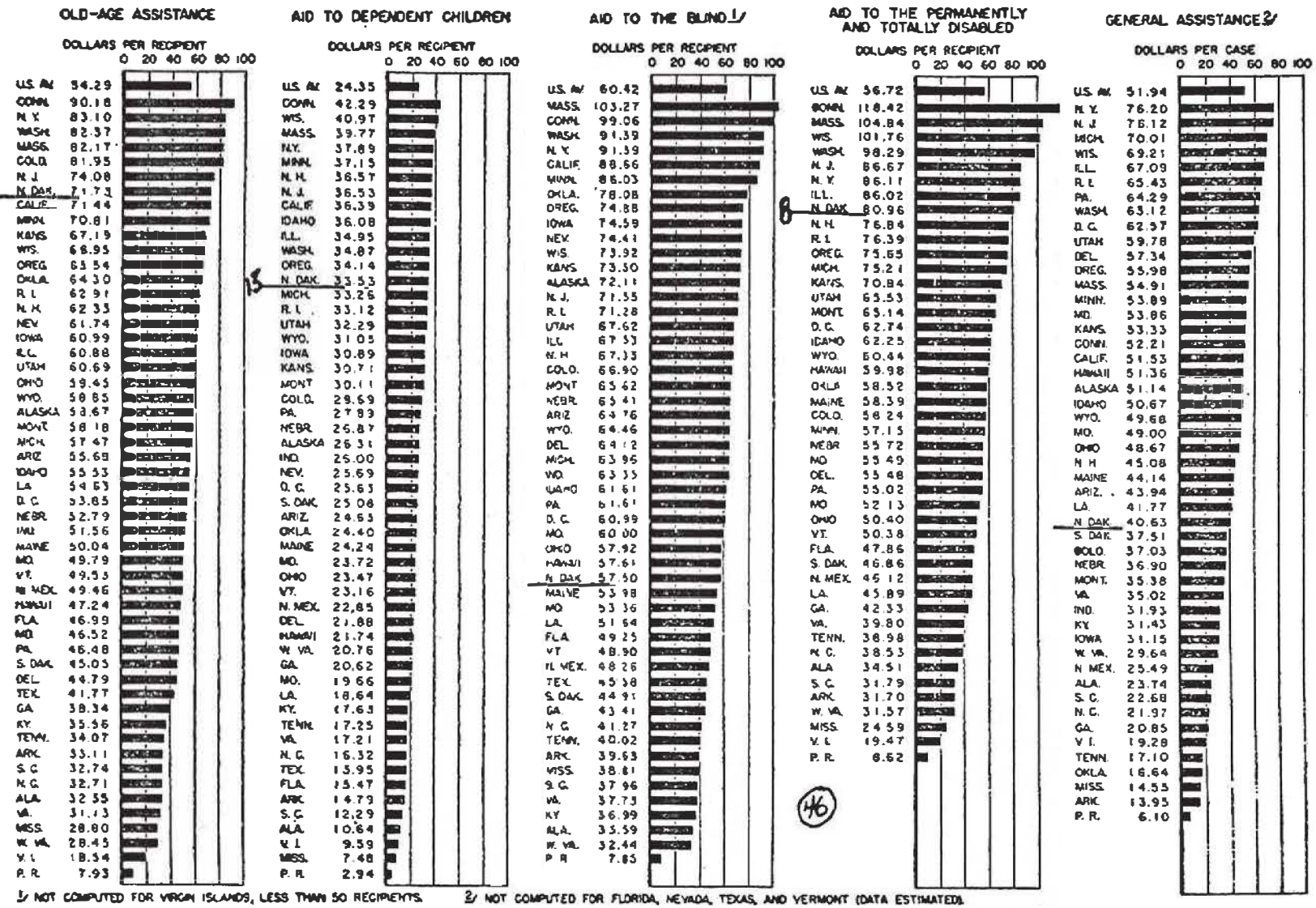
The general assistance payments in the nation during June 1956 averaged $51.94. During the same time the average North Dakota payments were $40.63, making North Dakota 29th in the nation in level of payments per recipient. In North Dakota the general assistance program is handled entirely at the county level without any contributions by either the state or federal government.

A tabulation of the average monthly payments during the month of June for public assistance in the above programs showing the United States average and the average for all states in the nation and all territories appears on the following page.

The resolution in effect directed the Committee to consider the results of the action of the previous Legislature in increasing appropriations to provide a full $60 monthly minimum old age assistance payments for single recipients and $45 per month for each married old age recipient, or a recipient living with another person receiving aid under the program. Since the level of payment to old age recipients in North Dakota has always been based upon need, many of the old age recipients were already receiving more than the 60-45 minimums prior to the action of the 1955 Legislative Assembly. The reason for this is that the needs and circumstances of each individual old age recipient is evaluated independently, and the income of such recipients from other sources is also considered. For example, the needs of an old age recipient living in a small apartment or room would be substantially different than those of one living at the home of a relative. Consequently, the provision of sufficient funds to provide a 60-45 minimum program to all old age recipients did not automatically result in an increase of grants to all recipients, but only to those who were at that time receiving less than that sum based upon need.

PUBLIC ASSISTANCE: AVERAGE MONTHLY PAYMENT, JUNE 1956

(EXCEPT FOR GENERAL ASSISTANCE, INCLUDES VENDOR PAYMENTS FOR MEDICAL CARE)



1/ NOT COMPUTED FOR VIRGIN ISLANDS, LESS THAN 50 RECIPIENTS.

2/ NOT COMPUTED FOR FLORIDA, NEVADA, TEXAS, AND VERMONT (DATA ESTIMATED).

Even with such minimums, when the income from other sources to old age recipients is considered the actual grants from the welfare board may at present still be less than the 60-45 minimum although in all cases their minimum needs are calculated in accordance with the 60-45 statutory minimum.

As a result of the provision of new funds by the 1955 Legislative Assembly, the average recipients of old age assistance payments received an increase in grant of $3.02 per month. There have, however, been increases in the average grants resulting from other action than the increase in funds to pay the full 60-45 minimum program. The state Public Welfare Board by administrative action has raised the dietary standards of all public welfare recipients from a minimum diet heavily loaded with starchy-type foods to a more moderate diet consisting of increased amounts of meats, vegetables and similar items. The use of a higher diet standard as a yardstick for determining need has resulted in an additional increase to the average old age assistance recipient of approximately $2.45 per month. In addition, grants have been increased in order to keep abreast with the cost of living in the amount of $2.09 during the present biennium. The total increase, therefore, in old age assistance grants during the present biennium from all sources amounts to about $7.56 per old age recipient.

The previous session of the Legislature did not increase the minimums relating to the aid to dependent children program nor provide additional funds, and consequently, there has been no increase in aid to dependent children grants from that source. However, the increase in the dietary standards as discussed in the preceding paragraph also applied to the aid to dependent children program with a resulting increase of average payments per recipient in the amount of $2.45 per month. In addition, the cost of living increase resulted in a total increase of average aid to dependent children program payments of $4.54 per recipient per month.

The resolution directed the Committee to consider the possible costs to the state and county in the event the state should increase benefits under the aid to dependent children and old age assistance programs. However, because it is extremely difficult to project into future years an accurate estimate of the total number of old age and aid to dependent children recipients, the amount or formula of federal assistance, the exact scope and effect of increased federal social security, and increased medical costs, it is doubtful that any detailed estimates of future increased costs of any given amount of increase in benefits would be of any value. Some general comments, however, upon the probable future of the old age assistance and aid to dependent children programs would probably have some merit.

Perhaps the most outstanding expected changes in the character of the old age assistance program involve the anticipated effect of federal social security and the increasing life span of our older people. It is definitely anticipated that as the number of aged people receiving federal social security payments increases, that the percentage of aged persons receiving old age assistance payments will gradually decrease. However, in spite of the decrease in the percentage of our aged people receiving old age assistance, the actual number on the old age assistance rolls in future years may not substantially decrease because of the greater total number of people living to the age of 65 and beyond. For instance, at present 15.6% of the persons over age 65 are drawing old age assistance, out of the 53,000 people in North Dakota who are presently over 65. It is estimated that we will have 63,000 people over the age of 65 in 1964, and consequently the drop in the individual number of cases will probably not be too great. In addition, although many persons may not be on the regular old age assistance rolls for normal living expenses because of social security payments, they will still periodically need assistance from the program in order to care for medical expenses. A further factor is that the life span beyond the age of 65 is steadily lengthening with the resulting longer period of time prior to death that such persons are on the old age assistance rolls. This increasing life span beyond the age 65 is marked with a steadily increasing number and length of illnesses for which assistance is needed. This factor will result in a steady increase in the number and size of medical assistance claims both for regular old age recipients and those needing only periodical medi-

cal assistance. In addition, the dollars-and-cents charges per medical case have steadily increased. Therefore, in spite of increasing federal social security it is doubtful that we can anticipate any substantial decrease in the total outlay in the old age assistance program in future years.

The aid to dependent children program is also difficult to evaluate as to its operation and cost in future years. However, it is known that expanding social security will also have the effect of lessening the number of families needing this type of assistance. However, again as in the case of old age assistance, these families will need periodic assistance for medical care. In addition, the increasing birth rate with the resulting larger families has made the average payment per family larger than it has been in previous years. If this increased birth rate continues it is doubtful that we will see a substantial reduction in level of the aid to dependent children programs in spite of the effect of social security.

The state Budget Board has approved a budget request from the Public Welfare Board of $12,742,000 to carry on the welfare programs during the 1957-59 biennium. This budget request is almost $2 million in excess of the anticipated revenue of the welfare fund from the sales tax during the same biennium. It will therefore result in almost a $2 million reduction in the balance of the welfare fund which it is estimated will be approximately $13 million on June 30, 1957.

After considering the present level of old age assistance payments and aid to dependent children payments in relation to the national average and the fact that North Dakota stands 7th and 13th respectively in the level of such payments; considering that it is anticipated there will be no substantial reduction in the immediate future in the level of these welfare programs; further, considering the fact that the budget request for the coming biennium will be almost $2 million in excess of anticipated income; and considering that old age assistance and aid to dependent children grants have been substantially increased by legislative and administrative action during the present biennium—it is the recommendation of the Committee that the level of benefits under these programs not be disturbed through raising statutory minimums during the coming biennium.

The Committee was also directed to review the effect of the change in the county-state matching formula which by legislative action changed the counties' share during the past session from 15% to 10% in the old age assistance program. This change was more than enough to compensate the county for the increased costs under the welfare program resulting from the payment of the full 60-45 minimum old age assistance payments. However, increases in the costs of other welfare programs was such that there could be no decrease in the total welfare budgets by the counties. Therefore, the Committee believes that the 10% matching requirement on the part of the county should remain at the level now set.

The resolution also directed the Committee to make a survey of the state and county welfare boards in order to obtain their recommendations in regard to any deficiencies in the welfare programs. In compliance with this directive the Committee held a public hearing at which representatives of all state and county welfare boards were invited to appear. It was apparent at this hearing that there was not complete agreement among the various county welfare boards as to many specific recommendations advanced affecting the welfare program. For instance, there is some support to the thought of removing the lien law from the old age assistance program, but after discussion the majority of the counties represented apparently felt that the law had substantial value even though it was difficult to enforce. It is the Committee's opinion that the lien law in the old age assistance program does tend to limit the program to those more definitely in need, and that its repeal would tend to open the door to many persons not presently seeking or eligible for assistance under the program. The Committee makes the same recommendation in regard to the lien law under the "Totally and permanently disabled" program.

All those present at the hearing pointed out that many counties are having extreme difficulty in matching state and federal moneys for the welfare program. Many were especially having difficulty in carrying on the general assistance program which is paid 100% by the county without

any state or federal contribution, with the exception of cases involving medical payments for transients. Specifically, they suggested that the formula for foster home care be changed from a 50-50 matching basis to a 90-10 basis, and that the general assistance program be changed from a 100% county program to a 90-10 program, with the state providing the 90% contribution. The Committee is of the opinion, however, that any lessening of county participation in the welfare program cannot help but amount to a lessening of the degree of county interest in the policing of the programs, since less of their money would be involved. In addition, in view of the fact that welfare budgets are presently substantially above the income to the welfare fund, any increase in matching payments to the counties would place a further permanent drain upon the cash position of the welfare fund. The Committee, therefore, is not prepared at this time to recommend any change in county and state matching formulas in regard to welfare programs or the participation of the state in the general assistance program.

A recommendation was made that the laws of this state be amended to increase the compensation of county welfare board members from $5 a day to $10 a day to correspond with the compensation of county commissioners. The Committee is in agreement with this proposal and recommends that legislation be passed to raise the compensation of county welfare board members to the level of that of the county commissioners.

Care of the Tubercular and Mentally Retarded

The subcommittee on Public Welfare was directed by motion of the Legislative Research Committee to study the possibility of using excess facilities at the Tuberculosis Sanatorium at San Haven for the care of the mentally retarded. In carrying out this directive the subcommittee visited the State Sanatorium at San Haven and the State School at Grafton and have conferred with all interested people involved in these programs.

In the opinion of the Committee, the need for additional facilities to care for the mentally retarded is perhaps the most pressing single need in the field of capital expenditures facing the Legislative Assembly. The present population of the State School at Grafton averages about 1,175 patients. The institution is presently overcrowded by approximately 200 persons. In addition, a waiting list of 125 patients exists. It is anticipated that the waiting list would immediately double should it become known that it is possible to gain admission to the School through making additional facilities available.

It has been the experience of the State School at Grafton that the waiting list has been constantly increasing at an average rate of about 5 cases per month. In other words, new applications for admissions constantly exceed the number of patients discharged from the School by about 5 applications per month. There has been a national trend for people to send their mentally retarded children to state schools instead of taking care of them at home, because of the more enlightened attitude of the public in regard to such children and because of the disruptive influence of such children upon other members of the family when taken care of at home. It appears, therefore, that we can expect a continuing rise in the number of applicants for admission to the State School for some time.

A new ward building is presently under construction at the Grafton State School which, when completed in September of 1957, will provide facilities for an additional 176 patients. However, it is anticipated that the waiting list at the institution will be substantially above this figure by September 1957. As soon as this waiting list is taken care of through the new facilities, a new waiting list of at least the same size will occur as a result of parents feeling that there may then be some possibility of obtaining admittance to the State School for their children. In other words, the completion of the ward building presently under construction will not even take care of the waiting list then existing nor in any way lessen the present overcrowded condition of the institution.

It appears that substantial expansion of the institution at Grafton will be extremely expensive. At present, the laundry, refectory building, and power and heating plant facilities are sufficient to take care of only one additional ward and classroom building, over and above the one presently under construction. The power plant, laundry, and refectory buildings are built so close to other buildings, that with the exception of a modest expansion of the power plant building, it is impossible to substantially expand the facilities to care for the additional load that would be placed upon them by substantially increasing the size of the institution. Therefore, substantial future expansion of the institution at Grafton will require the construction of central service facilities before more than one additional ward and classroom buildings are constructed. Further expansion beyond these limits, therefore, in effect amounts to the construction of a new institution.

The State Tuberculosis Sanatorium at San Haven is a fairly large institution which at its peak period of occupancy cared for almost 350 tubercular patients. However, because of modern advances in the treatment of tuberculosis and a lessening in the incidence of the disease among the general population, the average patient population of the sanatorium has fallen to a level of 85 to 90 patients. Included in this patient load are approximately 25 Indian patients who are being cared for under contract with the federal government. Because tubercular beds are becoming available at federal sanatoriums, it is expected that within the next two to three years, all Indian patients will be cared for in government sanatoriums which will prob-

ably lower the average patient load at the sanatorium to below 70 patients.

The Committee first considered the possibility of using excess facilities at San Haven jointly for the care of tubercular patients and the mentally retarded. However, because many difficulties existed in operating a joint institution of this type it was decided by the Committee after consultation with the superintendents of the Grafton State School, the Tuberculosis Sanatorium, the State Board of Administration and other interested parties, that it was probably impractical to attempt such joint use of the facilities. However, in view of the pressing needs for a substantial increase in facilities for the care of the mentally retarded, and in view of the small number of tubercular patients that will occupy the large sanatorium, consideration should be given to the possibility of providing facilities for the care of tubercular patients at some other place and to the conversion of the entire institution for the care and schooling of the mentally retarded.

It would seem reasonable to expect that approximately 300 mentally retarded patients could be cared for at the state sanatorium should the institution be entirely vacated and used for that purpose. It also seemed probable that facilities for the care of approximately 70 tubercular patients should be adequate to fulfill the State's responsibility in this field in future years. It was noted that the cost per patient per day at San Haven presently runs approximately $16 per day. As the population of this institution continues to fall through the withdrawal of Indian patients, through a lower patient load resulting from a lower incidence of tuberculosis cases, and through further shortening of the length of treatment—the overhead per patient at the large institution at San Haven with a small patient load may in the very near future become almost prohibitive. It therefore seemed probable to the Committee that should a small modern tuberculosis hospital of approximately 70 beds be constructed, the resulting decreased cost in patient care might very well pay for the greater portion of the cost of such new facilities over a fifteen or twenty year period.

As mentioned above, the Committee has estimated that approximately 300 mentally retarded students or patients could be adequately cared for at San Haven if the entire institution were converted to the care of the mentally retarded. The Committee has not had the advantage of firm estimates from architects upon the probable cost of providing facilities at Grafton for 300 additional children. However, in view of the fact that additional central facilities will be required to care for this number of students at Grafton, and considering costs of other buildings which the State has recently had constructed, it would appear that it would cost approximately $2½ million to provide facilities for 300 additional children at Grafton. Even this would only be sufficient to meet the need for facilities for the mentally retarded as they would occur on July 1, 1959, since it is estimated that a waiting list of approximately 175 would exist at that time. It further would permit only a partial easing of the crowded conditions at the Grafton State School.

It was obvious to the Committee that there are no funds readily available to the State of North Dakota to support a building program costing approximately $2½ million at the Grafton State School. This fact is verified by the action of the Budget Board in being forced to disallow a request for $700,000 for a ward building at the Grafton State School in spite of the fact that they state in their report that priority should be given to such construction needs, over all institutional or educational construction in the state.

It appears to the Committee that the facilities existing at San Haven were not too unsuitable for the care of the mentally retarded. It is true, that some of the wards are smaller than is preferable—which might result in somewhat higher costs of operation, since it would take a greater number of attendants to supervise the smaller groups of the mentally retarded. However, if the educable mentally retarded students at the Grafton State School could be transferred to San Haven this would not be too great a disadvantage since such students require less supervision. Another alternative would be to transfer the approximately 200 bedridden patients from Grafton State School to San Haven since this type of patient also requires less supervision. Should the bed-type patients be transferred, it would also be necessary to transfer to San Haven some of the more intelligent and cap-

able students from Grafton in order to assist in their care. Regardless of which group were transferred, however, the transfer could result in facilities being made available at Grafton to take care of the waiting list that would be existing at the Grafton State School at that time, plus somewhat lessening the overcrowded conditions.

The Committee is unable to give exact and detailed estimates of the complete cost of renovation or remodeling at San Haven in order to meet the minimum requirements necessary for care for the mentally retarded. It was noted, however, that some of the facilities in the newer buildings at San Haven are far superior as classroom space than that presently being used at the Grafton State School. In some instances it is anticipated that partitions would have to be removed in order to provide for larger wards and the amount of plumbing, toilet and washroom facilities would have to be increased.

Recommendations

In view of all these factors, it is the recommendation of the Committee that the State Tuberculosis Sanatorium at San Haven be completely converted to an institution for the care of the mentally retarded. It is recommended that a new 70-bed modern tuberculosis hospital be established by the State on the campus of the University of North Dakota in connection with the state medical center located there. These changes would make available facilities for the care of approximately 300 additional mentally retarded patients, provide improved facilities for the care of tubercular patients, and further improve the preventive tuberculosis program.

It is recommended that such new small tuberculosis hospital be established in connection with the medical center at the university for a number of reasons. First, a substantial number of economies both in construction and operation would result from such location. The hospital, if constructed on the campus, could take advantage of the power and heating facilities of the University of North Dakota and therefore eliminate the necessity of the provision of a separate heating plant in the building. Second, it would be possible for the hospital to make use of the laboratory facilities in the medical center and therefore eliminate the necessity of duplicating such laboratory facilities at the new hospital. Third, the hospital would have the services of the state blood bank readily available which is maintained by the medical center. In addition, the hospital would have at its disposal on a consultant basis all of the specialized staff of the medical center with the resulting economies and maintenance of high standards of patient care.

The establishment of such a hospital in association with the state medical center is very much in accordance with the purposes for which the medical center was established. It was intended that the medical center provide education for physicians as well as allied personnel, and to correlate, coordinate, and integrate all affairs which pertain to the health of the people of the State of North Dakota. In furtherance of this responsibility, the medical center is at this time proceeding with the construction of a rehabilitation center directly adjacent to the medical school which will provide in addition to rehabilitation, an outpatient department for specialty clinics. This rehabilitation center will provide not only the school of medicine, but also the school of nursing, psychology, occupational therapy and sociology with badly needed clinical material. The tuberculosis hospital on the campus would provide the school of medicine with additional patients needed for teaching. The rehabilitation of tubercular patients is sometimes a problem and the rehabilitation center located there with its social workers, psychologists, and therapists would be valuable in the program. It is well recognized that modern chest surgery and neurosurgery, as well as the treatment of difficult and complicated cases is best done in a center where specialists of various sorts are available. The construction of a tuberculosis hospital at the medical center is therefore a very logical step in the development of a medical school and in the centralization of specialized medical services. In addition, if the advancement in the control of treatment of tuberculosis continues, it is conceivable that within the next twenty or thirty years the tuberculosis case load of the state may fall to the point where the state no longer needs to maintain a separate specialized tuberculosis hospital of any type. If this should occur, it is then

very logical that such hospital should be located at the medical center where it could readily be converted to other purposes needed by the state or even to be used as a teaching hospital in the establishment of a four-year medical school at the medical center, should that program become feasible.

In spite of the economies that would result from the construction of such a hospital at the medical center, and in spite of the fact that a substantial amount of equipment for such hospital could be transferred from the present tuberculosis hospital at San Haven, it is doubtful that the hospital could be constructed for less than $1,100,000. It was obvious to the Committee that the general fund of the state would not be able to provide such an appropriation during the coming biennium, and that other sources of funds must be found to provide this program. The Committee therefore recommends that the Legislative Assembly appropriate not less than the sum of $600,000 from the medical center fund to be used in the construction of this hospital. It is further recommended that legislation be enacted directing the state health department and the state health planning committee to immediately take steps to obtain federal approval for the use of Hill-Burton Act federal hospital funds, together with any other federally granted funds available for such purposes in the amount of not less than $500,000 to be expended in the construction of this hospital. It is recommended that this hospital be completed not later than July 1, 1959 in order to permit the transfer of all tubercular patients from San Haven at that time.

As previously stated in this report, the Committee is not able to give exact estimates of the funds needed to renovate the institution at San Haven for the care of the mentally retarded. However, the Committee is firmly convinced that the institution can be renovated to minimum standards for a much lesser sum than the $2½ million it would cost to provide equivalent facilities at the State School at Grafton. It is true that such minimum renovations would probably not make the facilities equal to new and modern buildings constructed specifically for that purpose, but when it is considered that the state cannot afford to construct such facilities in the immediate future, there can be no question but that a minimum amount of renovation of the facilities at San Haven would be much preferable to not providing facilities for the hundreds of mentally retarded persons at all. It is the Committee's opinion that such minimum renovation would cost less than one-half million dollars.

It is also recognized by the Committee that the general fund cannot support a substantial appropriation for the purpose of renovating facilities at San Haven. However, it has come to the attention of the Committee that approximately $175,000 of the amount appropriated by the previous Legislative Assembly for the operation and maintenance of San Haven as a tuberculosis sanatorium will not be used for that purpose, but will revert to the general fund on July 1, 1957. It is, therefore, recommended by the Committee that the Legislative Assembly reappropriate $175,000 from this previous appropriation to the State Board of Administration for the purpose of beginning renovation of the presently unused portion of the facilities at San Haven. It is contemplated by the Committee that the unused facilities could be completely renovated to usable standards prior to July 1, 1959. If the tuberculosis hospital at Grand Forks is completed by that date it would then be possible for the tuberculosis patients to be moved from San Haven. Simultaneously the mentally retarded patients could be transferred to the renovated portions of San Haven. The Legislative Assembly meeting in 1959 could then make any needed subsequent appropriation necessary for the renovation of the facilities vacated by the tubercular patients and such additional quarters could then be occupied by the mentally retarded patients as soon as completed.

It is recommended that such a new tuberculosis hospital at the university continue to be managed by the State Board of Administration and directly supervised by its own superintendent in much the way the tuberculosis hospital has functioned in the past. However, the operation and activities of the medical center and the tuberculosis hospital should be integrated on an administrative basis in order to provide for the anticipated economies and for the maximum benefit to the objectives of both agencies. It is recommended that the institution at San Haven, when converted to an

institution for the care of the mentally retarded, continue to be supervised by the State Board of Administration under the direct control of a resident superintendent. In view of the distance from Grafton to San Haven it is not considered practical to require the superintendent at the Grafton State School to also manage the institution at San Haven.

In summary, it is the opinion of the Committee that should its recommendations be adopted, the State's costs in the new tuberculosis sanatorium at the medical center would probably be substantially amortized over the years as a result of the decreased costs of operation that would occur in a small modern hospital having a high patient occupancy factor as compared to the large institution at San Haven with a small patient occupancy factor. In addition, the program should result in improved care of the tubercular and facilitate the tuberculosis prevention program as well as further the objectives of the medical center. The conversion of the institution at San Haven to an institution for the care of the mentally retarded should provide facilities for an additional 300 patients and students by July 1, 1960. It is believed by the Committee that reasonably adequate facilities can be provided at San Haven at a cost of less than one-half million dollars as compared to a cost of approximately $2½ million to construct facilities to care for the same number of patients at the Grafton State School. But most important of all, is the fact that it would provide facilities for the care of over 300 patients at a cost the state can afford to bear as compared to the probability that the state would be unable to provide the needed facilities at all should other courses of action be chosen.

Assessment and Taxation

The work of the Committee on assessment and taxation was a continuation of a study of this subject begun by the Legislative Research Committee in accordance with a resolution passed by the 1951 Session of the Legislature. The purpose of the work of the Legislative Research Committee in this field has been to find methods and systems for the improvement of assessment practices in regard to both real and personal property in the state. To carry on this study during the present biennium a subcommittee consisting of Senator Ralph Dewing, Chairman, Senator H. B. Baeverstad and Representatives Richard J. Thompson, Louis Leet and C. H. Hofstrand was appointed.

During the 1951-53 biennium the Legislative Research Committee turned its attention to the study of a rural land classification program for the purpose of equalizing taxes upon farm lands in the State and also to equalize taxes upon such lands between townships and between counties in the State. In the report of the Legislative Research Committee to the 1953 Session of the Legislature, it recommended an appropriation of $50,000 to the State Agricultural College to begin a soil reconnaissance survey for the purpose of providing information for a land classification system for tax assessment purposes in this State.

The land classification system is a very useful tool which can be used in the establishment of accurate assessed valuations on rural farm land. The basis for land classification is a soil survey which maps the areas of different kinds of soils and predominant slopes of such soils in all portions of the state. Kinds and amounts of crops that are normally grown and produced on each soil type are then determined by studying production records of such soil types. It is recognized that the value of farm land is dependent upon the income it will produce and therefore a determination of the average or expected income the various soil types will yield in various parts of the state is essential. After average yields of crops are obtained for each soil type in each area, together with the average sales price for the crops, the average costs of production are deducted therefrom. This income per acre is then capitalized at approximately 5% and a dollar value placed upon each acre of land of that soil type in the various parts of the state. Such results are further verified by checking actual sales ratios in the vicinity of the land. This dollar value per acre is usually expressed in numbers from one to one hundred and called index numbers.

There are three main steps to the land classification system that must be accomplished before it can be fully operative. First, a soil reconnaissance survey must be made in which the predominant soil types in all areas of the state are mapped. This is then followed over a period of years with a basic or detailed soil survey which will map minor variations in soil types and other information. At the same time these two soil surveys are carried on, an economic appraisal and analysis is conducted in order to determine yield data, which is converted into income for the various types of soils in the various areas of the state. The economic analysis also includes a determination of average costs in order to make a final determination of the average net income per acre, which as previously described is capitalized on a basis of about 5% to determine the value of the land.

An appropriation of $75,000 was made by the 1955 Legislative Assembly to continue the soil reconnaissance survey as described above and to begin the gathering of economic data to determine the valuation of soils of the various types. This soil reconnaissance survey will be completed by the Agricultural College about September 1, 1957. During the period that the soil reconnaissance survey has been carried on, progress has also been made on the economic appraisal and analysis through the assembly of crop yield data on the various types of soils, obtaining expenses of production , and obtaining sales and assessment data on lands having the various types of soil.

The United States Soil Conservation Service is presently carrying on a stepped-up program of detailed soil mapping, although it will not be completed in all parts of the state for a number of years. After the completion of a more detailed soil analysis by the Soil Conservation Service, all

except very minor soil variations will be mapped. From this information, the assessor can make further detailed mapping of each section of land, indicating all sloughs, draws, and topography features such as steep inclines which would reduce its value for farming purposes, as well as to map any very small variations from the general soil type of the section, such as alkali spots or stony barriers. A value can then be placed upon these disadvantageous features and deducted from the total value of any given quarter of land, which has previously been determined by multiplying the net acreage in the quarter times the acreage value for that type of soil. Allowances can also be made for excessive distance from markets and other special factors which may affect the value of the land. The index or acreage values used for each type of soil must be based upon long-term prices and income in order to prevent up and down fluctuations over short periods of time.

Although the complete program of land classification will not be finished for a number of years, until the detailed mapping of the state by the Soil Conservation Service is completed, the Committee believes that sufficient information has now been gathered to provide a substantially improved assessment program. The soil reconnaissance survey which will be completed by the Agricultural College by September of 1957 will have mapped all predominant soil types in the state, and in addition a limited number of counties have been completely mapped in detail by the Soil Conservation Service. Upon the completion of the soil reconnaissance survey, it will be possible for the Agricultural College to select certain bench mark farms in each county which can be mapped in detail. Average productivity of such soil types over the years can be obtained and average prices for the sale of crops determined. The average gross income thereby determined minus the average expense of production can thereby give the net income per acre per year for such land. This income can then be capitalized to give a definite valuation per acre for this land. These bench mark farms can then serve as a yardstick by which other soil of similar type in the county can be compared for the purposes of determining valuation. With such yardsticks of value available for comparison, it should be possible for assessors to obtain a reasonable degree of uniformity in assessments in accordance with the various soil types within the county. In addition, the total amount of the various soil types within each county will be known with a substantial degree of accuracy and the average value of such soil types can be determined by the methods previously described. It will then be possible for the State Board of Equalization to equalize taxes between counties to obtain a very high degree of uniformity.

It appeared obvious to the Committee that an improved system of rural land assessment of the type contemplated cannot be placed in operation in North Dakota with the township system of assessment. In order to properly make use of the soil reconnaissance survey, economic data, bench mark farms, and other information needed in assessing, it is essential that highly competent personnel be employed. It is impossible for the townships and small villages and cities of this state to obtain trained or experienced personnel when such employment is only on a part-time basis for at the most several months of the year. It is therefore recommended by the Committee that the State of North Dakota turn to the county assessor system of assessing.

In the United States at the present time, only ten States use the township system of assessing, with North Dakota being the only remaining state in the Midwest using this method. Five States use a mixed county-township assessor system based upon a local option basis, with Minnesota being the closest State of this type. Three States have township assessment with a county supervisor of assessments. Thirty States have a straight county assessor system. It has therefore been found in this country that it is almost impossible to obtain uniform assessments with literally hundreds or thousands of individual assessors exercising their own individual judgment in the assessment of property, and that if uniformity of assessment is to be achieved there must be centralized direction at the county level.

It is obvious that if the county assessor system is to be adopted in North Dakota, it will be impossible for such county assessor to go out and assess the personal property of each individual taxpayer in the same manner as is now done by

the township, city, and village assessor. The Committee therefore recommends that the State adopt a system of self-listing whereby each taxpayer lists his taxable personal property and forwards such list to the county assessor in much the same way that the taxpayer forwards a statement of his income for income tax purposes. However, such individual taxpayer, with the exception of clothing, musical instruments, household goods and personal effects, would not place a value upon such property but would simply list and describe the taxable property he owns.

Of the forty-five States which tax personal property, thirty-nine States require self-listing with the assessor, four States require the listing of personal property by the taxpayer, but the assessor apparently must personally call upon the taxpayer to obtain it; and one State apparently has self-listing at the option of the taxpayer. The Committee would recommend that the county assessor forward personal property listing blanks to each taxpayer in the county. However, if a blank is not received by a taxpayer it should be his responsibility to obtain one and file a personal property tax return. After the property listing blank is returned to the assessor he would proceed to value the various articles of personal property in accordance with average market price values as determined by published manuals on such items and other available information. The county assessor would make periodic spot checks of a given proportion of the personal property listing returns in order to determine the accuracy of the listings.

In order that the listing of personal property for the average taxpayer does not become too burdensome, it is recommended that the taxpayer be allowed to state a lump sum value without individual listing for each of the following categories of personal property: clothing and personal belongings, furniture and miscellaneous household goods, jewelry, electrical appliances, musical instruments, and recreational or sporting equipment. The Committee further recommends that the property in each category be exempt from taxation unless the total value in such category exceeds one hundred dollars. It was noted by the Committee that the assessed value of clothing and personal belongings in North Dakota account for only .73 of 1% of the tax base, while musical instruments amount to only .36 of 1% of the total. The household goods category contains only 1.83% of the total. While this would appear to cause a small loss of revenue to the political subdivisions through a lowering of the tax base, it has been the experience of other States that self-listing has placed a substantially greater amount of personal property upon the tax rolls that has otherwise been omitted and it is believed by the Committee that such additions will more than make up for any loss in assessed valuations resulting from the tax exemptions involved. In addition, since the cost of assessment and collection of taxes is extremely high in relation to the tax returns, the actual loss to the State and its political subdivisions would be very small in any event.

If the recommendation of substantial exemptions of clothing, household goods and similar classes of personal property as provided in the previous paragraph is adopted, it will have the effect of removing a certain number of very small taxpayers from the tax rolls and make it unnecessary that they file a personal property tax return. In view of this fact, it would seem uneconomical to continue the present poll tax of one dollar per adult in force. This tax is often criticized as being completely arbitrary without any relation to the ability of the taxpayer to pay and is considered a nuisance tax by the average taxpayer. Even under the present personal property tax laws it often costs more to collect than it yields. The Committee therefore recommends that the poll tax be completely repealed.

In order to give the county assessor sufficient time to place a value upon the lists of personal property submitted by taxpayers, it is recommended that the date of assessment be advanced to the first day of January of each year and that all taxpayers be required to file their self-listing blanks containing their personal property not later than February 1st of each year. In order to prevent confusion it is also recommended that the assessment date for real property also be advanced to January 1st of each year.

It was agreed by the Committee that some of the larger cities of this State employing full-time assessors have been developing sound systems for the assessment of urban property. In consideration

of this fact and in consideration of the financial burden it would place upon the county to require the county assessor to assess all urban property in the larger cities, it is recommended that every city having a population of five thousand or more be given an option of maintaining the office of city assessor and that every city of ten thousand or more be required to maintain the office of city assessor. In order to obtain uniformity of assessment it is recommended that such city assessor be under the general supervision of the county assessor, and that the county assessor be authorized to appeal any assessment to the county board of equalization.

In the Committee's opinion, the success of a county assessor system in a large measure depends upon the ability of the county to obtain and retain competent persons having adequate education and experience to perform the duties of county assessor. For this reason, the Committee recommends that the assessor be appointed by the board of county commissioners from a list of qualified applicants submitted by the State Tax Commissioner. The State Tax Commissioner would be required to give statewide examinations to all applicants for such position in order to determine their aptitude and qualifications for such work. The Commissioner would then submit the names of the qualified applicants to the respective boards of county commissioners out of which list the board of county commissioners would select their appointee to the position of county assessor. It is further recommended that the county assessor be removed by the county commissioners only for cause.

It is the opinion of the Committee that in many counties the cost of maintaining the office of county assessor will not be greater than the cost of maintaining the township assessment system. Since the creation of the office of county assessor will result in the saving of salaries of township and unorganized district assessors and result in the lessening of the load of the county auditor's office, these savings in many instances will fully pay for the operation of the office of county assessor. In some counties having a low population and valuation however, it is recommended that the option be given of joining with adjacent counties for the purpose of jointly maintaining the office of county assessor. The Committee recommends that the expense of the office of county assessor be paid for from the county general fund except that at the option of the county commissioners a mill levy not in excess of one mill upon all taxable property in the county should be allowed in cases where county general funds are insufficient. Property within cities maintaining the office of city assessor, however, should be exempt from any county mill levy for maintaining the office of county assessor.

It is recommended by the Committee that the township, village, and city boards of equalization be retained but that in all cities not maintaining the office of county assessor and in all townships and villages that their authority be limited to reviewing the tax assessment rolls in order to determine whether property has been improperly omitted or included upon the tax rolls. The actual equalization of individual assessments should be carried on by the County Board of Equalization. Individual taxpayers could then appeal any assessment of individual tax assessments to the County Board of Equalization in the same way they are appealed to the township, village, and city boards of equalization at the present time.

It is recommended that the board of equalization in cities maintaining the office of city assessor be continued in the same manner in which it functions now with the exception that the county assessor be allowed to appeal any decision of a city board of equalization to the county board of equalization for final determination.

The purpose of recommending the restriction of the powers of township and village and of city boards of equalization in cities not maintaining the office of county assessor, is to prevent such boards of equalization from destroying the equalized assessments made on a countywide basis by the county assessor. Considering the present means of transportation available it is believed by the Committee to be no hardship to require taxpayers desiring to appeal an assessment to appear before the county board of equalization at the county seat.

The Committee wishes to emphasize that the purpose in recommending improvements to our assessment system is not to increase the overall tax base or assessed valuation of the state and def-

initely not to increase property taxes. Its purpose is simply to obtain uniformity of assessments between individual taxpayers and between the various political subdivisions of the state. The Committee does not even necessarily urge an increase in the overall assessed valuation of property in this state by assessing such property at 100% full and true valuation as the law presently requires. However, the Committee recognizes that any new system of assessment may result in increased valuations and it should be pointed out that this might be desirable in that it may be much easier to uniformly assess property at 100% of its full and true value instead of 10% to 40% of its true value as is presently done.

The Committee believes that any change in the overall assessed valuation of the state as a result of the change in the tax assessment methods should not be used as a means of permitting increased levies of taxes upon property. Therefore, for the purpose of preventing any substantial increase in taxes levied in this state as a result of the change in assessment methods, the Committee recommends that the political subdivisions of this state be limited to within three percent of the tax yield that would have resulted from the application of the maximum mill levies available to such political subdivisions against the 1956 assessed and equalized tax valuations. The authority of the people to vote increased mill levies in certain instances should not be abridged, but the amount of tax payments resulting from such increases should be limited to the total of such increased mill levies applied to the 1956 tax valuations. New property coming upon the tax rolls subsequent to the 1956 assessments should be exempt from this limitation. This limitation will in effect limit the political subdivisions to a maximum increase of 3% over and above the amount of taxes they could have levied in the year 1956 and will not in any way affect the present 50% tax base in this state. The restrictions will therefore prevent any substantial increase in taxes as a result of the operation of the new assessment system.

An additional recommendation of the Committee concerns the office of the State Tax Commissioner and the State Board of Equalization. The Commissioner is charged with the general duty of supervising the assessment of property and advising the State Board of Equalization upon the equalization of property between the counties. He must further advise the Board upon matters relating to public utility assessment which is carried on by the Board. At present, there is no provision in the State Tax Department for any person or division to assume the responsibility of the supervision of assessors, assisting local political subdivisions in difficult assessment matters, providing information in regard to public utility assessment, or to provide the State Board of Equalization with adequate information and assistance to enable it to do a true job of equalization. It is therefore recommended that the position of State Supervisor of Assessments be created within the tax department to assume such duties. The appointee to this position should be highly qualified with the greatest amount of education, training and experience in the field of valuation and assessment that can be obtained. The creation of this position with a highly competent appointee is an essential step in the improvement of assessment and equalization in the state.

In order to obtain and train qualified persons for the positions of county assessor, it will be necessary to postpone somewhat the effective date of the assessment Act. The portions dealing with the position of state supervisor of assessments should become effective on July 1, 1957. It is recommended that the portions of the Act relating to the procurement and testing of applicants for the position of county assessor and the forwarding of the names of applicants to the respective counties also become effective July 1, 1957. However, since sufficient numbers of adequately trained county assessors will not immediately be available, and since it is essential that the county assessors be given a minimum amount of training before assuming their duties, it is necessary to provide formal training courses for them. The Committee has made arrangements with the Agricultural College to conduct such training courses during the summer of 1958. An appropriation to the Agricultural College in the amount of $12,000 for this purpose is recommended. However, since the training courses for assessors will not commence until June of 1958, it is recommended that the portions relating to the appointment of the county assessor be delayed until May 15, 1958. All other por-

tions of the Act pertaining to the transfer of powers and duties of assessment should become effective January 1, 1959, in order that the improved program of assessment can begin with 1959 assessments.

Since the Agricultural College will not be able to complete the soil reconnaissance program until approximately September of 1957, it will be necessary to make an appropriation to pay the expense of field parties during the months of July and August of 1957. An appropriation of $10,000 is recommended for this purpose.

The Committee will not attempt to discuss the many details involved in the recommendations for this improved tax assessment and equalization program, but will rather refer the reader to the bill on this subject which will be introduced by the Legislative Research Committee.

Public Employees Insurance and Retirement

The 34th Legislative Assembly (Chapter 41, 1955 S.L.) appropriated $15,000 jointly to the Legislative Research Committee and to the North Dakota Old Age and Survivors Insurance System (OASIS) for the purpose of making an actuarial study of that system so that a decision could be made regarding continuing or discontinuing the system, and any conversion to federal social security (OASI).

This appropriation was the culmination of several events. The state OASIS (Chapter 52-09 of the Code) was started in 1947, covering most employees of the state and its political subdivisions (such covered personnel now number approximately 12,000 people), and was largely patterned after the federal OASI law existing in 1947. Although the federal system has progressed both in benefits available and amount of contributions by employer-employee, the state system is hardly changed from its provisions of nine years ago. And the federal law, in 1954, was amended to permit state-federal agreement whereby state employees may now become covered by the federal program, with or without a state program.

The 34th Legislative Assembly appointed a joint subcommittee of the Senate and House Committees on State and Federal Government which examined quite thoroughly, in the time allowed, into the status of the state OASIS. The result was

(1) The appropriation for an actuarial study (Chapter 41, 1955 S.L.);

(2) Enabling legislation (Chapter 306, 1955 S.L.) for adoption of federal OASI and for execution of a federal-state agreement therefor;

(3) Stop-gap amendments to the state OASIS raising contribution rates and correcting inadequacies in the law (Chapters 307 and 308, 1955 S.L.); and

(4) House Concurrent Resolution I-2 setting forth a statement of overall legislative policy relating to retirement, and stating that North Dakota cannot afford a dual system of old age insurance and retirement.

To carry out the provisions of Chapter 41 of the 1955 Session Laws and to direct the necessary study, a subcommittee consisting of Senators H. B. Baeverstad, Chairman, O. S. Johnson, Joseph B. Bridston, and Representatives R. H. Lynch and Jacque Stockman was appointed.

The Bureau of Business and Economic Research at the University of North Dakota, under the direction of Dr. S. C. Kelley, Jr. was employed by the Legislative Research Committee and the North Dakota OASIS (Unemployment Compensation Division of the Workmen's Compensation Bureau) to conduct the actuarial study, get the information requested, and make any recommendations necessary.

Dr. Kelley completed his report, and public hearings were held in discussion of it. Copies of a summary of his report and the full printed report entitled "The North Dakota Old Age and Survivors Insurance System: An Analysis for the North Dakota Legislative Research Committee" were mailed to state, county, and municipal departments, and to legislative members for their information and study.

Governor Brunsdale has called a referendum for all covered employees on December 20, 1956 on the question, in effect: "Do you wish to be covered by federal social security? (Yes or No)".

Regardless of what answer the majority of employees give on this question, it appeared from Dr. Kelley's report that legislation will be necessary in this field.

It should be stated at this point that after careful consideration the Committee accepts the recommendations of Dr. Kelley as being sound, workable, and worthy of adoption. Since his report is in the hands of each legislator, and available to the general public, it is not necessary to recount the information therein; his report is adopted as a part of this report.

It is proper, however, to provide here the information requested by Chapter 41, 1955 Session

Laws, in the order set forth in that appropriation bill:

A. Determine the present monetary liability to cover employees:

$8,495,000—(Benefits in force on December 31, 1955)

B. The amount of money needed per year to meet liabilities and obligations:

(Assuming annual increase of 3% in wage rates)

1956: $ 956,207) (Average estimated
1960: 1,216,669) increase in need:
1965: 1,496,551) about $65,000 per year)

C. Rates required to maintain fund in a "solvent" condition:

There are many "ifs" precedent to answering this question, but even assuming no increase in benefits, and assuming continuance of present favorable factors such as men staying after 65 and a large employment turnover, the present rates could not suffice. More realistic, and safer partial funding would require an estimated 8 to 10 per cent payroll contribution program divided equally or unequally between employer and employee.
For a fully funded, actuarily completely sound program, total contributions would need be in the amount of approximately 17% for actual and potential obligations, until 1965, and 11.3% thereafter.

D. Amount of money required to meet all obligations under both vested and potential rights of covered employees:
$41,334,900

E. Various classes of obligations, the extent of liability thereto, and the methods of caring for these obligations in case of dissolution of OASIS:

1. Benefits now in force: $8,495,000 liability; to be paid out of 1% employer tax.
2. All others: to be converted to federal OASI and a supplemental retirement program.

From Dr. Kelley's report and the facts of state OASIS, it is clear that the present system is not accomplishing its avowed purpose to induce public employees to continue in employment, to make public employment more attractive to qualified people, nor to encourage superannuated employees to retire and be replaced. It is likewise clear that the fiscal basis of the program is actuarily unsound, so that contributions must be adjusted upward if the program is to continue.

Actually, the present OASIS program undoubtedly drives some personnel out of public employment by their desire to acquire a second, or third, pension program under separate employment. Certainly the state OASIS benefits alone, as now constituted, are too meager to be attractive as compared to federal OASI benefits, and Dr. Kelley points out this anomaly: if the stated objectives of the plan to permit early retirement and reduce excessive turnover are accomplished, their accomplishment would render the plan insolvent.

Therefore, the recommendations of the Legislative Research Committee are as follows:

1. No Social Security Coverage:

If the public employees' referendum does not approve social security coverage, the present OASIS should be modified to either:

a. Raise the contribution rates to a level adequate to support existing benefits; or

b. Gradually dissolve the OASIS by limiting benefit payments to those which are already accrued or eligible, and by reducing contribution rates accordingly as the need for the fund disappears with eventual dissolution of the liability and the system.

2. Social Security Coverage:

If the public employees' referendum approves coverage, the Legislature should authorize a federal-state agreement for social security coverage, to be executed prior to July 1, 1957, considering state OASIS as a single system, and making the effective date January 1, 1955 in order to take full advantage of the 1956 amendment allowing "fully insured" status in all but four quarters after 1954. The administrator of OASIS should be authorized to pay the required retroactive contributions from the OASIS Trust Fund.

3. Existing OASIS:

If social security is adopted, the present plan should be continued in a form containing the following modifications:

a. Benefit payments under the system should be limited to such persons, their dependents and survivors who:

   (1) Are receiving benefit payments or are entitled to benefit payments by death or retirement on the date agreement is achieved with the federal government to extend social security coverage to public employees; and

   (2) To such persons who in the judgment of the administrator would have attained eligibility for benefits under the existing system after the date of modification, had that system continued in effect without modification.

b. The total benefits payable on any one account be reduced by the amount of any benefit paid under Title II of the Social Security Act to the person or persons represented by that account.

c. A benefit, referred to as a "Prior Service Benefit", be paid to any member on retirement at age 65 or later, unless he is receiving benefits under some other provision of the OASIS Act. The amount of the benefit shall be the actuarial equivalent of an amount equal to three times the amount of the contributions paid by him to the North Dakota Old Age and Survivor Insurance Trust Fund within the period beginning on July 1, 1947 and ending on December 1, 1954; this amount being compounded at 2½% annual interest from January 1, 1957 to the first day of the year in which he becomes entitled to benefits. Any refund of contributions which has been paid to him shall be deducted from the amount of his contribution in the computation of his benefit.

d. The present tax levied against employees be rescinded and the tax levied on employers be reduced from 2% to 1% of the taxable wages of each employee.

e. The present Old Age and Survivor Insurance Fund be retained as a trust fund, separate and apart from all other trust funds except that any excessive balance in this fund may be "pooled" with other funds for investment purposes to improve possible yields and security. Further, the fund be authorized to borrow from the North Dakota Retirement System Trust Fund (described later) at an interest rate of 2½% annually, amounts necessary to meet current benefit obligations.

The effect of these modifications would be to continue OASIS in its present form for persons now in current payment status, and to assure any member attaining eligibility under the new system, a total benefit at least equal to that which he would have received had OASIS not been modified. Further, any member who cannot achieve eligibility under the new system may be granted benefits under the old system if it is reasonable to believe that he could have achieved eligibility under the old system.

They will also provide one part of a supplemental benefit to all persons with wage credits in the present system prior to 1955 who attain eligibility for retirement under the new system. The value of this benefit will exceed the value of employee and employer contributions.

The contribution of 1%, together with the amount remaining in the fund after paying retroactive contributions for social security coverage, will not be adequate to meet current benefit costs, except in the year 1957, until a date no earlier than 1965. This deficit will necessarily be met either from appropriations from the general revenues of the State or by borrowing from the North Dakota Retirement System Trust Fund. The tax must be continued over a period long enough to repay such loans. This period will be no less than 16 years.

The continuation of the trust fund as a separate entity will facilitate accounting for the liability accrued by OASIS. The need for the fund will disappear with the eventual dissolution of the liability and the system.

4. The North Dakota Retirement System:

If social security is adopted, a new system of retirement insurance should be provided to provide a retirement annuity, supplemental to social security benefits, for all persons employed in positions now covered by OASIS. The elements of this system are:

a. A tax upon each employer and each employee in the amount of 1% of the first $4,200 of the annual earnings of each employee.

b. A retirement annuity, referred to below as a "current service benefit", payable at termination of employment or retirement to any member attaining age 55 or older, who has contributed to the North Dakota Retirement System Trust Fund in each of 10 years after the effective date of the Act, or at retirement, to any member who has attained age 65.

The amount of the current service benefit shall be equal to the actuarial equivalent of three times the amount of the member's contributions to the North Dakota Retirement System Trust Fund, these contributions being accumulated at 2½% interest compounded annually.

The current service benefit may be paid under any one of the settlement options approved by the Administrator and elected by the member at the time of first eligibility.

c. A refund provision shall provide for the refunding of the member's contribution to any member who terminates employment after 4 quarters in covered employment, and prior to attaining eligibility for a retirement annuity. The member's contribution subject to refund shall be accumulated at 2% interest compounded annually.

The effect of these provisions is to add a supplement to retirement benefits attained under social security and to offset, in part, the effects of certain subsidy aspects of that plan. The benefit improvements attained in transfer from OASIS to social security, are greatest for older persons. The supplemental benefit will be greatest for young persons who remain in covered employment until retirement age. In combination these two plans will provide a system of adequate benefits on a basis equitable for all classes of membership.

Licensing and Inspection

House Resolution W-1 directed the Legislative Research Committee to study the licensing and inspection activities of the Public Service Commission. The resolution directs the Committee to "study the statutes governing the operation and administration of the licensing and inspection functions of the Public Service Commission for the purpose of recommending methods of consolidation of such activities, and to make its recommendations and report to the Thirty-fifth Legislative Assembly in such form as it may deem expedient." A subcommittee consisting of Senator A. W. Luick, Chairman, Senator Iver Solberg and Representatives Leland Roen, C. G. Fristad, and Oscar Solberg was appointed to carry on this study. The Legislative Research Committee, by motion further directed the subcommittee to consider the licensing and inspection activities of other departments of state government in order that duplication and inefficiency in the licensing and inspection services of other agencies of the State might also be removed.

During the previous biennium, the Legislative Research Committee had made a partial study of the licensing and inspection activities of the State. At that time it was determined that there were some 98 types of business functions being licensed by the State of North Dakota and that such licenses were issued by some 28 divisions or departments of state government. It was found that there were some 33 licensing or inspection departments or divisions of the State of North Dakota which employed 195 full and part-time field inspectors or auditors. The length, variety, and duplication shown in a tabulation of licensing and inspections carried on by the State is indicative of the cumulative effect of various uncoordinated attempts to regulate particular groups of people, products, or industries. The Committee has attempted to limit its study to those licensing and inspection activities which appeared to bear some possibility of consolidation or which appeared to be subject to elimination.

The Public Service Commission presently has a number of licensing and inspection functions in fields not directly related to the regulation of public utilities. The Department of Weights and Measures of the Public Service Commission presently employs 6 field inspectors checking scales, gas pumps, and other measuring devices. The Livestock Dealers' Department employs 1 inspector on a 9 or 10 month annual basis, whose duties include inspecting and enforcing the licensing and bonding of livestock buyers. The Auto Transportation Division has 6 inspectors whose duties are to check on carriers to be sure that they are authorized by the Public Service Commission to engage in the hauling activities they are carrying on, as well as the enforcement of certain safety regulations and to determine the general compliance with rules governing motor carriers in this State. The inspectors of the Auto Transportation Division do much of their work by checking trucks at State Highway Department weighing stations, with some checking being done at livestock sales rings where trucks are present hauling cattle. It was noted that these inspectors deal with the same carriers who are also inspected and regulated for other purposes by the State Highway Patrol and the weight division of the State Highway Department.

The State Laboratories Department has a number of licenses which they issue and a number of field inspectors. The Department is required to license restaurants, brands of antifreeze, brands of beverages, egg dealers, the preparation and sale of narcotics, brands of commercial fertilizer, the manufacture and sale of oleomargarine, livestock medicines, hotels and lodging houses, tourist camps and cabins, commercial feed stuffs, and to inspect all types of food and drugs and establishments handling, manufacturing, or selling such products, and to inspect establishments selling oil and gas products and to test such petroleum products. To carry on these functions, the State Laboratories Department has 2 inspectors assigned to oil and gas inspections and 7 inspectors assigned to other inspection functions of the Department. It was found by the Committee that some of these inspection functions duplicate those of local health districts.

The Attorney General's Licensing Depart-

ment is presently required to license amusement games, bowling alleys, dance halls, pool halls, sale of soft drinks, taxicabs, moving picture theaters, retail sale of alcoholic beverages, private halls used by the public, establishments selling tobacco, and also to enforce certain state liquor regulatory laws. To carry on these functions, the Attorney General's office is allowed by statute one chief inspector and six field inspectors.

The State Dairy Department, which is contained in the Department of Agriculture and Labor, also has a substantial number of inspection duties. Their primary inspection duties are those of inspecting creameries, cream stations, milk plants, milk and related dairy products, as well as checking the cream testing by various cream buying stations and creameries in the State. The Department presently has one Dairy Commissioner and nine field inspectors engaged in this work. The Committee found that there was some duplication of inspection responsibility between the State Dairy Department and the State Health Department and local Health Districts.

The District Health Units operating in 29 counties of the State also have substantial inspection duties. The District Health Units are joint county units for the purpose of inspecting pasteurization plants, dairy farms, restaurants, taverns, frozen food markets, food processors, abattoirs, public and private sewage facilities, water facilities, schools, and generally inspect any place where food is processed or handled. These district units have replaced county health officers in the counties within the districts. The Committee found that many of these activities duplicate responsibilities and inspection functions of the State Dairy Department and the State Laboratories Department.

Another department engaged in the field of inspection and enforcement pertaining to motor vehicles is the weight and ton-tax enforcement division of the State Highway Department. This division operates the permanent weighing scales on the principal highways throughout the state, portable weighing scales, and in addition maintains a force of approximately ten men in field enforcement in the vicinity of the scales, plus two supervisors. This division checks vehicle weights, registration, reciprocity, enforces the ton-tax, and truck-mile tax, and issues special permits for oversize and overweight vehicles. A total of 49 men are employed in these duties. It was noted by the Committee that the State Highway Patrol also has responsibilities for enforcing these same laws and that their field deals with the same people who were affected by the inspectors of the Auto Transportation Division of the Public Service Commission.

It became obvious to the Committee that much of this duplication in licensing and inspection activities was unjustified and in some instances did not serve a useful purpose. The consolidation or elimination of certain licensing and inspection functions will naturally reduce the cost of these activities to the State and will eliminate much of the confusion in the minds of people of the State that results when more than one agency licenses or inspects activities in the same field. In addition consolidation will eliminate the inconvenience of multi-inspections which many businessmen and farmers feel to be a definite nuisance in the conduct of their businesses.

Recommendations

The Committee recommends that the laws providing for the licensing and inspection functions of the Attorney General's Licensing Department in regard to bowling alleys, dance halls, pool halls, sale of soft drinks, taxicabs, moving picture theaters, private halls used for the public, and establishments selling tobacco be repealed, thereby eliminating such licensing and inspecting duties entirely. These functions can be adequately controlled by the political subdivisions, and some of them duplicate inspecting and licensing functions of other State agencies. It is definitely the opinion of the Committee that such licensing and inspection activities serve no useful purpose. Total income from these licenses during the year 1954-55 was only $45,237. The Committee is of the firm opinion that the cost to the State in issuing these licenses and inspecting such establishments is substantially in excess of this figure. The Committee further recommends that the responsibility for the licensing of amusement devices and licensing the sale of alcoholic beverages at retail should be transferred to the State Lab-

oratories Department. This department already has a substantial number of inspectors in the field that could carry on the inspection functions. In addition, these inspectors could investigate reported violations of the liquor laws. It is recommended that the Attorney General's office provide the services of an Assistant Attorney General on a part-time basis to the State Laboratories Department to assist in conducting hearings in regard to violations and in relation to the suspension or revocation of licenses. In view of later recommendations in this report for the removal of certain licensing and inspection responsibilities from the State Laboratories Department, it would be possible for the State Laboratories Department to assume this responsibility without any increase in the number of field inspectors. In substance, therefore, the Committee recommends that the Attorney General's Licensing Department be abolished, except that the licensing of amusement games and the retail sale of alcoholic beverages be retained and transferred to the State Laboratories Department.

The Committee feels that the duplication of inspection activities between the State Laboratories Department and District Health Units in the 29 counties having such District Health Units should be removed. In this regard the Committee sent questionnaires to all counties having such District Health Units asking the County Commissioners to inform the Committee whether they would desire to have the State Laboratories Department withdraw from the inspection of restaurants, hotels and lodging houses, tourist camps and cabins, and general food processors. Of the 15 counties replying, 13 of the Boards of County Commissioners recommended that the State leave such inspections entirely to the District Health Units. Since the District Health Units are presently inspecting such establishments, the withdrawal of the state inspectors would serve to remove duplicate inspections and should result in little or no increase in costs to the District Health Units. The Committee therefore recommends the discontinuance of the State Laboratories Department inspections of these businesses in areas having District Health Units and a transfer of such responsibilities to the District Health Units. The Committee recommends that the issuance of licenses in counties having District Health Units remain with the State Laboratories Department, and that the District Health Units certify the results of their inspections to the State Laboratories Department in order that the State Laboratories Department may use these inspection reports as the basis for refusing to issue licenses or as a basis to suspend or revoke the licenses involved. In consideration of the withdrawal of such responsibilities, it is believed by the Committee that a sufficient number of inspectors will remain to handle the additional duties in regard to the licensing of amusement devices and the retail liquor establishments, which the Committee has previously recommended be transferred to that department.

The Committee has been unable to find any real justification for the maintenance of two oil and gas inspectors within the State Laboratories Department in addition to the other 7 district inspectors. A primary duty of these oil and gas inspectors is to check establishments handling and selling petroleum products and to take samples from such retail outlets for testing by the State Laboratories Department. Since no special technical training is needed for these oil and gas inspections, it is the Committee's opinion that the two oil and gas inspectors can be entirely eliminated and their duties absorbed by the remaining seven general inspectors who are assigned to various inspection districts within the State. It has been noted by the Committee that the State Laboratories Department has been having difficulty in retaining trained chemists and other technical personnel because of inadequate salaries. The Committee would recommend that the saving resulting from the elimination of the two oil and gas inspectors should be made available to the State Laboratories Department for increasing salaries of its trained technicians. Since no statutory provisions exist requiring the maintenance of the two additional oil and gas inspectors, the Committee recommends that the Director of the State Laboratories Department take action to abolish these two positions by administrative action and that the House and Senate Appropriations Committees adjust the proper items within the appropriation of the State Laboratories Department for the elimination of salary and expense allowances for these two inspectors.

The Livestock Dealers' Department of the Public Service Commission presently employs one inspector on a nine or ten month annual basis whose duties include inspecting and enforcing the licensing and bonding of livestock buyers. It is recommended by the Committee that the responsibility for the licensing and bonding of livestock dealers be transferred to the State Dairy Department. If such a transfer is made, the nine regular dairy inspectors can more adequately enforce the licensing and bonding law without any additional expense and with only a small amount of administrative expense within the department. This will result in the complete elimination of one inspector.

As previously mentioned, the Public Service Commission employs six field inspectors in the Auto Transportation Division with the duties of the enforcement of certain safety regulations and to determine the general compliance with rules and regulations governing the activities of carriers within the jurisdiction of the Auto Transportation Division. The State Highway Patrol is also charged with the duty of enforcing other laws and regulations pertaining to these same motor vehicle operators. The activities of so many agencies in the enforcement of motor vehicle laws and regulations is very confusing to the motor vehicle operators and certainly does not result in the best or most economical enforcement. It is therefore recommended by the Committee that the field enforcement duties of the Auto Transportation Division be transferred to the State Highway Patrol. In order to compensate the Patrol for the time spent in such activities and to not detract from their present enforcement program, it is recommended that the sum of $80,000 be appropriated to the State Highway Patrol from the Auto Transportation Fund in order to permit the employment of five additional highway patrolmen.

As a result of the Committee's study, the members feel that there is substantial merit in the consolidation of the weight enforcement division of the State Highway Department with the State Highway Patrol. The weight division presently employs about 49 men and is presently operating 8 vehicles traveling in the vicinity of scales to enforce weight and highway tax laws. In addition the division has 4 portable scales in operation. The Committee believes that a consolidation of this division with the State Highway Patrol would further eliminate confusion that exists in motor vehicle law enforcement. Although cooperation between these two agencies is fairly good, nevertheless, each agency tends to give its primary interest and attention to its principal duties of enforcement and to allow the other agency to provide the major enforcement of the functions for which it is primarily responsible. It would seem that the 8 vehicles presently operated by the State Highway Department could just as well enforce all motor vehicle laws instead of only those relating to taxation and weight of trucks. By the same token, all State Highway Patrolmen could give equal attention to weight and highway taxation laws. The consolidation of these two functions should 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 enforcement at peak periods in the various fields of enforcement. Further, it is believed that uniformed officers can more easily enforce the weight, registration, and highway tax laws than is presently possible with the weight division being a part of the State Highway Department. Should such a transfer to the State Highway Patrol be made, it would seem that one Patrol Captain should be placed in charge of weight and motor vehicle tax enforcement functions within the state headquarters of the Highway Patrol, plus one or two clerical assistants. Such Patrol Captain could be in direct charge of administrative matters relating to scale, weight and tax enforcement, but all officers operating motor vehicles or scales in the field would continue to be under the supervision of the regular Patrol Sergeants. All officers of the Patrol would have equal responsibility in the enforcement of weight and motor vehicle tax laws.

The Committee, however, does not wish to make a firm recommendation upon the transfer of the weight enforcement division of the State Highway Department to the Highway Patrol until it is known whether the State of North Dakota is to have a weight-distance tax law. In the Committee's opinion, the weight division of the State Highway

Department is the most logical agency to administer and enforce such laws, and should such a law be passed in the present Session of the Legislature, it might cause too much confusion to place upon this division the responsibility for enforcing a new weight-distance tax law and at the same time carry on a transfer of its functions to the State Highway Patrol with the resulting administrative reorganization. If a weight-distance tax law is not passed in this State at the present Session of the Legislative Assembly, it is the Committee's recommendation that the weight division of the State Highway Department be transferred to the State Highway Patrol effective January 1, 1958. If a weight-distance tax law is passed during the present Session, placing the responsibility for administration and enforcement of such law upon the weight division of the State Highway Department, then the Committee recommends that the effective date of the transfer of functions of this division to the State Highway Patrol be delayed until January 1, 1959.

The overlapping duties of inspecting producers and processors of dairy products, especially milk, between the District Health Units and the State Dairy Department has been previously mentioned in this report. The Committee feels that duplicate inspections between District Health Units and the State Dairy Department upon different standards should not continue. It is therefore recommended that legislation be enacted requiring the State Dairy Department and the State Health Department to prescribe uniform standards for the approval of milk supplies and other dairy products. The Committee would suggest the uniform standards promulgated by the U. S. Public Health Service as a model. It is further recommended that legislation be enacted permitting the State Health Department, State Health Districts, and the State Dairy Department to each accept the inspections of the other agencies in regard to compliance with the uniform standards adopted in regard to dairy products. The acceptance of inspections made by each agency would remove the necessity of duplicate field inspections and eliminate the present overlapping and confusion that exists. Should the departments involved be unable to work out a suitable program to eliminate this duplication during the coming biennium on an administrative basis, it is recommended that legislation be adopted at the following session of the Legislative Assembly to completely centralize the inspections within one department.

As a final recommendation, the Committee recommends that a very limited type of merit system be established for the employment of field inspectors of the State Laboratories Department. Specifically, the Committee recommends that the State Laboratories Department inspectors be appointed from a list of qualified applicants as certified by the Director of the State Merit System Council, but that their tenure in office after appointment be entirely at the will of the Director of the State Laboratories Department. In this regard, it is recommended that a small appropriation to the State Laboratories Department for the purpose of compensating the State Merit System Council for their costs in testing and interviewing applicants for such positions. It is the belief of the Committee that such a measure would substantially improve the tenure of employment of the inspectors, remove any stigma of political patronage that may exist in such positions, and consequently aid the State Laboratories Department in employing and retaining competent inspectors.

Game and Fish

House Resolution No. 15 directed the Legislative Research Committee to make a study of the feasibility and advisability of the State adopting a commission form of game management. This resolution was a direct result of the introduction of House Bill No. 582 at the Thirty-fourth Session of the Legislative Assembly which if passed would have created a game and fish commission type of game management in this state. The bill after amendment was approved by the House of Representatives with apparent agreement of practically everybody interested in the field. However, after being approved by the Natural Resources Committee of the Senate, differences of opinion as to the advisability of such a commission form of game management and as to the details of the amended House Bill No. 582 arose. The bill was indefinitely postponed and the resolution directing the Legislative Research Committee to study this subject was passed. A subcommittee consisting of Senator Iver Solberg, Chairman, Senator O. S. Johnson and Representatives Stanley Saugstad, Elmer Hegge and Leo Sticka was appointed to carry on this study.

In the Committee study it was found that generally in the forty-eight states two types of management for the administering of wildlife resources have developed. These are the commission type and the executive or director type of game management agencies. Since both of these systems are being used in the several states, the Committee has undertaken a study of both systems in terms of their advantages and disadvantages. There are a number of advantages and disadvantages of both forms of game management. The Committee will first discuss some of these matters in relation to the executive or single commissioner form of game management.

It is generally agreed that the executive or single commissioner system affords the administrator opportunity to make his own decisions. There is little opportunity for delaying decisions or "buck passing" to a board as there might be in the case of a commission type of game and fish management. Moreover, this system creates a direct line of command running from the people to the governor and through him to the game and fish commissioner. The executive system has worked out fairly well in a majority of the states due principally to two factors. The first is that over a long period of time the governors of the various states have in most instances appointed exceptionally able men to the position of department head, and secondly that the staffs of many departments have been made somewhat permanent through the employment of a merit system, and consequently not readily subject to removal for political reasons. Some of the potential deficiencies in single executive type game and fish management are obvious. It is possible for each changing governor to appoint a new game and fish commissioner or director on a political basis without regard to his interest or qualifications in the field of wildlife management. It is also possible for such politically appointed department head to make changes within the department on a political basis, thereby destroying the job tenure and stability of many highly trained game management technicians. The danger of this is especially great in states such as North Dakota which does not have a merit system within the game and fish department. Whether such actions actually occur or not are of course dependent upon the governor and the then existing game and fish department head, but the possibility of such action does makes the task of securing and retaining competent, trained and experienced game management technicians much more difficult.

Many of the advantages of the commission form of government are also quite apparent. The appointment of a game and fish commission from a list of applicants submitted by agencies having no direct political interest does provide an opportunity to remove the operation of the game and fish department from the danger of active partisan politics. The result would be to encourage trained career-type persons to enter the employ of the game and fish department and to have the value of their services determined on the basis of their individual merit without danger of interruption through future partisan politics. This would better the department's position to procure and

retain trained and mature personnel. The appointment of a game and fish commission has the effect of giving continuity to the game and fish department since the commissioners are usually appointed upon a staggered term basis and in a substantial respect eliminate the void that occurs when a single commissioner leaves the office and a less experienced man takes over. It must be pointed out however that to be successful a game and fish commission must limit their activities to the policy making level, leaving the day-by-day detailed decisions to the director they have appointed to head the department. Those game and fish boards which have attempted to make detailed administrative decisions and directly run the game and fish department have seldom shown a great degree of success. A further advantage of the game and fish commission system is that it affords an opportunity to appoint members to the commission on an area basis. It is generally found that the better hunting areas are those with the least population, and the appointment of members of a game and fish board on an area basis gives the residents and landowners of the area in which the game is found a more direct voice in game and fish management matters, and at the same time gives adequate representation to the sportsman in the more populous areas of the State.

After study and discussion of the two forms of game management, it was the decision of the Committee that there was a middle ground between the two methods that could encompass the most desirable features of each and yet not include the major weak points of the two systems. Recognizing the desirability of a commission appointed on the basis of geographical districts, the Committee recommends the creation of a game and fish advisory board. The game and fish department would continue to be managed by a single commissioner with all of the resulting advantages of direct responsibility and authority in a single department head. The advisory board, meeting at least twice each year, could review major policies and proposed hunting and fishing regulations of the department and submit their recommendations thereon to the Commissioner, the Governor, and the public. The Committee firmly believes that this would provide both landowners and sportsmen in the seven geographic districts a more direct voice in game management policies, thereby further improving relations between the department and the public and between landowners and sportsmen, which are vital to a wildlife program. Such advisory board should serve upon a small per diem basis with reimbursement for actual expenses incurred in the attendance of official meetings. The board would have special advantages if appointed on a staggered term basis, since in the event a commissioner leaves office, it could assist in providing stability in regard to major polices when a less experienced man takes over.

It is true, however, that the creation of such an advisory board would not remove the possibility of the intrusion of partisan politics in the employment or retention of departmental employees, which is a substantial weakness of the single executive form of management. To remove the possibility of the removal of trained personnel and their replacement with less competent persons on the basis of political patronage, the Committee recommends the creation of a limited merit system for the Game and Fish Department. It is suggested that all personnel hereafter employed by the department be selected from a list of qualified applicants submitted by the director of the State Merit System Council, after necessary testing and oral interviews by such director. The tenure in office of the department employees would be at the will of the commissioner, but the limited merit system would insure that any replacements were properly qualified. The Committee believes that this system would prevent any real threat of the intrusion of partisan politics in the employment of personnel, and thereby would be of substantial assistance in obtaining and retaining highly competent employees.

The Committee will introduce appropriate legislation to carry out its recommendations, and any questions in regard to the details of its suggestions can be answered by a study of the bill introduced.

Weight-Distance Tax

Senate Concurrent Resolution N directed the Committee to study all aspects of a "weight-distance tax" with special emphasis upon the possible yield of the tax, its equities, and upon the practical problems involved in its administration, and to submit a report to the Thirty-fifth Legislative Assembly in such form as deemed proper and expedient.

To conduct the detailed supervision and analysis of the necessary study, a subcommittee consisting of Representatives Louis Leet, Chairman, and Leland Roen, and Senators A. W. Luick, H. B. Baeverstad, and Ralph Dewing, was appointed. Later, Senator Gail H. Hernett and Representatives Hjalmer Nygaard and Arthur Link were added to the subcommittee to assist them in their deliberations.

In order to carry out this directive, it became first necessary to get the facts relating to truck travel in North Dakota, and to make a statistical analysis of this physical data. Through the cooperation of the Highway Department, data was gathered by their employees at checkpoints and by a survey of trucks over an 11-week period in the summers of 1955 and 1956. With the financial and technical assistance of the U. S. Bureau of Public Roads and the N. D. Highway Department, the Bureau of Business and Economic Research of the University of North Dakota was employed to make an analysis, from the data submitted to them, of highway cost allocation in the State. This study and analysis was completed under the authorship of Professor William E. Koenker, with Mr. Arlyn J. Larson as his research assistant and co-author, and is published under the title "Equitable Highway Cost Allocation in North Dakota".

Meanwhile, some members of the subcommittee personally journeyed to Kansas, Wyoming, Idaho, and Oregon to interview administration people and representatives of trucking interests in those places, to get their verbal advice and criticism of the weight-distance program as it existed there.

The subcommittee then held a public hearing on Dr. Koenker's report. Another public hearing was later held to receive the report of the North Dakota Motor Carriers Association, based on the same data as formed the basis of Dr. Koenker's report, and to receive their criticism of his report. The views and arguments of the trucking industry against weight-distance taxes were very ably presented by Mr. Allan Shirley, executive secretary of the North Dakota Motor Carriers Association, and copies of that presentation have been forwarded by the Association to each legislator. And finally a third public hearing was held to afford Dr. Koenker an opportunity to reply and also to receive any additional comment or discussion.

It would be impossible to summarize here the details of Dr. Koenker's report, or the details of the Motor Carriers' report. These are both in the hands of each legislator for his individual information and study. It will suffice to say that Dr. Koenker examines the present structure of taxes for highway revenue and finds that they are not equitably distributed, and that the unbalance operates in favor of the heavy (20,000 pounds gross weight and over), long distance hauler, and particularly the foreign chartered heavy hauler; in fact, his analysis shows that all foreign trucks are paying less than 3.5% of the annual highway program costs, which is nearly one-half what they should be paying (see page 8 of summary pamphlet for Dr. Koenker's report). On the other hand the analysis of the Motor Carriers Association indicates that the heavy truck is paying more than its fair share.

How can this discrepancy in analysis come from the same set of data? Primarily because Dr. Koenker has used what is known as the "incremental" approach to cost analysis, while the Motor Carriers Association used a different division of costs, called the "cost function" approach. The Association report admits that the incremental approach is the soundest and most accurate, but denies its validity as a practical matter, since they contend that it is impossible to determine the "basic highway" which is the foundation for the analysis. Nevertheless, a "basic highway" in North Dakota was determined for Dr. Koenker by

an Engineering Advisory Committee headed by Dean Lium of the University of North Dakota Engineering School, and including four other outstanding highway engineers who are familiar with North Dakota roads.

The reason the "basic highway" is important to the incremental approach is that under this analysis, all vehicles are charged equally for the costs of a basic road built to serve vehicles up to 6,000 pounds for a single axle (9,000 pounds for a tandem axle), and to withstand the destructive effects of the weather. Beyond this, increments of added highway costs made necessary by the presence of larger and heavier vehicles are charged to those vehicles as their sole responsibility. The "basic highway" is a hypothetical one, and the Engineering Committee gave the trucks a great leeway by including weights up to 6,000 pounds, since the actual basic road possibly needs only support a 4,000 pound load.

Although Dr. Koenker based his conclusions on the incremental approach, he analyzed his data under the cost-function approach as well, and also under the ton-mile approach. The differences among these three approaches are set forth in his report (see report pages 15-64, and specifically pages 3-7 in his summary) and the legislator's attention is directed there for an understanding of them.

An important facet of Dr. Koenker's report is his analysis of the reasons why the present tax structure is not equitable. It is pointed out, for instance, that it is not true that a combination of fuel taxes and license fees leads automatically to weight-distance equity. Under the present law, operators of vehicles traveling a few thousand miles are required to pay the same license fees as similar vehicles which travel hundreds of thousands of miles annually, and this inequity is not compensated for by the fuel tax.

As between light and heavy vehicles, fuel tax payments do not compensate either, as pointed out on pages 19 and 20 of Dr. Koenker's report, but actually increase unfairness to low weight vehicles, since fuel taxes are regressive with respect to weight—that is, as weight increases, the unit amount paid decreases. Data indicate, for example, that passenger cars will use 4½ times as much fuel as diesel trucks. In one attempt to remedy this inequity, Kentucky in its last legislative session found it necessary to increase the fuel tax on the heavier vehicles by 2c per gallon.

After consideration of all the factors and the arguments pro and con, the Committee believes that Dr. Koenker's incremental analysis of equitable highway cost allocation in North Dakota is a sound and acceptable analysis, arrived at with praiseworthy objectivity.

Dr. Koenker was also requested to recommend a tax structure based on his analysis which would achieve more equitable contribution of each classification of user. As part of his overall report, he included a final chapter, contained on pages 66 through 80 of his report, and each legislator is urged to read his comments therein under the caption "Appropriateness and Feasibility of a Weight-Distance Tax".

His observations and conclusions as to the feasibility of weight-distance taxes were carefully considered by the members of the Committee, in connection with their overall study of the North Dakota situation and their observations and discussions in the other states visited.

It is important to point out some misconceptions that are existent relating to weight-distance taxes. It has been said that other states have discarded ton-mile tax systems, that third structure taxes are administratively costly and impossible of enforcement, and that the presence of such a tax will drive industry out of the state and raise freight rates prohibitively.

It is true that states trying a "ton-mile tax" have discarded it—and so do Dr. Koenker and the Committee. Such ton-mile taxes are simple in theory, but are extremely complex and administratively burdensome in practice (see pages 19 and 66 of Dr. Koenker's report). The recommended weight-distance tax is not a ton-mile tax.

It is not true that this weight-distance tax would be administratively burdensome. In the six states now having such a tax (Oregon, Wyoming, Idaho, Ohio, Colorado and New York) they do not report costs to be excessive, and the figures range from 4% to 8% of gross revenue. Likewise, with regard to extent of evasion—estimates of evasion

in those states run from 2% to 5% (see pages 75-79 of Dr. Koenker's report). These figures and estimates were borne out by the face-to-face discussions had when members of the subcommittee visited Oregon, Wyoming, Idaho and Kansas. And as far as compliance costs to the trucking industry is concerned, it appears that the state would be asking for little more than the records that efficiently run businesses compile anyway for cost accounting and scheduling. The trucking industry itself has endorsed reporting mileage for prorating fuel taxes and license fees, which is a recognition that it is practical to record miles for tax purposes.

The most important factor to be considered is the possible economic effect of a weight-distance tax. If it is true that the result would be a bypassing of our state by trucks, and prohibitively high freight rates, the tax might be against public policy. Nevertheless, again, the facts indicate that no significant change would result unless the lowering of registration fees will tend to encourage new trucking industry, and to decrease the tax burden of low mileage operators. The Committee has been impressed by the fact that in other states now having such a weight-distance tax, there has been no adverse effect upon their industrial development or upon their general economy.

"Reciprocity" is an arrangement agreed to between states which allows trucks registered in one state to operate in other states under like conditions. The legislator is urged to read the discussion of "reciprocity" contained on pages 79 and 80 of Dr. Koenker's report. Theoretically, the basic reason for reciprocity is convenience to the operator and to the state. For full reciprocity, the method is to require payment of whatever fees are necessary by the resident operator of each state to that state, and to allow vehicles licensed in other states to come into the home state without payment of additional fees. If the exchange of travel is approximately equal, full reciprocity may be fair enough; but when the movement into a state considerably exceeds the movement out of that state, then it becomes unfair to the resident operators, other highway users and the general taxpayer. Such is the condition that exists in North Dakota, according to the records of the N. D. Highway Department and Dr. Koenker's analysis.

Realizing that this condition did exist, the Legislature in past sessions has given the highway department permissive legislation to regulate reciprocity. Thus, there is legislative authority for permissive prorating of registration fees for fleets of trucks (two or more owned by one firm), such ratio to be based on their travel in this state compared to their total travel in all states. This could be described as "partial reciprocity", and an example of its operation would be as follows: an operator of 10 trucks traveling a total of 100,000 miles a year in all states, and which travels 40,000 of those miles in North Dakota, would be required to register four of those trucks here and pay the registration therefor—the other six trucks are issued decal certificates for a nominal fee, and then can operate in the state as though regularly registered.

We now have prorating agreements with Montana, Minnesota, Wisconsin, Iowa, New Hampshire, Alberta, and Manitoba. We have full reciprocity arrangements with Illinois, Indiana, Michigan, Missouri, Nebraska, and South Dakota. Even before statutory prorationing and during the period when we granted full reciprocity privileges, the great majority of certificated carriers voluntarily prorated their registration fees, and were particularly careful to see that this state received its proper share of fuel taxes. Any breakdown of reciprocity has been despite the good intentions and actions of these certificated carriers, but they are not the majority of carriers.

Approximately 5600 reciprocity decals will have been issued in 1956 to vehicles from prorationing states, of which 5100 or more are issued to non-certificated carriers. Motor Vehicle Department records show only 124 vehicles licensed in North Dakota as the prorated part of these 5100 decals issued, and only 85 of the 124 are registered for over 24,000 pounds. These 124 vehicles contributed only about $35,000 in license fees and ton taxes, while the other 5100 used our roads free, without any registration or ton fee payment.

There is obviously evasion of prorationing by the non-certificated carrier, and this is done in 3 ways. One frequently used way is to improperly re-

port the miles traveled to get a favorable ratio. A second method is to get full reciprocity by breaking up the identity of a fleet—i.e., fictitious transfer of title to drivers or others. The third way is through purported leasing of North Dakota registered vehicles. In this latter case, the lessor gets credit for the leased vehicle's license, although he may never use the truck, and then he may use its mileage in a manner favorable to himself with little opportunity for detection.

Highway department records show many trucking companies who have extensive fleet operations in this state but who have only one or two trucks registered here, with the other numerous trucks operating on the three dollar decals. A few examples of the result of reciprocity evasion and subterfuge, which is allowing so many trucks to use North Dakota highways without paying their fair share of the highway costs, are as follows:

Company A from Montana, which has extensive operations in this state, has declared 15 vehicles on which decals are issued, and has licensed in this state only one resident pick-up and one of his smaller units at 44,000 pounds;

Company B from Montana, which operates 13 vehicles in North Dakota on decals, has 14 vehicles in his fleet and declares 95.32% of his travel in Montana, registering all his trucks there;

Company C, which carries on extensive operations in this state, has obtained 38 decals, shows 39 vehicles in his fleet, declares 92% of his travel in Montana, but has licensed only one 63,000 pound truck in North Dakota.

Company D, a resident of North Dakota, has been issued 58 decals by North Dakota, but has only 3 vehicles registered in North Dakota, which the highway department has been unable to identify as to size, while at the same time it has registered 16 units in Montana;

Company E, which has obtained 76 decals for operations in North Dakota, has licensed only one 63,000 pound truck in this state;

Company F, which has obtained 260 decals for operating in this state, has only registered nine 36,000 pound vehicles here;

Company G, a resident of North Dakota, has been issued 60 decals but has no vehicles licensed in this state, declaring North Dakota leased vehicles in order to obtain prorationing. A check on these leased vehicles has shown from none, to one or two, trips a year;

Company H, which has obtained 14 decals, was required to license one truck in North Dakota because of false statements.

Best records available show that there are four or more foreign registered trucks traveling into our state for every domestic registered truck traveling out of the state, in the over 24,000 pound class. A November 1956 survey showed that in that month (when foreign registered truck travel is usually at a low point) there were even more heavy foreign trucks using our highways than domestic trucks of the same class. These records bear out the fact that we are a "bridge" state, used largely for carrying interstate travel for foreign registered vehicles.

It has come to the attention of the Committee that during this biennium a Montana interim legislative committee has been conducting an independent study of a weight-distance tax for Montana; they have apparently come to the same conclusions as here, since they have prepared a weight-distance tax bill for adoption by their legislature. If Montana passes their law, heavy trucks will uniformly pay weight-distance taxes from Fargo, North Dakota to Portland, Oregon.

Recommendations

In view of all the facts, the Committee recommends the introduction of a weight-distance tax bill to adjust inequities existing under our present program. This bill would apply to trucks of over 24,000 pounds registered gross weight, but would exempt public vehicles and those trucks coming less than ten miles inside state borders. Administration of the tax should be under the highway commissioner, with operators filing monthly returns showing operations for the preceding month, with discretionary quarterly returns. Existing personnel and equipment of the highway department and the highway patrol are deemed sufficient to enforce this tax and to make spot surveys of truck travel for comparison to the

travel data submitted on operators' returns.

The recommended legislation should collaterally provide for substantial reduction of registration fees on trucks in the over 24,000 pound category, and elimination of the present ton tax for those weights.

Weight-distance taxes, in themselves, are not designed to get more revenue. The amount of revenue is dependent on the rate established. The weight-distance method will, however, more easily and accurately procure from each class its proper share of costs and will more fairly affect the various vehicles within the class.

The amount of yield to be gained from highway taxes is dependent on present highway needs, and upon the projected construction program for the future. The pressing financial problems of the state are discussed elsewhere in this 1957 Legislative Research Committee report, and each legislator is urged to read pages 1-14 of Dr. Koenker's report to get a good picture of highway needs, the present highway tax structure, and available revenue therefrom.

Appendix Table A-1 in Dr. Koenker's Report, which appears on the page following page 80 therein, shows the revenue from all vehicles in 1955 from registration, ton-fees, and fuel tax payments. From that table, it can be seen that the total amount of revenue in 1955 from registration and ton-fees for trucks over 24,000 pounds amounted to $731,099. Such trucks in that year numbered 1,940, which was less than 2% of the total vehicles registered. A substantial reduction in their registration rates would bring a corresponding substantial reduction in revenue therefrom, if the number of vehicles registering remains the same. However, under the Committee's recommendations, this reduction in revenue would be offset by the proposed weight-distance tax revenue. It is likely, however, that trucks extensively operating in North Dakota but now registered elsewhere because of our present high registration rates, will choose then to properly register here since that would be financially more advantageous to them. This was specifically the experience in Idaho, when their high registration fees were substantially reduced in conjunction with enactment of their weight-distance tax. It is the firm opinion of the Committee that even if weight-distance tax revenue does not significantly exceed the revenue brought by present registration and ton fees, there will be an increase in registrants due to favorable low registration rates, which will increase overall revenue. This revenue increase will result from a return to North Dakota of trucks which should properly register here. It should be noted that this additional revenue will be received not from present registrants, but from operators now paying some other state for registration, but using our highways without sharing the cost therefor.

The weight-distance tax rate set forth in the recommended bill should be calculated to yield a revenue not significantly greater than the present yield from registration and ton tax payments for trucks over 24,000 pounds. This will adjust inequities in the over 24,000 pound class, but will not completely adjust unfairness between these heavier trucks and the light trucks and passenger cars. The Committee feels, however, that by first adjusting the inequities in this heavy weight group, a step will be taken in the right direction; and if the reduction in registration fees results in increased registrants here as anticipated, some adjustment of the inequity now existing between light and heavy vehicles will also be effected. The Committee realizes that the trucking industry may not at this time be financially able to pay its full fair share of highway costs, so that it may be that they should in part continue to be subsidized by other highway users and taxpayers.

When the bill embodying the foregoing principles is introduced for the consideration of the Legislative Assembly, it will be accompanied by a supplemental report of the Committee in discussion of its detailed provisions.

Informational Reports

Industrial Development and Promotional Activities

The following Memorandum Report upon the subject of industrial development and promotional activities was prepared by the Director of the Legislative Research Committee at the personal request of Senators John E. Davis, Gail H. Hernett, and R. E. Meidinger. However, because of the widespread interest in this subject, Senators Davis, Hernett and Meidinger have suggested that it be printed in the report of the Legislative Research Committee for the general information of all legislators.

Memorandum Report

The selection of an industrial site by any industry involves the consideration of many factors. Among these factors are items such as transportation, availability of raw materials, location of major markets, the physical site and services available, power, climate, water, labor supply, wage rates, existing industries, state and local laws of taxes, and possibly special inducements such as financial assistance, cheap rent, and tax concessions. Depending upon the type of industry, it sometimes happens that one or more of these factors is so vitally important that it limits the location of the industry to a narrow range of possible sites. However, in most cases a real choice to the industry does exist and it is largely to these industries that most state and local agencies have directed their efforts in industrial promotion and development.

The states engage in many activities that are directly related to the purpose of encouraging industries and businesses to locate in a state. The degree of emphasis given the several activities varies of course from state to state. In some states advertising may be considered of primary importance. In others the principal promotional activity may be that of having representatives travel throughout the country talking to prospects who may settle in the state. Still other agencies may concentrate on providing specific information on the basis of surveys regarding market potentials, availability of transportation facilities, raw materials, and similar factors. In some states legislation provides for independently administered but related programs of inducements to industry. These include, among others, tax inducements, use of local credit to build facilities for lease to industry, and legislation authorizing the formation of private development corporations.

Basically, activities to encourage industrial location and expansion fall into two categories: those undertaken by the governments themselves and those carried on by non-governmental groups. Governmental groups can be further classified as promotional or subsidy.

Governmental Industrial Activities

Government subsidy to new industry has been a predominantly Southern phenomenon. Such subsidies may take several forms one of which is the matter of tax concessions. Under such plans it is common to grant tax exemptions under the real and personal property tax to certain new industries for a period of five to ten years or tax them at only a fraction of the normal assessed valuation. Whether such tax concessions have been an important reason for the increase in Southern industry during the past ten years is uncertain because a large number of other factors have been involved in the shift of industries to the Southern area. However, most reports upon the subject tend to doubt that it has been of major consequence in promoting industrial development in the South. State and local taxes, although often mentioned, are not the most significant cost factor in most instances in the location of industries. The normal industry expands between two and five percent of its operating costs on taxes, sixty-five to seventy-five percent on labor, twenty to thirty percent on transportation and four to eight percent on fuel, power and water. It is thus evident that a small differential in

labor, transportation or raw materials costs will more than offset a substantial difference in taxes. It is true nevertheless, that taxes are generally considered an indication of the attitude or opinion of an area toward industry. For example, the corporate income tax has at times been criticized as being unfriendly toward industry although at the present time most states have enacted such taxes. It is in the intangible area of attitude of the states or communities toward industry that taxes seem to have the most effect on industrial location.

Another state and local governmental activity, which has some aspects which might place it in the governmental subsidy class is that of the provision of industrial facilities by the state or political subdivisions to new industries on a low rental basis.

At the past session of the Legislative Assembly, North Dakota passed an Act known as the Municipal Industrial Development Act which is now chapter 280 of the 1955 Session Laws. This Act in effect, authorizes municipalities to acquire industrial property by purchase, lease or gift; to issue revenue bonds in anticipation of the collection of revenues from such project in order to finance its acquisition or construction, and, to pledge the income from such property for the payment of the revenue bonds issued for the acquisition or construction. The municipality does not, however, have power to use the general credit of the municipality to secure any debt incurred or to use general funds of the city in such a project.

There has been some direct state participation in industrial development by several states. In 1955 New Hampshire created a statewide industrial development authority for the purpose of developing and constructing industrial facilities with full authority to maintain and operate industrial parks or sites. The authority has power to acquire real and personal property, sell and lease land, to charge and collect fees and rentals for services made available in developed industrial sites and to make contracts with the state or any agencies thereof including the towns and cities and public corporations or private cooperatives and individuals. It is authorized to accept grants in cooperation with the United States or any agency thereof in the development, maintenance, operation and financing of industrial parks or sites; authority to borrow money, issue bonds or notes, pledge the revenues of the industrial parks or sites as security, and to develop as an industrial park or site any real property owned by any local development corporation or foundation. The industrial development authority is further authorized to issue three-year notes to be purchased by the State Treasurer up to a maximum of one million dollars. In addition, the governor acting on behalf of the state is authorized to guarantee the payment of the interest and principal of bonds issued by the industrial authority which in effect makes such bonds full faith and credit bonds of the state. The property of the authority is declared to be public property and exempt from all taxes and special assessments of the state or political subdivisions. In lieu of such taxes the authority may agree to make payments to the municipality in which the industrial site and facilities are located for highway maintenance, fire protection, and other services. The New Hampshire measure is a new innovation and its ultimate success cannot be determined at this time. However, it definitely represents a determined effort on the part of New Hampshire to do all within its power to encourage the locating and expansion of industries within the state with the full assistance, encouragement and perhaps partnership of the state.

The State of Arkansas has authorized the establishment of local private industrial development corporations under special corporation laws passed for that purpose. The stock in these corporations are owned by private individuals. The local corporations are authorized to issue revenue bonds for the purpose of constructing and furnishing facilities for the location of new industries. The state's form of direct participation is the authority on the part of the state industrial commission to purchase up to ten percent of the revenue bonds of local development corporations from a revolving fund made available to the commission for that purpose and to accept a second lien upon the property of the local corporation which in effect gives the state second mortgage bonds. Again, since this Act was passed in 1955 the de-

gree of success is not known, but it is hoped by the State of Arkansas that the credit made available to local development corporations will encourage their activities and that the mere fact of the state having an indirect financial interest in the industries using the facilities provided by these local corporations will be recognized as a concrete assurance of interest, encouragement and fair play on the part of the state.

The point to be stressed in regard to this type of direct government participation in industrial development is that it encourages smaller industries, which have difficulty in acquiring adequate capital, to locate within the state or communities. It is further pointed out that the direct personal interest of the state and communities on a dollar and cent basis is concrete evidence of the friendly attitude of the area to the establishment of new industry as well as evidence of an intent to do all things possible to foster its future growth. Since state and community activities of this type have not been in effect over a sufficient number of years to adequately judge their degree of success, the results of similar activities in North Dakota would be somewhat uncertain. They do however, provide possibilities which should not be overlooked in the state.

There are some questions of public policy to be considered in the governmental activities which directly assist or at times subsidize the establishment of new industries by some of the means discussed above. It would certainly seem that it would be helpful for a firm for instance, to have a new plant built to its specifications, to pay low rent, to preserve its working capital and all this with the prospect of an ultimate ownership, if desired, at a nominal figure after the retirement of the bonds. There are some who feel that there are dangers inherent in the very inducements offered. For example, businesses of an unstable nature may be attracted. Further, if a new company does not own its plant and the title is with the municipality, the increased cost of government which may accompany municipal expansion resulting from the plant and additional population fall upon the residents and the established businesses without an adequate increase in the tax base from the new industry to compensate for the additional municipal cost. If an industry comes into a community on a subsidy basis, there is also a danger that further concessions will be required once the well-being of the area has become associated with that of the industry.

When all is said and done, what are the merits and dangers of direct inducement and subsidy to industry? Business may say it assists in overcoming the cost relocation, both the direct costs and the indirect ones such as of training new personnel and shaking down production in a new city. The community may say it creates jobs, keeps young people at home, and by strengthening the economy increases the tax base, raises the standard of living, and makes for a better balance between agriculture and industry. On the other side of the coin are possible inequities to existing firms. The fact that it is a game at which all states or communities can play to the ultimate gain of no one, the questionable value to the community of firms brought in only on the strength of official inducements, and the threat to their own municipal finance are negative arguments. It seems that perhaps the fairest thing to say is that, if the community or region is substantially handicapped by a real disadvantage of location, lack of labor, lack of skill among workers or a bad labor history, or a record of being inhospitable to business, to the extent that it will not be usually considered by firms contemplating new locations, then such states or communities may have to resort to artificial respiration to get industrial development started. If however the results are to be desirable and constructive, the state or community must be sure of the integrity of the firms with which it makes agreements and it must make a genuine effort to overcome some of the obstacles and disadvantages which previously prevented the location of firms in the state or communities on the basis of normal competition.

Governmental Promotion

For a number of years states have passed legislation enabling individual municipalities and political subdivisions to establish industrial commissions for the promotion of industry and to appropriate tax levies for their use. While not providing by statute for local development commissions as such, the State of North Dakota has

authorized the boards of county commissioners of any county in which there is located a city having a population in excess of three thousand to levy a tax not in excess of one-half mill for the purpose of advertising the resources and opportunities of the county or city and in promoting the industrial development thereof. The expenditure of such funds is under the direction of the governing boards of the county or city and presumably they may appoint a local industrial development board to act in an advisory capacity in regard to these activities.

At the state level, a number of states have established state industrial development commissions or departments and in other states such functions normally associated with these commissions are performed by regular state agencies. The activities of these state industrial development commissions take on a number of forms.

Considerable attention is usually devoted by state industrial development commissions to economic surveys and industrial research. Information is gathered concerning population trends, markets, industrial conditions, employment, income, transportation facilities, raw materials, heavy industry, taxes, public utilities, climatic conditions, business opportunities and other factors affecting the establishment and development of industry. The research may be original if necessary, or it may use data already available. It may be done in cooperation with various state departments or with any educational institutions. The surveys may be general economic studies covering the whole state or regions or cities within the state; they may be studies of various classes of industries or specific industries; they may be specific studies in response to inquiries from industries considering establishing in the state. As a further service the commission may arrange tours of possible sites, set up conferences, survey available plants or plant sites, or solicit responses and information from local authorities where present suitable plant sites may exist. The commissions may also actually send representatives to personally contact prospects.

Another common activity of state industrial development commissions is that of general promotion and advertising. In at least half of the states, expenditures are made to carry on advertising and public activities to encourage economic growth. The major themes in state industrial advertising reflect the type of activities undertaken by the agencies in their programs to attract industry. They set forth research results to feature the advantages of the state, and they emphasize services available to industry. Frequently mentioned in advertising are plant and site facilities, marketing research, labor supply, raw materials, transportation facilities, and tax concessions or advantages. A number of states devote considerable attention to recreational advertising, since the tourist trade may be one of their important industries. Several states advertise to stimulate the sale of major products, both industrial and agricultural. Promotional campaigns are often carried on by such additional means as reports upon the state, brochures and information, and press releases. Directories of state businesses and products are often prepared. State exhibits may be developed for the use at conventions, fairs and meetings at a national level and at times even private promotional firms are employed.

A tabulation of state expenditures for industrial advertising and promotion by state and semi-state agencies during the fiscal year 1955-56 as obtained from the Council of State Governments is set forth herein. Because such advertising and promotional activities are carried on by so many different types of agencies in the various states and not always identified as such, the following list probably does not include all state agencies making expenditures in this field and possibly not even all of the dollars and cents expenditures made by any one state. It can however, be considered a general guide in regard to advertising and promotional expense as differentiated from direct activities by states in the field of research and other related items.

INDUSTRIAL ADVERTISING AND PROMOTIONAL EXPENDITURES BY STATE AGENCIES

State Agency	Advertising	Publicity	Promotional Literature	Own Periodical	Tourist Information Service	All Other Including Administrative	Total
Arkansas Publicity & Information Dept.	$ 2,000						$ 2,000*
Colorado State Advertising & Publicity Dept.	29,350	$ 3,337	$ 1,900			$ 9,163	43,750
Florida State Advertising Commission	110,292						110,292*
Georgia Department of Commerce	47,000		43,000			42,500	132,500*
Dept. of Commerce & Public Relations (Indiana)	41,000		5,000			13,000	59,000
Kansas Industrial Development Comm.			15,000	$22,800		132,941	170,741**
Louisiana Dept. of Commerce & Industry	12,000		10,000			65,000	87,000
Maine Development Commission	10,000		3,000			40,000	53,000
State of Maine Publicity Bureau						5,000	5,000
Massachusetts Dept. of Commerce	25,000	2,000	3,000	2,000		(*)	32,000*
Minnesota Dept. of Business Development	40,000	10,000	5,000			10,000	65,000
Mississippi Agri. & Industrial Board	44,230	3,000	1,250	4,525		58,500	111,505
Division of Resources & Development (Missouri)	50,000	15,000	2,000	1,800	$ 8,000	5,000	81,800
Nebraska Resources Division	25,000		5,000	5,000		20,000	55,000
State Planning & Development Comm. (N.H.)			2,500			25,400	27,900*
State Promotion Sec., Dept. of Conservation & Economic Development (N.J.)	11,000			4,000			15,000
N. Y. State Dept. of Commerce	125,000						125,000

State Agency	Advertising	Publicity	Promotional Literature	Own Periodical	Tourist Information Service	All Other Including Administrative	Total
State Advertising Div., Dept. of Conservation & Development (N.C.)	76,000	2,500	3,000			1,000	82,500
Greater N.D. Assoc., N.D. St. Chamb. of Comm. (Not a state agency)	2,000	3,500	1,500	1,100	12,000	14,500	34,600
Ohio Development & Publicity Commission	3,125		9,575		19,000	11,646	43,346
State Development Board (South Carolina)	75,000	5,000	2,000			114,875	196,875
Vermont Development Commission	5,000	1,500	1,000	7,000			14,500
West Virginia Indus. & Publicity Comm.	17,500		4,000				21,500

*1954 figures; 1955 budget not reported.

** This is the total money to be used for three activities; $130,405 for general industrial development; $30,336 for industrial research, and $10,000 for state aviation activities.

(*) Amount for administrative and overhead not specified. Total budget for the Massachusetts Department of Commerce amounts to $548,799.

Industrial Development Credit Corporations

The formation of development credit corporations began in the New England states. In recent years however the use has spread from the six New England states to include the states of New York, Florida, Kansas, and Wisconsin. Official interest in such corporations has also been officially expressed in Minnesota, Michigan, Georgia, and Washington.

These industrial development corporations are formed for the purpose of providing a source of credit to comparatively small businesses and industries which, because of their size or special characteristics have difficulty in obtaining adequate capital for new locations and expansion by means of the issuance of stocks and bonds.

It was found in New England that while there did not exist an absolute shortage of capital, there did exist a lack of effective means of directing capital into promising growing smaller concerns in need of medium and long-term credit and equity capital. New England financial and business leaders chose to take the initiative and establish such a means within the existing private financial framework. These development corporations were formed to channel a small percentage of the resources of existing financial institutions into the risk area and thereby together accomplish what some financial institutions individually could not properly do.

The capital of these development credit associations generally comes from two sources: first, from stockholders, and second, from members. The stockholders provide the equity capital which is necessary to start the operation of the development credit corporation in much the same way as the subscribed stock of a private bank. This capital provides the funds to begin operation and serves as a cushion against losses. The stock is subscribed to by business firms and individuals who believe that the development of the corporation will stimulate the general economy of the state and, therefore, indirectly benefit themselves. The stockholders represent a vast variety of interests—manufacturing firms, utilities, railroads, merchants, brokers, lawyers, contractors, newspapers, chambers of commerce, service concerns, trucking companies and many others. The stock is sold mainly by the personal solicitation of the sponsors and directors of the development corporation. Although profits of the early years are always plowed back into the development corporation to build up reserves, it is definitely the policy of every development credit corporation to back only practical enterprises with competent management in order that both the borrower and the development credit corporation may eventually show a profit. This is considered essential in order to provide for the continued life of the development credit corporation and for its expansion in order to provide additional services to more industry.

The membership of such development credit corporations as distinguished from stockholders are usually limited to financial institutions, commercial banke and trusts, insurance companies, savings banks, building and loan associations, and similar financial institutions. These members agree to lend at the call of the development credit corporation, a fixed small percentage of their capital and surplus, which is usually 2% to 3%. Since the members provide the bulk of the funds being loaned by the development corporation, the members are usually permitted to elect up to two-thirds of the board of directors.

Development credit corporations do not make any loans that a member of the organization is willing to make individually, or which can readily be obtained from other sources, and, therefore, are not in any way in competition with existing financial institutions or regular sources of credit. But, because of their statewide scope, they help diversify the risks and assets of their members, both geographically and industrially, and thus make it possible for the entire group to assume a risk that an individual member could not do alone. Many financial needs of industries are met jointly by the loaning of development credit funds and by loans from separate financial institutions which are often willing to supply a part of the money required after the industrial development credit corporation has investigated the loan and indicated its soundness. In addition, it sometimes occurs that individual financial firms will accept a loan in its entirety after investigation and a

proper presentation of the facts by the development credit corporation.

While not eligible for membership in a state industrial credit corporation, local or municipal industrial development corporations of the type previously mentioned in this report, work closely with the statewide development credit corporation, both in bringing potential borrowers to the attention of the credit corporation and by directly sharing a portion of the financing required for specific industrial development or expansion.

Industrial development corporations are usually formed in the following manner. Sponsors of each such corporation first hold informal discussions in regard to the need for such a privately-owned and managed lending agency and determine its purposes and objectives. Only after obtaining assurance of support from substantial groups of financial institutions with regard to becoming members and from business firms and individuals who would become stockholders, have they asked the state legislatures to pass special laws authorizing the chartering of statewide development credit corporations.

All New England development credit corporations have been chartered under special corporate legislation rather than under the state's general incorporation laws for a number of reasons. The special incorporation laws often specifically make participation legal for state-chartered financial institutions, public utilities and others. It may make the stock of the corporation a legal investment for certain types of fiduciaries who otherwise would not be allowed to purchase the stock. The public is educated as to the purpose of the corporation and clear support of the legislative and executive branches of government is shown.

In the New England area there has been wide participation both on a stockholder and membership basis. Seventy percent of the membership is comprised of commercial banks and trust companies. Savings banks are the second largest group. Sixty percent of the pledged callable capital or credit used by the development credit corporation has been pledged by commercial banks, while insurance companies have pledged twenty-five percent and savings banks fourteen percent.

There are apparently two schools of thought regarding the interest to be paid by the development credit corporation for funds made available to it by members. Maine and New Hampshire, which pay 2%, use the general public welfare or public service approach. They presume that the financial institution will get new payrolls, new business and personal accounts, and as the communities prosper existing customers will be better off and so will the bank. The other approach, while not disregarding the public welfare and indirect benefit angle, is that an institution should become a member and pledge a certain amount of callable capital because it is making a sound profitable investment, and therefore that the interest rate should be closely related to the prevailing money rates.

Accomplishments of Industrial Credit Corporations

No development credit corporation has ever had to seek loan applicants. Banks have proved to be the most important referring agencies. Local industrial foundations, chambers of commerce, and local and state development commissions have also directed applicants to the development credit corporations.

Because a new job in manufacturing or processing has a multiple effect upon the economy, it being estimated that each 100 additional industrial jobs result in 75 service employment jobs, all loans to date made by the New England development credit corporations have been to manufacturing or processing concerns. All applicants must submit detailed financial statements and other pertinent information. Further checking is done through credit agencies, suppliers, customers, commercial banks, and by actual survey of the plant and operation by the staff of the development corporation. Sometimes it occurs after such investigation that the applicant is able to obtain loans directly from regular sources after his true needs and the extent of his resources and potential is properly presented.

Of the loans granted by the New England development credit corporation, by far the greatest majority were to companies employing 100 or fewer persons. The majority went to companies

with less than 50 employees. Maine, which has the oldest development credit corporation, has disbursed loans totaling over $1 million. There have been repayments in Maine of a full $370,000, which is indicative of good judgment in the granting of loans and a healthy turnover in funds so that they are again available to other industries. In summary, it appears that the New England development credit corporations have directly advanced in excess of $3.5 million and that private banks and financial institutions have loaned an additional $2.1 million on a joint basis to supplement the loans by the development credit corporation. In addition, another $1.6 million has been loaned by banks and insurance companies to borrowers who were referred to them by the development credit corporation.

The development credit corporations have been in existence in New England for a sufficient length of time to indicate that they are of substantial assistance in encouraging the location of new industries or the expansion of existing industries. They are of special assistance to comparatively small industries who have difficulty obtaining medium and long-term credit. It would therefore seem that this means of encouraging industrial development is worthy of consideration in the State of North Dakota.

Other Private Industrial Development Operators

Community economic development activities flourish over wide areas of the United States. The organization pattern differs. It may be an informal group of community-minded businessmen, a profit or nonprofit stock company, a trust, a membership corporation, or almost any other type of association. Whatever the form of organization, the functions of local development corporations or associations are quite similar. To succeed requires an intelligent appraisal of the community—what it has to offer the prospective industry, the relation between available sites and industries which could practically use them, the number, training and potential adaptibility of the labor force, the materials locally available or economically transportable, water, power and transportation facilities at hand, private manufacturing activities—the community, the prevailing pattern of community life and the way in which the new firm and its employees might blend into it, markets, either local or economically reachable, and other factors. Some such corporations or associations employ professionally trained persons to prepare industrial surveys upon such items for them.

In most cases the local development corporation or association must be ready to acquire sites or erect plants as needed or to remodel existing buildings to meet the requirements of newcomers. At times it will find itself operating power plants and supervising properties. It must be prepared to make or arrange loans for working capital and hence good relations with local banking institutions are a must. It may become a stockholder in firms which it helps finance, and members of the local association may serve upon the new industry's board of directors.

All those who stand to gain from community growth usually participate in the activities of development groups: retailers seeking greater volume, utility companies and railroads, local real estate owners, city officials looking for a broader tax base, bankers and existing industries concerned with the long-run prosperity of the community. For success, the community as a whole must want the organization it is seeking to achieve. In many cases, the development of a new factory or site means considerable cost to a community in the way of extension of sewers, the development of additional water supply, construction of streets, possibility of new schools and housing, and therefore unless there is real community-wide interest, local taxpayers not directly benefiting from the new industry may oppose the local industrial development activities.

An example of this type of activity might be that of Scranton, Pennsylvania. The citizens of Scranton in 1946 formed an industrial building company. To finance it they issued debentures and placed a first mortgage with a bank pool to build eleven industrial plants. It has since sold two of the plants and leased the rest. Subsequently thereto, it bought an industrial plant located in the city from the War Assets Administration, the money for the plant being raised from the sale of first mortgage bonds to the citizens of the community.

In 1950, $1.3 million was raised by outright contribution on a county-wide basis and six plants were built within the county employing 5000 persons. Funds received from the sale or lease of such properties are placed in a revolving fund for further industrial expansion. This activity was conducted as a private enterprise without any direct participation by the state, county, or city.

From the examples given, it can be seen that the success of any local community development activity is dependent upon a high degree of imagination and business judgment by the local leaders, as well as the wholehearted support of the entire community.

General Comments

The preceding memorandum report is of necessity very general in nature, and is intended to summarize the major industrial development and promotion activities being carried on in the country. Further information upon the subjects discussed is available in the office of the Legislative Research Committee, and additional information not on hand can be obtained upon request. However, the memorandum should serve as a basis for determining what type of industrial development or promotional activity might be practical or desirable in North Dakota.

Oil and Gas Taxation in the States

At the personal request of Senator John Leier, the staff of the Legislative Research Committee prepared a survey of major taxes affecting the oil and gas industry in the oil and gas producing states. Since almost every state taxes such industry and its products in at least a slightly different manner, it is extremely difficult to accurately compare one state with another. However, since this subject is a matter of general interest, with the consent of Senator Leier, the tabulation is reproduced in the Committee's report for informational purposes to all legislators.

STATE TAXATION AFFECTING THE OIL INDUSTRY

STATE	SEVERANCE TAXES AND DISTRIBUTION OF REVENUES			OIL & GAS PROPERTY TAX	CORPORATION TAXES	
	CONSERVATION TAX	PRODUCTION TAX	DISTRIBUTION BASED ON 1954 YIELD		Income	Franchise
ALA.	2%	4%	Oil & Gas: local general purposes 16%; 84% general fund Coal & iron ore: 100% local schools Timber: 80% local conservation; 20% General fund	Exempt on oil or gas produced or under ground on producing property incl. leases in production & mineral rights in production properties.	Yes	Yes
ARK.	Oil: not more than 5 mills per bbl. Gas: ⅛ mill per 1000 cu.ft.	Natural gas: 3/20¢ per 1000 cu. ft.	75% General Fund 12.5% education 12.5% highways	Yes	Yes	Yes
CALIF.	Charge on no.of bbls.of oil produced or cu.ft.of gas sold determined annually as needed for conservation.	For conservation only	100% conservation	Yes	Yes	Yes
COLO.	2 mills per bbl.of oil & 2 mills per 50,000 cu.ft. of gas.	2% of gross income of $25,000 or less; 3% on $25,000-$100,000; 4%, $100,000-$300,000; & 5%, $300,000 & over. Ad valorem taxes allowed as credit against the tax due.	100% conservation	Yes	Yes	Yes

STATE TAXATION AFFECTING THE OIL INDUSTRY

STATE	SEVERANCE TAXES AND DISTRIBUTION OF REVENUES			OIL & GAS PROPERTY TAX	CORPORATION TAXES	
	CONSERVATION TAX	PRODUCTION TAX	DISTRIBUTION BASED ON 1954 YIELD		Income	Franchise
FLA.	$50 per well drilled; $15 per dry hole abandoned	5% of gross value of oil produced. Escaped oil 12½% additional	80% General Fund 20% local general purposes	Intangibles only Franchises exempt	No	Yes
IDAHO		3% of net value	100% General Fund	Yes	Yes	Yes
IND.		1%	100% conservation	Yes	No	Annual report & filing fee
KANS.	Oil: $.00075 per barrel Gas: $.000375 per 1000 cu.ft. (enforcement)	1/20c per bbl. of oil produced & sold (stream pollution)	100% local general purposes	Yes	Yes	Yes
KY.		½ of 1% of market value	100% General Fund	Yes	Yes	Yes
LA.		$.18-$.26 per bbl. according to gravity of oil. $.003 per 1000 cu. ft. of gas.	90.7% education 8.4% local general purposes .9% conservation	Yes	Yes	Yes

STATE TAXATION AFFECTING THE OIL INDUSTRY

STATE	SEVERANCE TAXES AND DISTRIBUTION OF REVENUES			OIL & GAS PROPERTY TAX	CORPORATION TAXES	
	CONSERVATION TAX	PRODUCTION TAX	DISTRIBUTION BASED ON 1954 YIELD		Income	Franchise
MICH.		1/8¢ per bbl. of oil produced & sold (Privilege tax) 2% of gross value at point of severance of oil & gas.	100% General Fund	Yes	No (6½ mill business receipts tax)	Yes
MISS.		6¢ per bbl. or 6% of value, whichever is greater, in lieu of all ad valorem taxes on oil & equipment. Temporary 14% surtax on gas & oil.	69.6% General Fund 30.4% local general purposes	Exemptions: All nonproducing leasehold interests upon oil, gas & minerals on lands in state & all nonproducing severed mineral & royalty interests after 1/1/47. Also drilling rigs for oil, gas, etc. after 1/1/50.	Yes	Yes
MONT.	½¢ per bbl. on wells producing less than 25 bbls. per day; ½¢ per bbl. in excess of 25 bbls. 1 mill per 10,000 cu. ft. of gas	2% of gross value on oil	100% General Fund	Yes	Yes	Based on income

STATE TAXATION AFFECTING THE OIL INDUSTRY

STATE	SEVERANCE TAXES AND DISTRIBUTION OF REVENUES			OIL & GAS PROPERTY TAX	CORPORATION TAXES	
	CONSERVATION TAX	PRODUCTION TAX	DISTRIBUTION BASED ON 1954 YIELD		Income	Franchise
NEBR.		2%		Yes	No	Yes
NEV.	5 mills per bbl. of oil or 50,000 cu. ft. of gas			Shares of stock etc. exempt	No	Filing fee of $5
N.MEX.	1/8 of 1% of gross receipts from output of oil & gas		100% General Fund	No	Yes	Yes
N.C.	Fee of $50 for each well drilled & $15 for each well abandoned	Not to exceed 5 mills per bbl. of oil & ¼ mill per 1000 cu. ft. of gas.		Yes	Yes	Yes
N.DAK.		4½% on oil & gas in lieu of ad valorem taxes	34.2% General Fund 29.6% highways 9.9% local general purposes 26.3% education	Oil & gas property exempt	Yes	Filing fee $2.50 for domestic & $5 for foreign
OKLA.	1/8 of 1¢ per bbl. & 2/100¢ per 1000 cu. ft. of gas.	5% gross value of oil & gas	80% General Fund 10% highways 10% education	Exempt on equipment, machinery, tools, material or property used in oil & gas production upon which gross production tax has been paid.	Yes	Yes

STATE TAXATION AFFECTING THE OIL INDUSTRY

STATE	SEVERANCE TAXES AND DISTRIBUTION OF REVENUES			OIL & GAS PROPERTY TAX	CORPORATION TAXES	
	CONSERVATION TAX	PRODUCTION TAX	DISTRIBUTION BASED ON 1954 YIELD		Income	Franchise
TENN.		5¢ per 50-gallon bbl. of oil & 5% sales price of gas		Exempt-articles manufactured from state products in hands of producer	Yes	Yes
TEXAS		4.6% per bbl. on oil plus 3/16 of 1¢ per bbl.; 8% of value of gas until 9/1/56 & 7% thereafter; $1.40 per long ton of sulphur.	25% education 75% Omnibus Tax Clearance Fund	Yes	No	Yes
UTAH	2 mills per dollar of market value	1% of value at well of oil & gas	100% General Fund	Yes	Yes	Based on income
WYO.	Not to exceed 2/5 of 1 mill per dollar of value			Yes	No	Yes

House And Senate Committee System

During the past several sessions there have been certain problems which have arisen in both the House and the Senate in relation to the present committee system. The greatest difficulty that has appeared is the conflict in meetings between committees. It has often happened that at least two committees on which a member is serving have been scheduled to meet at the same time, thereby forcing a member to choose which meeting he will attend.

This problem has been especially acute in the Senate, where because of the smaller membership there has been great difficulty in obtaining a quorum to permit a committee to function. It often happens that some members will attend a committee meeting for only a few moments in order to be included in the quorum, and then be forced to leave to attend another conflicting committee meeting in order to be counted in the quorum of that committee.

The Senate members of the Legislative Research Committee have studied the problems of Senate committees and make the following recommendations for changes in the Senate committee system. They recommend that the membership upon all "A" committees, with the exception of the Committee on Appropriations which should be left with 17 members, be reduced from 15 to 13 members. The membership on all "B" committees should be reduced from 13 to 11 members. It is further recommended that the Committee on General Affairs be abolished, since this is used somewhat as a "catch all" committee, and its work could just as well be assigned to other regular committees. If these recommendations are adopted, most members of the Senate would serve on only three committees, with a few members serving on four. The reduction in the size of the committee would naturally make it easier to obtain a quorum without the fiction of members attending simply to be counted in a quorum and then leaving to attend other meetings.

Representative Stanley Saugstad has submitted to the Legislative Research Committee what appears to be a very excellent plan for the improvement of the House system. This plan would equalize committee assignments and schedule such committee meetings at such times as would remove any possibility of conflict of meetings if the committee membership is appointed with the recommended schedule of meeting times in mind.

Representative Saugstad's plan is as follows, and is recommended for consideration by the House of Representatives.

	Committee	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
	Appropriation	x	x	x	x		
A1	Education	x	x				
A2	Agriculture			x	x		
A1	Finance and Tax.	x	x				
A2	Judiciary			x	x		
A1	State & Federal	x	x				
A2	Industry & Business			x	x		
A1	Political Sub.	x	x				
A2	Transportation			x	x		
B	General Affairs					x	
B	Labor Relations					x	
B	Natural Resources					x	
B	Social Welfare					x	
B	Veteran and Military Affairs					x	
Total membership, if there are 21 on each committe		105	105	105	105	105	
If 22		110	110	110	110	110	

Each house member would serve on 1 B committee and 2 A committees.

Those serving on the Appropriations committee would have but one A committee.

Saturday would be open for either A or B committees that had not completed their work on schedule.

Further suggestions: In that the speaker and two floor leaders do not normally have committee assignments, there are 110 members to be assigned. Thus, if the present committee membership were kept at 21, there would be 5 members who would have but 1 A committee and 5 members who would have no B committee assignment. This could be cared for by increasing the number serving on each committee to 22, then every house member would have equal committee assignments.

Explanation of Legislative Research Committee Bills

Senate Bills

Senate Bills 1 to 32—Appropriations.

Senate Bill 33. Form of Printing Bills. This bill removes the statutory requirements in section 46-0305 for brackets and italics to show proposed changes in amendatory bills. These requirements are already matters of House and Senate Rules, and of contract, so that the statute is duplicated and useless. See the Committee report on statute revision.

Senate Bill 34. Estrays. Revision of chapter 36-13, simplifying the procedure for disposing of found animals, putting supervision in sheriffs' offices instead of justices of the peace. The bill also repeals authority of the North Dakota Stockmen's Association in the field, making sheriffs uniformly the administrators of estrays and estray funds. Further discussion is in the Committee report on statute revision.

Senate Bill 35. Repeal of Chapter 17-02, Fences in Stock Districts. Since stock districts are no longer legally existent in North Dakota, this law is obsolete. See the Committee report on statute revision.

Senate Bill 36. Roving Grain Buyer; Definition; Bond. This bill extends the protection of the roving grain buyer's bond to include elevators selling grain to roving grain buyers. See the Committee report on Mill Storage.

Senate Bill 37. Transfer or Elimination of Licensing And Inspection Functions of Attorney General. This bill eliminates all licensing and inspection functions of the Attorney General's office, except as to amusements and alcoholic beverages, which licensing and inspection functions therefor would be transferred to the State Laboratories Department. See the Committee report on Licensing and Inspection.

Senate Bill 38. Inspection By Organized Health Districts. This bill eliminates duplication of inspections between the State Laboratories Department and the District Health Units by providing that such inspections be carried out solely by the District Health Units in areas where they are organized. See the Committee report on Licensing and Inspection.

Senate Bill 39. Transfer of the Bonding, Licensing and Inspection of Livestock Dealers. The purpose of this bill is to transfer the bonding, licensing, and inspection in relation thereto from the Public Service Commission to the Dairy Department of the Department of Agriculture and Labor. See Committee report on Licensing and Inspection.

Senate Bill 40. Transfer of the Enforcement of Motor Carrier Laws. This bill transfers the field enforcement of chapter 49-18 of the North Dakota Revised Code of 1943 relating to motor carrier laws from the Public Service Commission to the Highway Patrol. It also authorized the superintendent of the Highway Patrol to appoint new patrolmen, not to exceed five to aid in the enforcement of this chapter. See Committee report on Licensing and Inspection.

Senate Bill 41. Transfer of Weight-Distance to the Highway Patrol. This bill transfers all equipment used in the enforcement of the laws pertaining to weight and load of motor vehicles, and charges the Highway Patrol with the responsibility for the weight division and the enforcement of all laws pertaining thereto. See the Committee report on Licensing and Inspection.

Senate Bill 42. Uniform Inspection and Standards of Dairy Products. This bill directs the State Health Department and the Dairy Department of the Department of Agriculture and Labor

to jointly adopt uniform standards for dairy products, and permits these departments to accept the inspection reports of the other regarding dairy products, and the producers and processors thereof. See the Committee report on Licensing and Inspection.

Senate Bill 43. State Laboratories Inspectors; Merit System. The bill provides that all inspectors of the State Laboratories Department other than the chief inspector, shall be appointed by the director of the State Laboratories Department from a list of three applicants to be furnished by the director of the North Dakota Merit System Council after he shall have given each applicant a proper written examination and an oral interview. The bill also provides that the appointment of any inspector under the provisions of this Act can be terminated at the discretion of the director of the State Laboratories Department. This bill will not affect the appointment, reappointment or discharge of any inspector employed on the effective date of this Act. See the Committee report on Licensing and Inspection.

Senate Bill 44. Weight-Distance Tax. Establishes a weight-distance tax program administered by the highway department, applicable to trucks over 24,000 pounds registered gross weight. It reduces registration fees and eliminates ton-tax for that heavy class of truck. The rate of tax is based on registered gross weight, regardless of load at any one time, multiplied by the number of miles traveled by the truck in the state. No truck over 24,000, except government vehicles and those coming only ten miles inside the borders, can use our highways unless a permit is granted and the tax is paid. For a complete discussion see the Committee report herein on Weight-Distance Tax.

Senate Bill 45. Public Employees Retirement and OASIS. If public employees vote no federal social security coverage, the bill will provide for drastic amendments in the present insurance and retirement system.

If public employees vote for federal social security coverage, the bill will provide for continuation of state OASIS only for liquidation of benefits presently accrued to employees or their survivors. It will also provide, however, for a supplemental annuity program for retirement, on a 1% matching basis for employer-employee, to make a complete program with federal social security, including credit for service and contributions between 1947 and 1955. See the complete report herein on Public Employees Insurance and Retirement.

House Bills

House Bills 501 to 532—Appropriations.

House Bill 533. Construction of Tuberculosis Sanatorium; Appropriations. The purpose of this bill is to provide for the construction of a new tuberculosis hospital on the University Campus at Grand Forks, in association with the State Medical Center, and to renovate San Haven, the present tuberculosis hospital in preparation for the conversion of that institution to a state school for the feebleminded. In addition this bill would direct the State Health Department and the State Healh Planning Council to exert all possible efforts to obtain a grant of not less than $500,000 of federal hospital construction funds. The bill would also reappropriate the sum of $175,000 to the State Board of Administration for renovation of San Haven. In addition it would appropriate $600,000 from the medical center fund to the State Board of Administration to be used with the federal grant funds for the construction of the new tuberculosis sanatorium. See the Committee report on the Care of the Tubercular and Mentally Retarded.

House Bill 534. Compensation of Members of County Welfare Board. This bill increases the salaries of the members of the county welfare board from $5.00 to $10.00 per day. See the Committee report on Public Welfare.

House Bill 535. Scholarship Program For Psychiatrists. This bill would authorize the medical center at the University to provide limited scholarships for psychiatrists who agree to return to the state and serve in our state hospital and mental health agencies, as recommended in the Committee report upon Mental Health.

House Bill 536. Revision of Laws Relating to the Commitment and Care of The Mentally Ill. This bill would completely revise and modernize all the laws of the state relating to the commitment, care and treatment of the mentally ill in accordance with modern procedures and medical concepts, as recommended in the report of the Committee upon Mental Health.

House Bill 537. North Dakota Business Corporation Act. This bill revises our general corporation laws by adopting the basic law of the Model Corporation Act adapted to our state needs. Existing corporations are not subject to the Act until July 1, 1959, unless sooner elected by shareholders. New corporations will be organized thereunder effective July 1, 1957. Corporations governed by special statutes will be governed only to the extent that special reference is made thereto. See the Committee report herein on Business Corporations.

House Bill 538. Conforming Special Corporation Amendments. These conforming amendments change present references to title 10 or to some section of title 10 which would be superseded by the proposed Business Corporation Act, to refer to the general law governing profit corporations. Otherwise these existing references would refer to dead laws.

House Bill 539. Secretary of State's Fees. This bill eliminates the fees relating to corporation and cooperative filings and charges, since they are proposed to be in the laws governing corporations and cooperatives. At the same time, fees for office work are realistically adjusted upward to recover at least costs, and for uniformity.

House Bill 540. North Dakota Cooperative Association Act. This bill revises and consolidates the laws governing cooperatives and makes them independent of the general corporation law. It expands the law governing cooperatives, which is presently sketchy, ambiguous, and overlapping. It is based largely on Wisconsin law and their study of cooperatives. It is not effective for existing cooperatives until July 1, 1959, unless sooner elected by the members. See the complete report herein on Cooperative Associations.

House Bill 541. Conforming Special Cooperative Amendments. This bill amends chapters 10-12 (Mutual Aid Cooperatives), 10-13 (Electric Cooperatives), and 36-08 (Grazing Associations) to delete provisions duplicated in the General Coop-

erative Act, and to retain special provisions needed by their special operation in addition to being governed by the proposed general cooperative law. These amendments are not effective until July 1, 1959, unless sooner elected by the members.

House Bill 542. Appropriation to Agricultural College to Complete Soil Reconnaissance Survey and For Training Of Assessors. This bill would appropriate $10,000 to the Agricultural College to complete the soil reconnaissance survey for property assessment purposes, and $12,000 to provide for the training of County Assessors as recommended in the Committee report upon Assessment and Taxation.

House Bill 543. Providing For New Assessment Practices And The Creation Of A County Assessor System. This bill would provide for the use of the soil reconnaissance survey and land classification for rural property assessment; for the self listing of personal property; for the replacement of township and most municipal asessors with a county assessor; and providing for the appointment of a supervisor of assessment in the State Tax Commissioner's office, all of which are in accordance with the recommendations of the Committee as found in its report on Assessment and Taxation.

House Bill 544. Game and Fish Advisory Board; Merit System For Department. The purpose of this bill is to provide an advisory board for the game and fish department. This board would be appointed by the Governor on an area basis, and their functions would be to advise the Game and Fish Commissioner on all policies and hunting and fishing regulations of the department. The bill also places all the employees of the Game and Fish Department under a limited merit system which would encourage trained personnel to enter the employ of the Game and Fish Department. For further information on this bill see the Committee report on Game and Fish.

House Bill 545. Confidential Accident Reports. The 1955 Legislative Assembly removed the requirement for drivers involved in accidents to make reports to the Highway Commissioner, only the investigating officer making such report. This has resulted in prohibiting an investigating officer from testifying in criminal or civil cases, since his report and the information he discovers is all confidential under the law.

This bill brings the accident reporting law into harmony with the Uniform Vehicle Code, and requires drivers within five days to make a written confidential report to the Highway Commissioner. Investigating officers will be enabled to testify the same as other witnesses regarding information they know, since the driver will no longer be required to answer the questions of officers, except voluntarily.