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**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-fourth Legislative Assembly**

**1955**

# **North Dakota**

## **Legislative Research Committee**

**Representative Ralph Beede, Elgin**  
**Chairman**

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**Vice-Chairman**  
**Harvey B. Knudson, Mayville**  
**Rilie R. Morgan, Grafton**  
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**Iver Solberg, Ray**

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**Louis Leet, Webster**  
**R. H. Lynch, Fortuna**  
**H. C. Nygaard, Enderlin**

**Research Director: C. Emerson Murry**

**Statutory Revisor: William J. Daner**

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### Drainage Laws:

Senator Kenneth K. Pyle,  
Chairman  
Senator Rilie R. Morgan  
Representative Louis Leet

### Education:

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### Highway Finance:

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### Land Classification and Assessment:

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Senator Kenneth K. Pyle

### Land Management Along Water Projects:

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### Licensing and Field Inspections:

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### Mental Health:

Senator Clyde Duffy,  
Chairman  
Senator Carroll Day  
Representative Ralph Beede

### Rehabilitation of Coal Mine Lands:

Senator Orris G. Nordhougen,  
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Senator Ernest C. Livingston  
Representative R. H. Lynch  
Representative Edwin G. Sailer

### Workmen's Compensation:

Senator Rilie R. Morgan,  
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C. EMERSON MURRY  
RESEARCH DIRECTOR

Honorable C. Norman Brunsdale  
Governor of North Dakota

Members, Thirty-fourth 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-fourth Legislative Assembly.

This report includes the reports and recommendations of the Legislative Research Committee in the fields of highway finance, highway safety, elementary and secondary education, licensing and field inspections, workmen's compensation, land classification and assessment, drainage law, land management along water projects, rehabilitation of coal mine lands, 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

A handwritten signature in cursive script, appearing to read "Ralph Beede".

Ralph Beede  
Chairman

# Summary

## Briefly - - - This Report Says

### HIGHWAY FINANCE

The decision of whether the State of North Dakota should match federal aid highway construction monies can be made only by the Legislature. If it is desired to match such federal aid funds, the following suggestions of the Legislative Research Committee may be of assistance to the Legislature in providing sufficient state funds for this purpose.

The anticipated deficit of highway funds to match federal aid during the 1955-1957 biennium amounts to \$10,844,000. This deficit results from an increase in the amount of federal aid from \$13,474,000 to \$20,202,000; from the increased cost of highway construction because of inflation following the war and higher standards of construction to meet the needs of modern traffic; and from a general failure of highway revenues to keep pace with the increasing demands for more and better highways.

North Dakota presently levies a gasoline and motor fuel tax of 5 cents per gallon. Some 22 states presently levy 6 cents or more per gallon. One cent of North Dakota's tax is returned to counties for county roads; one cent is used for retirement of highway revenue anticipation certificates and will expire when such certificates are retired on about January 1, 1957; two cents of the tax is used for highway maintenance; and one cent of the tax is used for matching federal aid construction funds. Since the consumption of gasoline is a very good measure of highway use, the gasoline tax is a very fair method of taxing the highway user for the construction of highways. It is suggested that an additional one cent of gasoline and motor fuel tax be passed in North Dakota, which addition would be refundable to agricultural and industrial purchasers for non-highway use, and that the proceeds of this tax be used for matching federal aid funds for construction on the state highway system. This additional one cent of tax would yield approximately 3 million dollars during the next biennium. It is also suggested that the state consider the adoption of a colored gas system on an exemption basis for non-highway fuel, and that the administration of gaso-

line and motor fuel taxes be transferred from the office of the State Auditor to the office of the State Tax Commissioner.

It is suggested that the one cent of gasoline and motor fuel tax presently earmarked for the retirement of highway revenue anticipation certificates be made permanent and the proceeds thereof be placed in the state highway construction fund for matching federal aid after all such certificates have been retired. This tax would yield approximately \$750,000 for highway matching purposes during the 1955-1957 biennium.

In order to provide a reasonable amount of revenue for highway construction purposes from highway users, it appears that the registration fees for motor vehicles must be increased. It is suggested that all car and commercial truck registration fees be increased ten per cent, and the registration fees of farm trucks be increased by 5%. Because of the extreme shortage of state highway funds, it appears that all additional revenue from this source must be placed in the state highway construction fund for matching federal aid. A smaller increase for farm trucks is suggested because they travel fewer miles per year, and because a smaller amount of their travel is on the state highway system. This increase would yield some \$1,150,000 per biennium.

It is believed that the above increases in taxes are all that can be reasonably imposed on highway users. In order to provide additional funds to meet the federal aid deficit, it is suggested that the sum of \$1,500,000 be transferred to the state highway department construction fund from the undivided profits of the Bank of North Dakota, and that the sum of \$500,000 be transferred from the State Mill and Elevator to the same fund. It is further suggested that the sum of \$1,000,000 be appropriated from the General Fund, which sum would represent a transfer of \$1,000,000 to the General Fund from the Land and Collections Department of the Bank of North Dakota, which transfer will be made prior to the end of the present biennium.

As a final measure to provide the full amount of the federal aid deficit, it is suggested that an appropriation of \$2,344,000 be made from the General Fund. This appropriation would probably be beyond the means of the General Fund, and it may be necessary for the state to levy a greater proportion of the allowable 4 mill general fund property tax levy. In addition, it might be necessary to consider making a portion of the appropriation for the operation of teacher training schools or other educational appropriations from educational funds, and a portion of the appropriations for the welfare and charitable institutions from welfare funds in order to relieve the General Fund of a portion of its burdens.

The above suggested measures would provide sufficient funds to match all federal aid monies to be available to the state highway department during the 1955-1957 biennium.

## HIGHWAY SAFETY

The hard facts : In 1953—158 highway deaths, more than 5500 personal injuries. Economic loss—\$17,000,000 in one year.

There is no panacea, nor ONE solution to the problem, but many factors must be adjusted in our laws to make the highways safer.

### The Legislation Recommended:

Provides a central, unified safety program under the responsibility of the Division of Public Safety, which now would supervise and administer:

1. Financial Responsibility Law and Unsatisfied Judgment Fund. Amendments to clarify procedures in Unsatisfied Judgment Fund and permit better defense. No proposed personnel addition.
2. Central accident records system with required reporting of accidents anywhere in the state, including courts reporting convictions, uniform traffic ticket. Small increase in personnel should do the job.
3. Issuance, suspension, revocation and cancellation of drivers' licenses, with examination given by Highway Patrol. Broad powers of suspension and cancellation where a driver builds up a bad traffic record, but with right of appeal to the courts. Retains present driving ages.

Creates State Safety Coordinating Committee composed of department heads concerned with highway transportation, with the Director of Public Safety to be Executive Secretary.

Repeals present rules of the road and adopts the Rules of the Uniform Vehicle Code with minor changes suitable for our state needs. Allows municipalities to adopt Model Traffic Ordinance by reference.

Replaces present equipment sections of the Code with those of the Uniform Vehicle Code, with changes to suit our state needs.

Authorizes Superintendent of Highway Patrol to reorganize the Patrol, take disciplinary measures for infractions of regulations. Lowers entry age from 25 to 23 years. Removes limitation on number of patrolmen, except by amount of appropriation. Recommends increase of 12 men first year, 6 men second year of biennium.

Permits contractual arrangements between school districts to pool instructors for driver training, and allows \$30,000 appropriation from the Equalization Fund for distribution per pupil completing driver course.

Increases driver's license fee by one dollar and permits by fifty cents for net increased biennial revenue of about \$300,000; \$240,000 of this to go to Highway Patrol for increase in personnel, administration and training; \$40,000 to go to Public Safety Division for its increased administration. \$10,000 appropriation from the Unsatisfied Judgment Fund for the Public Safety Division to aid in administration of transferred functions.

### **Predicted Results:**

60% reduction in traffic fatalities by 1965 when full program is in operation. This means a saving in that year alone of 95 human lives, and \$10,000,000. (See page 10 of "Safer Highway Travel for North Dakota".) The saving of three lives and a proportionate reduction in non-fatal accidents will pay for the increased costs of program during the biennium.

### **DRAINAGE LAWS**

The present laws governing the operation of drainage districts have become obsolete and have handicapped the drainage boards with red tape. The large number of amendments over the years has resulted in many conflicts of law, ambiguities, and in many instances has made the drainage laws almost unintelligible. A bill completely revising chapter 61-21 of the Code in both form and substance has been prepared by the Committee with the assistance of six representatives of the Red River Valley counties most vitally concerned. This bill is recommended for passage as a workable, realistic and practical drainage law for the State of North Dakota.

### **ELEMENTARY AND SECONDARY EDUCATION**

Confusion can be eliminated and duplication removed by consolidating some of the miscellaneous boards dealing with various phases of elementary and secondary education at the state level. It is recommended that a State Board of Public School Education be created consisting of the Governor, Attorney General, President of the North Dakota School Officers Association, President of the North Dakota Educational Association, and the Superintendent of Public Instruction who would also serve as executive officer of the board to carry out all policies and supervise the activities under the board's control. The Superintendent of Public Instruction should remain an elective officer directly responsible to the people, and should continue to have full personal responsibility for all activities presently carried on by the Department of Public Instruction. The functions of the State Equalization Emergency Fund Board, the Advisory Board for School District Reorganization, the State Board of Teaching Scholarships, the Advisory Board for School District Reorganization, the Advisory Council on Special Education, and the State School Construction Board should be transferred to the new State Board of Public School Education. Such board should have authority to call on any officer or agency for such advice and assistance as it may require. The responsibility for supervision of the Vocational Education and Rehabilitation programs should be transferred to the new State Board of Public Education. A recommendation as to the merits of transferring supervision of the Correspondence School will be made by the Committee at a later date when the school's accredited status can be determined. No change should be made in the responsibilities for the supervision and administration of the State Library, State Training School, State School for the Blind, State School for the Deaf, or in the Teacher's Retirement Fund.



## STATE LICENSING, INSPECTIONS, AND LIQUOR TAXATION

Considerable duplication of inspection efforts and areas exist between the Attorney General's licensing division and the inspection division of the State Laboratory Department. It is recommended that the functions of the Attorney General's Licensing Division be transferred and combined with the State Laboratory Department. This would result in a saving of at least \$35,000 per biennium through a decrease in salaries and travel expense. It is further recommended that a merit system be established for such inspectors in order to aid in obtaining and retaining competent persons. Such a consolidation would also remove the nuisance to businessmen of duplicate inspections by two state departments.

The division of the collection of the various alcoholic beverage taxes causes confusion and some duplication of collection efforts between the offices of the State Tax Commissioner and the State Treasurer. Since the State Treasurer presently collects the greater share of such taxes and has sufficient office space to handle a unit for the collection of such taxes, it is recommended that the responsibility of collecting all alcoholic beverage taxes be placed in the office of the State Treasurer.

## WORKMEN'S COMPENSATION

Amendments to the Workmen's Compensation Laws are recommended to relieve instances of hardship. Additional measures are recommended to assist the Bureau in recovering unpaid premiums and in pursuing causes of action assigned by injured employees. A recommendation is made for a very limited expansion of extraterritorial coverage without special contract.

## REHABILITATION OF COAL MINING LANDS

Less than 5,000 acres of land in North Dakota has been strip-mined, which is approximately .008 of one per cent of the acreage of agricultural land of the state. Therefore strip-mining is not a problem of state-wide importance, although it may be of some concern in small areas. Costs of removing and replacing top soil and substantial leveling of spoil banks would be a prohibitive cost to the industry. A limited amount of such lands in certain areas is of value for game propagation purposes, and is available for lease to the Game and Fish Department, for a nominal rental. In view of the economic uncertainties facing the coal industry, this does not appear to be the proper time to enact any restrictive legislation that would substantially increase coal production costs. It is recommended that for the present, the Game and Fish Department, with the cooperation of the coal companies, continue the development of wildlife habitat on strip-mined lands in areas where such efforts are effective in the propagation of wildlife.

## **LAND MANAGEMENT ALONG WATER PROJECTS**

Federal Agencies which build dams on water courses in North Dakota do not engage in the management of recreational areas along such impoundments, although in certain instances they will cooperate in the development of such areas if the state or its subdivisions will assume the responsibility of management and maintenance.

It is recommended that the authority of the Game and Fish Department to supervise the development of recreational areas along the Heart Butte Reservoir be continued at least temporarily.

It is recommended that the Army Corps of Engineers be urged by concurrent resolution of the Legislature to develop recreational areas along the Garrison Dam impoundment and that the State Historical Society explore avenues of cooperation in regard to such areas, subject to legislative approval.

The Army Corps of Engineers will provide \$245,000 for the replanting of 1,005 acres of replacement cover at 146 sites in compensation for the 88,000 acres of timber and brush lands being inundated by the Garrison Dam if the Game and Fish Department will supervise the planting program on a reimbursable basis. The Committee recommends that authority to supervise this program be granted.

It is further recommended that a concurrent resolution requesting Congressional authority for the sale of surplus lands along the Heart Butte and Garrison Dam reservoirs be passed by the Thirty-fourth Legislative Assembly.

## **LAND CLASSIFICATION AND ASSESSMENT**

The program of land classification for assessment purposes through a soil reconnaissance program and economic survey was begun by the Agricultural College under a \$50,000 appropriation by the past legislature. To complete this program and place it in operation by July 1, 1957, an appropriation of \$75,000 is needed for the next biennium. It is recommended by the Committee that the appropriation be made available for completion of this work.

## **CAPITOL OFFICE SPACE**

As of July 1, 1954, the agencies and departments of state government desired 42,000 square feet of additional office space to adequately house their activities. Because of shortage of state funds the Committee does not believe an additional office building should be constructed at this time. Various plans for constructing such a building through public authorities or corporations, acquisition through rental-purchase plans and others were studied, but were not believed desirable. It is recommended that state activities of a quasi-governmental nature be authorized and required to construct or lease their own office space, thereby releasing sufficient office space within the Capitol building to meet the most pressing immediate requirements.

## **STATUTORY REVISION**

Most states have found that a process of revising their statutes on a continuous basis to be much more satisfactory and less expensive than the periodic bulk revision process as has been used in North Dakota. Under a continuous revision plan, chapters of the code are revised as the need arises instead of having to wait until some twenty years later when the entire Code becomes unworkable. It is estimated that work of continuous revision of our Code could be carried on for over thirty years at less expense than one bulk revision project at present costs. The Budget Board has approved a request for an appropriation of \$20,700 to the Legislative Research Committee to begin the plan of continuous revision during the next biennium.

## **LEGISLATIVE ORIENTATION PROGRAM**

Twenty-eight state legislatures have adopted orientation conferences, lectures, seminars, or handbooks to acquaint legislators with legislative procedures, their rights and prerogatives, use of the state statutes, limitations on their powers, the Legislature's relation to the executive and judiciary, and services and facilities at their disposal.

Many North Dakota legislators have expressed a desire for such a program. An opportunity to establish such a program will be given them if they see fit, as a House Concurrent Resolution to direct the Legislative Research Committee, in cooperation with the State Bar Association, to organize such a program to be conducted by veteran legislators, will be introduced.

## **OIL AND GAS REVENUE**

From July 1, 1953 to June 30, 1954, the oil and gas gross production tax yielded \$416,355 of revenue, of which \$270,941 was distributed back to the counties from which the oil and gas was produced. It is estimated that the tax will yield approximately \$1,478,000 during the present biennium. Up to December 1, 1954, the Bank of North Dakota has received \$1,419,000 in oil and gas lease rentals, bonuses, and royalties. The Board of University and School Lands has received \$4,316,000 from like sources upon lands under its control.

## **MENTAL HEALTH**

Present laws in this field are inequitable, inefficient, and administratively burdensome. Further investigation is needed and an analysis should be made by the 1955-1957 Legislative Research Committee.

The bill introduced by the Committee should clarify and strengthen procedures for admission to and discharge from the State Hospital, allow commitment of alcoholics and drug addicts, and place the liability for payment of hospital expenses more certainly and more simply.



## SCOPE OF SUMMARY

The above summary of reports is of necessity extremely brief and many important details and items of explanation have been omitted. It is recommended that the complete reports be read in order to obtain all the facts and information available upon the various subjects covered.

# 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 33 states and territories have established such interim committees, with further states considering this matter at their 1955 legislative assemblies.

The establishment of legislative research committees are 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 the 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, studies upon farmers' retirement, higher education, tax assessment, and revenue producing buildings. Among the major studies included in the work of the Committee during the present biennium are highway safety, elementary and secondary education, rehabilitation of strip mined lands, land management along Federal water projects, workmen's compensation,

land classification and assessment, drainage laws, highway finance, and state licensing and field inspections. 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 1955 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 into 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. In addition, 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. Also, the Committee revises sections 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. More information about the Committee's activities in the field of statutory revision will be found later in this report.

## 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 subcom-

mittees 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 the report of the 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 a major and technical study as highway safety, the Committee by contract obtained the services of the Automotive Safety Foundation to carry on a highway safety study and to make a report to the Committee. In this manner, the services of nationally recognized highway safety personnel were obtained for the Committee and, by using this method, the Committee feels that they have obtained the best highway safety study prepared by any state.

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.

At the beginning of the present biennium the Committee submitted a questionnaire to each member of the Legislature to determine what subjects members of the Legislature desired the Committee to consider in addition to those matters referred to it by Senate or House Resolutions. Although it was physically impossible for the Committee to do work upon all the matters requested, study was given to those questions in which the most interest was expressed. Reports upon these matters are to be found in later sections of this report.

For the past several bienniums it has been the policy of the State Bar Association to provide sufficient funds to the Legislative Research Committee to pay the salary of an additional attorney in the office of the Committee for the purpose of drafting bills for the Committee and individual legislators prior to and during each legislative session. During this biennium, the sum of \$2,000 was made available by the State Bar Association for this purpose and also to initiate the program of statutory revision which is explained in a special section of this report. However, because of depletion of their reserve funds in years subsequent to the war, it will be impossible for the State Bar Association to provide this assistance in future years.

## **Regional Meetings And Interstate Cooperation**

During the past two years all the meetings of the Legislative Research Committee were held in the city of Bismarck. Subcommittees of the Legislative Research Committee, however, have met at other places in the state when it was more convenient for members of the subcommittee.

The Legislative Research Committee had two members in attendance at the Twelve-state Midwestern Regional Conference held under the sponsorship of the Council of State Governments during 1953. The Committee also had members in attendance at the meeting of the North Central Legislative Conference at Pierre, South Dakota. This conference, consisting of representatives of the legislative research committees of the states of Minnesota, Wisconsin, South Dakota, and North Dakota, meets biennially in order to discuss problems of mutual concern and interstate relations. These conferences have been found most helpful, since many of the problems that face any individual state are usually problems common to other states and often similar solutions are possible. The North Dakota Committee has also had one member serving on a committee of the 12 midwestern states which committee has been surveying the feasibility of an interstate compact in the field of higher education. The final decision and recommendations of this committee as to the feasibility of such a compact will not be available until early in the next biennium. Members of the Legislative Research Committee were invited to participate in other regional and national meetings concerned with legislative problems. However, because of problems of travel and time and a shortage of funds, North Dakota did not have representation at most of these meetings.

# Current Legislative Problems

## CONDITION OF STATE FINANCES

Without question, the most difficult problems facing the Thirty-fourth Legislative Assembly are financial in nature. The State of North Dakota is not alone in finding it difficult to provide sufficient funds to meet the ever increasing demands for governmental service. In some states, it has been found almost impossible to obtain sufficient revenue for the operation of state government from the more normal tax sources, as might be exemplified by the State of Michigan which during 1954 found it necessary to turn to a gross business receipts tax, in addition to the normal income taxes, sales taxes, and other usual sources of state revenue.

A further complicating factor in government finance among various 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. This trend has grown so pronounced in the State of Colorado that almost 85% of the state's tax resources are earmarked for special purposes. There are many practical arguments both for and against the earmarking of special tax revenues for certain specific purposes, but it should be pointed out that this policy greatly complicates the problem of the legislatures in adequately balancing the expenditures of state funds in accordance with the needs of the various activities of state government. The problems resulting from this policy of earmarking is becoming more pronounced with every session of the Legislature in North Dakota. At the present time, such major revenue producers as gasoline taxes, registration fees, sales taxes, game and fish license fees, the greater portion of liquor taxes, and many other special fees are presently earmarked for specific activities. As a result, the flexibility and the discretion of the Legislature in balancing of needs for funds by the various arms of state government against total state revenues has been substantially impaired.

Perhaps the most pressing financial problem of the State of North Dakota is that of matching Federal Aid, for which there appears to be a deficit of state highway funds of almost ten and one-half million dollars. A specific report upon this subject with suggestions for methods of meeting this deficit is to be found in a later section of this report. The increasing demands upon the general fund over the years coupled with a more recent decrease in general fund revenue, provide still another difficult problem which the Thirty-fourth Legislative Assembly must face. 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.

In the final analysis, most of the difficult problems facing the Thirty-fourth Legislative Assembly are a result of the failure of state revenues to keep pace with increasing demands upon state government for governmental service together with the complicating factor of a substantial portion of state revenues being earmarked for special purposes.

## INDIAN AFFAIRS

It is contemplated that the Legislature will spend several days in the first weeks of the Assembly in discussion and study of Indian Affairs which may be the subject of state legislation.

The need for legislative appraisal in this field has become increasingly apparent and is reflected in the passage of Public Law 280 in August, 1953 by the 83rd Congress, increased litigation concerning Indians in our state courts, the recent investigation of juvenile delinquency among Indians by Senator William Langer's Congressional subcommittee, and an opinion of the North Dakota Attorney General issued on September 30, 1954.

U. S. Public Law 280 presents a special problem for determination by the North Dakota Supreme Court and/or the North Dakota Legislative Assembly. This law contains the following language:

"Sec. 6. Notwithstanding the provisions of any Enabling Act for the admission of a State, the consent of the United States is hereby given to the people of any State to amend, where necessary, their State constitution or existing statutes, as the case may be, to remove any legal impediment to the assumption of civil and criminal jurisdiction in accordance with the provisions of this Act: **Provided**, That the provisions of this Act shall not become effective with respect to such assumption of jurisdiction by any such State until the people thereof have appropriately amended their State constitution or statutes as the case may be.

"Sec. 7. The consent of the United States is hereby given to any other State not having jurisdiction with respect to criminal offenses or civil causes of action, or with respect to both, as provided for in this Act, to assume jurisdiction at such time and in such manner as the people of the State shall, by affirmative legislative action, obligate and bind the State to assumption thereof."

In an opinion dated September 30, 1954, at the request of John B. Hart, Executive Director of the North Dakota Indian Affairs Commission, the North Dakota Attorney General examined (1) the question of criminal jurisdiction of state courts over enrolled Indians in Benson County (Devils Lake Indian Reservation) pursuant to a 1946 Act of Congress, (60 U. S. Statutes 229); and (2) the question posed in P. L. 280 of 1953, to-wit: What if any action must be taken by the state of North Dakota to assume criminal and civil jurisdiction over enrolled Indians upon Indian Reservations as provided in P. L. 280?

In connection with this opinion the Attorney General considered, among other matters, Article XVI, Section 203 of the North Dakota Constitution, which was enacted pursuant to the same provision in the Enabling Act and is the compact between the territory of Dakota and the Federal government:

**"Sec. 203. The people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and that said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States."** (Emphasis supplied).

After considering the statutes and decisions involved, the Attorney General delivered the following opinion:

**"It is the opinion of this office that in order to make said law(s) of Congress operative in the state of North Dakota, it is necessary for the people of North Dakota through the process of a constitutional amendment to remove the disclaimer in said Constitution now embodied and to further, by legislative action, assume jurisdiction as to such causes of action, both criminal and civil."**

Despite the foregoing opinion, there is considerable argument and authority contending that the state of North Dakota may assume jurisdiction over Indians in criminal and civil causes, under the consent of P. L. 280, by legislative Act without a constitutional amendment. There is before the North Dakota Supreme Court a case now pending which will probably be decided before the Legislature convenes and it may settle a great portion of the jurisdictional squabble, so that the Legislature can take positive action if it desires

The problem of administering the affairs of

the Indians is not only fraught with difficult legal questions, but contains serious moral and policy considerations. The North Dakota Indian Affairs Commission has studied these matters in particular and has forcefully presented its position and recommendations in its reports. It is recommended that the reports of the Commission be read by each legislator to get the benefit of their study and recommendations.

It is pointed out in the summary of the Indian Affairs Commission Report of 1950, and reaffirmed in its 1952 report:

**"The North Dakota Indian Affairs Commission believes that every move to improve the conditions of the Indians in this state must be based on two major 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-by-day business and social relationships. The second conclusion is that, although the welfare of Indians is properly accepted as the 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.**

**"In order to encourage a more moral evolutionary process of assimilation between Indians and non-Indians, the Commission recommends specifically:**

- 1. That many of the present restrictions on Indians' real and personal property be removed especially where the owner does not personally live on or use such restricted real estate.**
- 2. That the federal government reimburse state and local political subdivisions for the loss of tax revenue resulting from federal restrictions on Indian land.**
- 3. That there be a new and more specific definition of "An Indian".**
- 4. That in the field of employment expanded effort should be given to finding permanent jobs for Indian families away from the reservations where association with non-Indians will be encouraged.**
- 5. That Indians residing off the reservation be made eligible at local agencies for all benefits to which they would be entitled were they to remain on the reservation.**
- 6. That the North Dakota State Department of Health should continue its cooperative work, particularly in the field of preventive medicine. It is recommended that arrange-**

ments be made so that Indians may be admitted to public hospitals adjacent to reservations and may be permitted to choose their own physicians, the same as non-Indians of the same economic class.

7. That work with Indian farmers should be handled by existing agencies not connected with the Indian Service.
8. That education be a basic consideration in the solution of the Indian problem. Where at all practicable, local public schools should be used for the education of Indian children at the grade and high school levels. Compulsory school attendance needs early co-operative attention from all public bodies involved.
9. That criminal jurisdiction be transferred in its entirety to the state, with 100 per cent reimbursement by the federal government to the state and its subdivisions for all costs involved. Taxpayers of counties and state should not be expected to pay the cost of law enforcement because of the element of tax exemption of Indian lands.
10. That the administration of Indian general assistance and all programs under the Social Security Act be transferred entirely to the Public Welfare Board, provided that the federal government furnishes the money required until such time as Indians have been fully assimilated and their property becomes taxable as other property is taxed.
11. That a North Dakota citizen be appointed to a position of influence in the Indian Bureau."

The view of the Commission is not to expect that the people of the United States should finance the services for Indian people indefinitely. It is expected, however, that the federal government should finance the cost of these services by state and political subdivisions until such time as the 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 order to meet the needs of legislators for information relative to Indian Affairs during the Session, the Legislative Research Committee staff intends to have on file for reference, reports and materials provided by the North Dakota Indian Affairs Commission. It is also hoped that copies of the report of U. S. Senator William Langer's subcommittee on Indian juvenile delinquency will be available in the office. The U. S. Bureau of Indian affairs has also been requested to forward copies or pertinent Indian treaties, federal laws, regulations, and information helpful in solving the problems of Indian jurisdiction and welfare.

This report is included as a matter of information for legislators and the Committee makes no recommendations as to action by the Legislature, except that the reports and recommendations of the Indian Affairs Commission should be given serious consideration and discussion with a view to appropriate action.

## STATE HAIL INSURANCE PROGRAM

The surplus and reserves of the State Hail Insurance Department have been steadily decreasing since 1952 until as of December 1, 1954, their reserves are estimated at \$900,000. The following table shows the premiums, losses, and the status of the Department surplus or reserves from the years 1945 through 1954:

Year	Premiums Levied	Losses	Surplus or Reserves
1945	\$ 925,549	\$ 648,136	\$3,493,035
1946	970,854	840,817	3,502,433
1947	1,220,434	1,058,161	3,543,985
1948	1,087,152	1,039,004	3,566,098
1949	1,451,340	2,075,408	3,137,000
1950	293,515	363,400	3,092,405
1951	2,037,221	1,635,781	3,289,327
1952	2,151,799	2,768,764	2,634,172
1953	2,496,698	3,541,636	1,459,942
1954	2,339,332	2,348,939	900,000 (Est.)

A portion of the reserve is represented by uncollected Hail Insurance levies but it is the belief of the Hail Insurance Department that in excess of 97% of such levies will be collected by the department or by counties in behalf of the department prior to July 1, 1955. The above table refers only to normal \$8 and \$12 insurance contracts.

Changes in the existing Hail Insurance Department laws which would generally tend to make the rates of State Hail Insurance more competitive in the eastern part of the state and to require the higher loss ratio western districts to pay a greater share of their own losses are proposed by the Department. The insurance commissioner and the manager of the State Hail Insurance Department state that unless changes and improvements in the Hail Insurance laws are made it may become impossible to continue the North Dakota State Hail Insurance program.

The Legislative Research Committee has not specifically passed upon the measures proposed by the Hail Insurance Department and therefore expresses no opinion in regard to them.

## **SOCIAL SECURITY COVERAGE FOR STATE EMPLOYEES**

Recent amendments of Federal social security laws have now made it possible for employees of state government and its political subdivisions to obtain coverage under the Federal Social Security system, regardless of any duplicate retirement system that may be in force in any state. Before such coverage can be made available, however, it will be necessary for the Legislature to pass further enabling legislation, especially in regard to setting up the mechanics for the collection of contributions from state employees and from the State of North Dakota, since the Federal Social Security Agency will deal with only one state agency in handling the social security coverage of all state employees.

The question immediately arises, "Should the State of North Dakota provide Federal Social Security coverage to the employees of the State and its political subdivisions in addition to the present state-operated OASIS system, or is the present state-operated OASIS system satisfactory in all respects?" The second question which arises is that, "Should the State of North Dakota provide both Federal Social Security coverage and coverage under the State OASIS plan?" Should the Legislature deem it advisable to obtain federal social security coverage for such employees and to abolish the present OASIS system, problems will arise as to methods of paying off the financial obligations of the State OASIS plan, since at present there are insufficient funds in the OASIS account to settle all its obligations in full.

The Legislative Research Committee was not able to study all aspects of this problem prior to the statutory deadline for the printing of this biennial report, and is therefore unable to give specific recommendations in regard to these questions at this time. However, work upon this subject by the Committee is continuing and it is planned that a supplemental report upon the subject of Federal Social Security coverage for state employees will be made to the State Legislature during the early days of this session.

# Reports and Recommendations

## HIGHWAY FINANCE

A subcommittee on Highway Finance was appointed by the Chairman of the Legislative Research Committee on January 15, 1954. Membership on this subcommittee included legislators who were not members of the Research Committee in order to provide broad representation among legislators and to obtain wide geographical and occupational representation. This subcommittee was instructed to study all phases of the highway finance problem and to submit a report with their recommendations to the full Committee for its action prior to the 1955 session of the North Dakota Legislature. It was felt that the problem of highway finances would be one of the most difficult problems faced by the 1955 Legislature. For that reason it was thought desirable to give the Legislature the benefit of all the study and consideration possible before it would be necessary to act on this matter.

The first act of the subcommittee was to determine the amount of Federal Aid available to the State of North Dakota during the 1955-1957 biennium. The next step was to calculate as accurately as possible the amount of highway revenue that would be available for matching of such Federal Aid during that period, and thereby determine the deficit that would exist for highway matching purposes.

Under the new Federal Aid Act, the funds available to the State of North Dakota during the 1955-1957 biennium for construction purposes amount to \$20,202,000. This is considerably larger than that allocated to this state for the 1953-1955 biennium when \$13,474,000 was made available for a similar period. A portion of the Federal Aid is divided among the counties of the state, leaving the sum of \$16,884,000 that must be expended on the state highway system. Because not all of that amount must be matched on a 50-50 basis, the sum of \$15,124,000 will be needed in state funds for highway construction matching purposes. After considerable study and consultation with the highway department, it was estimated that \$4,680,000 of state highway revenue would be available for matching during the 1955-1957 biennium. This would leave a deficit of state highway funds for matching purposes of \$10,444,000. It should be pointed out that the figures used are the latest available at the time that this report was made. Information on hand after the close of the 1954 highway construction period, which will be available at the time of the meeting of the Legislature, may alter these estimates slightly, making them either higher or lower.

This report expresses no opinion on the question of whether all Federal Aid available to North Dakota for state highway construction should be matched by North Dakota. The extent of the highway program is a matter for the Legislature to determine. In the event that Federal funds of this nature are not matched within a specified period, they will revert to the Federal Government.

No doubt argument can be offered both for and against full Federal matching. However, if Federal Aid is to be matched, the study made by the Committee offers suggestions by which this additional money could be raised. It might be pointed out that any plan for raising funds for public purposes, even highways, is sure to meet with objections from some and perhaps many sources and the same reception will be no doubt accorded these suggestions. The attitude of certain segments of the public in wanting good highways, but not wanting to pay for them, is well known to the Committee. However, the legislator finds himself in a position of either having to provide the money or not getting the roads built. This report does not attempt to make a full study and analysis of North Dakota's highway finance problem. For a full review and analysis of this subject and all its aspects, see the report made to the Legislative Research Committee in September, 1952 by Dr. James C. Nelson, entitled, "Financing North Dakota's Highways, Roads and Streets".

### Reasons For Deficit

It will be noted that the amount of additional highway revenue required during the next biennium for matching purposes is approximately \$10,500,000. Perhaps it would be helpful to the legislators and the interested public to point out some of the factors which result in this large deficit. First, as stated above, the amount of Federal Aid during the coming period is considerably larger than was available for the preceding period.

A second reason contributing to the shortage of state funds in meeting highway construction costs is the higher cost of building highways. This came about both because of war inflation and also because of the better type of highway needed for modern traffic. It is well known that the narrow, low, and usually graveled highway of the 1930's is no longer adequate for modern traffic. Further, constructing a modern highway is much more expensive both in terms of material used and their unit cost than was the case in 1940. Many portions of rural state highways cost \$50,000 a mile when completed, under the closest of bidding. A study of price index construction costs made by another



state shows the great increase in unit construction costs. Using 1940 costs as a base of 100, unit construction costs in 1954 stood at 200 after receding from a high of 245 in 1951. The income to the State Highway Department from various sources has not kept pace with these increased construction costs.

A third reason for the substantial deficit is the large mileage on the North Dakota highway system. Some of the mileage has very little travel on it, and some routes are to be found nearly paralleling each other through sparsely traveled areas. Further, the comparatively small number of vehicles registered in North Dakota restricts the funds received from highway users. For example, in Minnesota with a highway system very little larger than that of this state the registration of vehicles brings in about \$28,600,000 annually compared with about 6 million in this state. A one cent gas tax nets about 2 million annually in South Dakota and \$8,530,000 in Minnesota as compared with approximately 1½ million in North Dakota. Further, North Dakota collects substantial sums from the highway user which are disbursed to other sources than highways. One example of that is the 2% sales tax on vehicles. In South Dakota that money goes to the state highway fund, but in North Dakota it is used for education and welfare purposes. Further, of the registration fee on motor vehicles and the use tax thereon collected by the state, one-half is returned to the counties, which also receive one cent of the gas tax. This information is not given to question the equities of the distribution or division of the above sources of revenue, but merely to give reasons for the large deficit in state highway funds. If North Dakota retained as large a percentage of its state-collected highway revenue for state highway purposes as do most of the adjoining states, the matching problem would be much less difficult.

In giving consideration to the problem of raising additional revenue, it was thought that a considerable portion of the funds needed should be paid by persons using the highways. Authorities on highway finance maintain that the persons who use the highways should pay for them. While this proposition is fundamentally sound, yet it was thought that to attempt to raise the full additional amount of needed revenue from highway user sources would result in an unduly increased tax burden upon highway users. It was therefore decided to suggest distribution of the new funds needed between additional highway user taxes and transfers from non-highway state sources.

### **Motor Fuel Tax**

One of the most common sources for providing new funds is the motor fuel tax commonly referred

to as the gasoline tax. At present North Dakota has a five cent motor fuel tax, with a yield of approximately 1½ million dollars for each cent thereof per year, or a biennial yield of about \$3,000,000 for each cent of tax levied. Of the five cents, one cent is returned to the counties for county highways, two cents is used for state highway maintenance, another cent is used for retiring state highway revenue anticipation certificates and the fifth cent is used for highway construction purposes.

At the present time 22 of the 48 states levy a tax of 6 cents or more per gallon, including the State of Montana on our western border. South Dakota has a five cent tax. While the State of Minnesota now has a gas tax of five cents, it was recommended to their Legislative Research Council in an independent highway finance study that the Minnesota gas tax be increased by two cents at the next session of their legislature so as to raise sufficient funds for constructing and maintaining Minnesota highways. There appears to be a national trend toward the increase of gasoline taxes, as is indicated by the number of states which are levying higher rates of tax. With the increased amount of Federal Aid available during the 1955-1957 biennium and with the mounting need and pressure for highway improvements in all parts of our country, it may be expected that the 1955 sessions of the legislatures of the various states will continue this trend, so that by 1955 well in excess of half of the states will be levying a gas or motor fuels tax of at least six cents per gallon.

Since the use of motor fuels upon the highways is a direct measure of highway use, it is the belief of the Committee that the motor fuel tax is a logical and equitable method of increasing highway revenues. It is therefore suggested by the Committee that if additional funds are to be raised for the matching of Federal Aid, the motor fuel tax be increased from five to six cents per gallon, the additional cent of tax to be refundable for non-highway purposes and with all of the additional increase being placed in the State Highway Construction Fund for the matching of Federal Aid available to the State of North Dakota.

The Committee is not unmindful of the outcome of the initiated measure voted on by the public in the 1954 General Election. That measure provided for a one cent non-refundable gas tax, the income from which was to be used for the improvement of a certain 2400 miles of the state system. Without reviewing all the factors involved in that election, we wish to call attention to two considerations which make the question voted upon quite different from the proposed one cent increase. The first is that the initiated one cent tax was to be non-refundable for non-highway use, while that proposed here is refundable for non-highway uses

A great deal of opposition arose to the initiated measure because of its non-refundable nature. A second handicap the initiated measure faced was that the proceeds from it were to be restricted to the improvement of 2400 miles of the state system. Apparently there was very little interest in that mileage, judging from the lack of support for its improvement. Much of the mileage involved was miles away from the population centers and the more heavily traveled routes in the state and many voters appeared to have little concern in their improvement. Considering the obstacles which the initiated measure faced, those mentioned above and others, it is quite remarkable that it received as large a number of votes as it did. In contrast, the proposed one cent motor fuel increase would be refundable and used for highway improvements and construction on all portions of the state highway system and in all parts of the state. Thus all persons using the state highways would benefit and it would operate equally upon all classes, including nonresidents.

In addition to the one cent motor fuel tax, it is recommended that the one cent of motor fuel tax presently existing and earmarked for the retirement of highway revenue anticipation certificates be made permanent and that the proceeds of such tax be placed in the State Highway Construction Fund for use in matching Federal Aid upon state highways. The proceeds of this tax will be necessary to pay off highway anticipation certificates issued during the 1953-1955 biennium, and no new revenue can be expected from this tax until about January 1, 1957, at which date it is anticipated that all existing highway revenue anticipation certificates will be retired. During the last six months of the 1955-1957 period, however, this one cent tax should yield about \$750,000 to the State Highway Construction Fund which will be available for matching Federal Aid during the forthcoming biennium. Both of the taxes referred to are taxes upon motor fuels and apply to all liquid fuels such as diesel, as well as gasoline.

In summary, the proposed one cent per gallon increase of motor fuel tax plus the extension of the present one cent motor fuel tax now earmarked for the retirement of highway revenue anticipation certificates will yield about \$3,750,000 during the 1955-1957 biennium which can be used for highway matching purposes.

### **Registration Increase**

The second most important class of highway user fees is motor vehicle registration fees. During 1953 registration fees yielded a total of \$6,196,000 or slightly over \$12,000,000 biennially. Under present statutes, one-half of these fees and the use tax charged on motor vehicles bought outside of

the state, are distributed back to the counties after the cost of administration is deducted, with the balance going to the State Highway Maintenance Fund.

It is still apparent that large amounts are lost annually by non-payment of registration fees for motor vehicles which use our highways without paying their share. Efforts have been made by the Highway Department to remedy this, but legislation is still needed to provide means by which this can be effectively collected. If this is not done it may be necessary that present registration fees be increased, with the increased portion going entirely for highway construction purposes. This method of obtaining additional highway revenue was utilized by the 1953 session of the South Dakota legislature. It is suggested that if additional funds are to be had for state highway matching that a minimum ten per cent increase be made in registration fees of all passenger cars and commercial trucks and that a five per cent increase be placed on farm trucks. Such an increase will yield about \$1,150,000 during a biennium. A smaller increase is suggested for farm trucks because of the fact that they travel fewer miles per year and less of their travel is on state highways than is the case with commercial trucks and passenger cars.

It will be noted that the increased fees in both the motor fuel tax and registration fees are recommended to go to the State Highway Construction Fund for matching purposes. The reason for this is the fact that the most urgent highway finance problem existing in North Dakota today is that of matching Federal Aid for the state highway system. Because of their receiving half of the registration fee, one cent of the motor fuel tax and having access to the county road and bridge fund, most counties have no difficulty in matching Federal funds. In fact, many counties could match many times over the amount of Federal Aid that is available to them.

In handling the registration increase, it will be necessary for the Motor Vehicle Department to increase all trucks a uniform five per cent, with the balance of the suggested five per cent increase in fees for commercial trucks being placed in the ton tax schedule. In practice, the Motor Vehicle Department would first deduct the amount of the increase and transfer it to the State Highway Construction Fund. The balance of the registration fees would then be split between the counties and the State Highway Department maintenance fund in the same manner as in the past. Ton-mile fees would be automatically transferred to the State Highway Department construction fund as is presently done.

In past years, it has been possible to appropriate between \$200,000 and \$400,000 per biennium

from the Auto Transportation fund for highway construction purposes. It is estimated that \$200,000 will be available for transfer to the State Highway Construction Fund during the next biennium.

It will be observed that the adoption of the above measures will yield about \$5,100,000 of highway revenue biennially from highway users, leaving a deficit still to be matched of \$5,344,000. The Committee is of the opinion that the above new measures supply as much in new funds as is practical to expect from highway users, and that other sources must be looked to for matching the balance of Federal Aid moneys.

### **Transfers From Other Funds**

In an attempt to determine the availability of funds from other sources, the Committee has conferred with officials of the Bank of North Dakota and the State Mill and Elevator. From such conferences and considering present financial conditions of those two institutions, it appears that \$1,500,000 of undivided profits of the Bank of North Dakota could be transferred to the State Highway Department Construction Fund during the coming biennium and that \$500,000 can be transferred from the State Mill and Elevator. In addition to these sums, the Industrial Commission anticipates the transfer of \$1,000,000 from the Land and Collections Fund in the Bank of North Dakota to the General Fund prior to July 1, 1955, under authority granted by the 1953 Legislature. This transfer of \$1,000,000 has not been included in the revenue estimates of the General Fund balances and income. It is, therefore, recommended by the Committee that the sum of \$1,500,000 be appropriated from the undivided profits of the Bank of North Dakota to the State Highway Department Construction Fund and that the sum of \$500,000 be appropriated from the undivided profits of the State Mill and Elevator to the same fund. It is further recommended that the sum of \$1,000,000 be appropriated from the General Fund of the State of North Dakota to the State Highway Department Construction Fund which sum would represent the transfer of \$1,000,000 from the Land Collection Department of the Bank of North Dakota to the General Fund, under authority given by the past Legislature.

Should the suggested increased taxes be enacted and the above mentioned transfers of funds be made, there will still exist a deficit in State Highway Construction Funds for matching Federal Aid of some \$2,344,000. It is recommended by the Committee that this sum be appropriated out of the General Fund of the state of North Dakota to the State Highway Construction Fund. The Committee is cognizant that an additional appropriation of \$2,344,000 from the General Fund would

probably be in excess of the balance and income of that fund when the appropriations for general state operation from the General Fund are considered. In order to make these appropriations from the General Fund, certain adjustments might have to be made. For example, it might become necessary to levy a greater portion of the permissible four-mill state tax levy in certain future years for this purpose, or at least until other sources of funds become available. In recent years only about two mills of the permissible four-mill levy has been levied. Such a levy could bring into the General Fund about \$1,250,000 annually, or about \$2,500,000 biennially, although less than the full maximum levy would appear necessary. It should be recognized that the funds recommended to be appropriated out of the General Fund to the State Highway Construction Fund are not funds included in the anticipated General Fund balance. However, because of increasing demands upon the General Fund, the Committee is of the opinion that it would be reasonable to make a portion of the appropriations for charitable and welfare institutions from welfare funds, which appear ample, instead of making all these appropriations from the General Fund. Likewise, other educational functions including parts of the appropriations for educational institutions such as teacher training schools might well be made from the Equalization Fund or Education Fund still leaving ample reserves. Thus with the General Fund being relieved of some of these appropriations for welfare and education purposes, adequate funds would be available to make up the deficit in highway matching funds after the above suggested additional taxes and fund transfers have been made.

It is the opinion of the Committee that sufficient funds exist in the Maintenance Fund of the State Highway Department to adequately maintain our state highway system. The sources of revenue for the Maintenance Fund are half of the motor vehicle registration fees plus two cents of the existing motor fuel taxes.

During the past few years, various claims have been made that the State of North Dakota is not obtaining the full yield from the motor fuel taxes which should be expected, because of excessive refunds given to non-highway users. Some of these claims estimate excessive refunds at between \$2,000,000 and \$3,000,000 per biennium. It has been claimed with equal vigor by others that refunds in North Dakota are not excessive and that there is very little avoidance of motor fuel taxes in the state. The Committee does not express an opinion upon either of these claims. However, those claiming that there are excessive refunds being made have generally opposed any increase in the motor fuels tax upon the grounds that the state is not presently collecting the full yield of the taxes currently being levied upon fuel

used on the roads, streets and highways of the state.

### Non-Highway Fuel

It is thought by the Committee that an increase in motor fuels tax would meet with less opposition from some quarters and be more acceptable to many of the people of the state if a reasonable method could be found to assure the collection of all motor fuel taxes upon fuel, including diesel and butane fuel used upon the highways and yet not unduly interfere with the right of agricultural and industrial users to use tax-exempt motor fuels off the highways. Either or both of two approaches studied may offer such a solution. One is the transfer of the motor fuel tax refund responsibilities from the State Auditor's Office to the Tax Commissioner's Office. This has already been recommended by the Legislative Research Committee to the next session of the Legislature as a means of centralizing and strengthening tax practices of the state. It would also have the effect of unifying tax work within one state department, avoiding duplication and making for greater efficiency. At the time that this transfer is made it is suggested that certain refund requirements be written into the law to be followed by the Tax Department in the administration of this work.

Another approach to the control of refunds on motor fuel is the colored fuel plan. The Legislature may wish to give consideration to such a system. The Committee has gathered considerable information on this subject which is available to the Legislature and all interested parties. According to the latest information, six states and five provinces of Canada have adopted statutes providing for the coloring of fuel used for non-highway purposes. All six states operate on a refund basis, while the five Canadian provinces operate on an exemption basis. The reports as to the effectiveness of this arrangement have been almost uniformly favorable. There has been but one instance of a Canadian province repealing a colored gas statute, and not one state has seen fit to do so, even though some of the statutes requiring the coloring of tax exempt fuel have been in effect for over 20 years. The distinctive feature of a colored gas system as compared to the usual refund or exemption system is that the major emphasis of enforcement and compliance is in field inspection instead of relying upon reporting by the applicant or the auditing of records. In the event that a colored gas plan should be decided upon by the Legislature, the amount of money now being spent for the administration of the gas tax refund division (\$146,000 was appropriated during the present biennium) should be sufficient to pay the cost of adequate enforcement of the colored fuel

act. If a colored gas plan is adopted by the Legislature, it might be desirable to consider changing from the refund system to the exemption plan. In the event an exemption plan is adopted, the present 2% commission now paid dealers would be saved. In giving consideration to this matter, the Committee has much information on this subject which would be helpful. Further legislation should be prepared to strengthen the tax collection procedure so as to make certain of the collection of all tax upon all types of fuel used on the highways, including diesel, butane and propane.

It is appreciated that because of a lack of enforcement of overweight laws, it is apparent that some change is necessary to require the payment of overweight charges for excessive use of the highways. It is suggested that legislation provide that motor vehicles violating weight limitations be impounded pending the payment of overweight charges, or that sufficient bond be posted to assure the payment of overweight charges.

### Other Revenue Sources

In addition to the above additional sources of revenue, other possibilities were considered by the Committee. Bonding for future highway construction was discussed, but considered inadvisable. The possibility of obtaining revenue from the oil tax was reviewed, but the amount received from that source in the near future will be so limited as to not represent any substantial portion of the funds needed. Whatever share the state will receive from this source will go to the General Fund from which fund some appropriations have already been recommended.

### Summary

In summary the sources of funds and the amounts recommended for transfer to the State Highway Construction Fund for matching Federal Aid for the 1955-1957 biennium are as follows:

Passage of additional 1c refundable motor fuel tax .....	\$ 3,000,000
Extension of 1c motor fuel tax presently earmarked for retirement of highway revenue anticipation certificates .....	750,000
10% increase in registration fees of all passenger cars, commercial trucks and 5% increase on farm trucks (unless fees now levied can be collected from non-paying motor vehicles) .....	1,150,000
Transfer from Auto Transportation Fund .....	200,000
Appropriation from undivided profits of the Bank of North Dakota .....	1,500,000

Appropriation from undivided profits of the State Mill and Elevator .....	500,000
Appropriation of \$1,000,000 from General Fund as moneys transferred from Land and Collection Department of Bank of North Dakota to General Fund .....	1,000,000
Appropriation from General Fund of the State of North Dakota .....	2,344,000
	<hr/>
	\$10,444,000

The above funds will provide sufficient money for matching Federal Aid available for construction on the State Highway System during the 1955-1957 biennium. This plan will supply a total of \$4,900,000 of new taxes upon highway users plus the transfer of \$200,000 from the Auto Transportation Fund, with the balance of the deficit being met by transfers from existing balances in other funds.

During the subsequent 1957-1959 biennium the highway matching problem will be eased somewhat by new revenue that will be made permanently available under the measures proposed and through the extension of the one cent fuel tax currently earmarked for retirement of highway revenue anticipation certificates. That source will provide about \$3,000,000 for highway matching purposes during the 1957-1959 period. Under this plan, therefore, some \$7,150,000 of new highway revenue will be made permanently available to the State Highway Department for matching Federal Aid during the subsequent bienniums. In that manner, the problem of matching Federal Aid in the future will be somewhat lessened, but not solved.

## HIGHWAY SAFETY

The Highway Safety Study in North Dakota was undertaken as a result of House Resolution No. 5, passed at the 1953 Session of the Legislature. This Resolution directed the Legislative Research Committee to carry out a comprehensive study of highway safety problems in the state and to report its recommendations to the Thirty-fourth Legislative Assembly convening in January 1955. Behind this request was a growing awareness and concern on the part of the legislators and the citizens of the state about the traffic safety problem. Figures on accidents in North Dakota justified this concern. The 1953 figures on accidents were 158 lives lost, estimated personal injuries of 5,530 and an economic loss from motor vehicle accidents of over 17 million. These figures should arouse even the most indifferent into realizing that more time and effort should be devoted

to accident prevention in our state.

As is pointed out in the study report, North Dakota became the first state to undertake full scale study of this problem. Various other states have undertaken partial studies of this problem and some have made great strides in dealing with certain aspects of the safety problem.

Pursuant to that Resolution, the Legislative Research Committee appointed a subcommittee, consisting of Representative Roy A. Holand, chairman; Senator Harvey B. Knudson, and Representative Hjalmer C. Nygaard. The subcommittee was authorized to obtain and utilize the services of a competent disinterested organization to assist in conducting this study. After reviewing the list of possibilities, it was decided to invite the Automotive Safety Foundation to direct and supervise the study work and to prepare a final report with recommendations for legislative consideration. The Automotive Safety Foundation is a nonprofit organization which is staffed with nationally recognized experts in the field of highway safety. It is dedicated to education and research for safe, efficient highway transportation.

Under the direction of Mr. Norman Damon, Vice-President, Automotive Safety Foundation, a painstaking, thorough study was made by the Foundation with the assistance of six other national organizations, the Bureau of Public Roads, and the United States Department of Commerce. The cooperating groups were:

1. The National Safety Council, which surveyed and made recommendations as to the state accident records system;
2. The Northwestern University Traffic Institute, which examined and made recommendations as to the state driver licensing program;
3. The International Association of Police Chiefs, which studied and recommended as to enforcement of the laws by the state highway patrol;
4. The American Bar Association, which surveyed and made recommendations in regard to enforcement of the traffic and highway laws by the state courts;
5. The Safety Education Commission of the National Education Association, which studied and made recommendations regarding the state school education program for driver training; and
6. The American Association of Motor Vehicle Administrators, which studied and made recommendations with regard to the state financial responsibility laws, the un-

satisfied judgment fund, registration and certification of titles to automobiles, and driver licensing.

It will be observed that each of the organizations used is nationally recognized in its respective field.

The reports and recommendations of the study were summarized and published in September 1954 in a 55-page booklet entitled "Safer Highway Travel for North Dakota". Of necessity, that booklet summary was incorporated into and considered a part of the subcommittee report, and is attached thereto as Exhibit "A". The Automotive Safety Foundation is to be highly commended upon the thorough and excellent study it has made for the State of North Dakota. The detailed, individual reports and recommendations of the participating agencies from which the report was made comprise a large volume of approximately 320 pages. A copy of each detailed, individual study and the summary report was turned over to the state agency or department concerned for its information and administrative action, with a request by the subcommittee that each department comment and state its opinion thereupon. It is recommended that each legislator and interested citizen thoroughly study the report. We will, of course, not attempt to repeat all of its findings and recommendations here.

The major legislative recommendations in the report are:

1. Creation by statute of a Department of Public Safety, and transferring to it a number of existing functions; (some of the functions referred to are now handled by the highway department and some by the division of public safety and some by the highway patrol);
2. Repeal existing Rules of the Road and adopt those of the Uniform Vehicle Code;
3. Amend the North Dakota Code where necessary to authorize the superintendent of the highway patrol to share jointly with the highway commissioner, authority on speed zoning for state highways;
4. Authorize the superintendent of the patrol to act jointly with the county commissioners to determine speed zoning for county highways;
5. Enact enabling legislation to permit cities to adopt by reference the Model Ordinance developed cooperatively by the cities of North Dakota;
6. Repeal Sections 39-0712, 39-0805, 39-0806, 39-0807, and 39-0808 of the North Dakota Revised Code of 1943 and enact in lieu thereof Chapter X (accident record provisions) of the Uniform Vehicle Code, with the exception that the statistical functions should be assigned to the Department of Public Safety;
7. Remove the statutory limitation on personnel in the highway patrol and add forty-six officers to the patrol during the next biennium to bring up the size of the patrol;
8. Authorize the superintendent of the patrol to take summary disciplinary action when necessary;
9. Authorize the superintendent to reorganize the patrol into such divisions, bureaus, and districts as he deems necessary;
10. Authorize the superintendent to establish ranks and promotional procedures;
11. Authorize by law the admissibility in court of evidence obtained by radar in speed violations;
12. Enact a provision for the use of the uniform traffic complaint and citation as recommended by the American Bar Association;
13. Require that courts report to the Department of Public Safety driver convictions on moving violations not required to be reported; Chapter 6 of the Uniform Vehicle Code (instances of reporting where Code requires mandatory revocation of license).
14. Require that courts report to the Department of Public Safety all failures to satisfy judgments under the Financial Responsibility Law and the Unsatisfied Judgment Fund;
15. Repeal all present driver licensing provisions of the North Dakota Revised Code of 1943 and the 1953 Supplement, and adopt verbatim the language of Chapter 6 of the Uniform Vehicle Code entitled "Operators' and Chauffeurs' Licenses", except that,
  - a. The licensing functions should be handled by the Department of Public Safety, and
  - b. Present driving ages should be retained.
16. Repeal equipment sections of the present Motor Vehicle Code and enact equipment provisions of the Uniform Vehicle Code;
17. Amend Section 39-0407 of the North Dakota Revised Code of 1943 by inserting in



subsection 3, after "engine number" the words "or vehicle identification number";

18. Transfer Financial Responsibility Law and Unsatisfied Judgment Fund from the Highway Department to supervision of the Department of Public Safety;
19. Require by law that uninsured owners and drivers be assessed for the Unsatisfied Judgment Fund at least three times the amount insured owners and drivers are assessed;
20. Enact permissive legislation allowing contractual arrangements between school districts, so that two or more districts may establish full-fledged high school driver education programs through joint employment of an itinerant driver education instructor and joint use of a dual control training car;
21. Amend the present equalization state aid program on the high school level to increase state aid to each school giving the complete driver education program and using a qualified teacher who holds the special instructor certificate for driver education;
22. Provide for appropriate and practical controls over the safety of pupil transportation in family, or family-furnished conveyance, the expense of which is borne by local school districts, such as:
  - a. Requiring insurance on any vehicle used for such school transportation;
  - b. Require by law periodic inspections of such vehicles; and
  - c. Require special examinations and licenses for drivers of such vehicles.
23. Retain present driving ages until accident records shall have confirmed or invalidated the soundness of these age limits;
24. Provide for reporting of all school transportation accidents to the Department of Public Safety;
25. Enact legislation creating a safety coordinating committee composed of the heads of departments concerned with any aspect of highway transportation, including the following:
  - a. Highway Commissioner
  - b. Superintendent of Highway Patrol
  - c. Registrar of Motor Vehicles
  - d. Director of Public Safety

e. Attorney General

f. Superintendent of Public Instruction

g. Chairman of Public Service Commission, with the Executive Secretary to be the director of the Department of Public Safety

After going over both the detailed reports and the booklet summary with Mr. Damon, the subcommittee released a summary of the contents of the report to all state newspapers and the press services. Copies of the summary booklet were sent to all legislators, newspaper editors, community safety councils, highway users, community leaders, and others actively interested and concerned with highway safety, with an announcement of a public hearing to be held on October 14, 1954, to consider the contents and recommendations of the study. All department heads and agencies of state government concerned with the study were asked to be present and state their views on the study and report. That hearing was attended by representatives of groups which have been most actively interested in highway safety in North Dakota. They are listed in Exhibit "B" of the subcommittee report. The study and its recommendations received their unanimous support.

The practical problem of informing the public as to the report was considered at the hearing, and suggestions for implementing the program were offered, but not one voice was raised in disagreement with the recommendations.

After this hearing, the North Dakota State Safety Council passed and forwarded to the subcommittee its resolution endorsing and fully approving the recommendations in the report, and pledging its assistance and cooperation in implementing the program.

The Committee has given a great deal of thought to the question of its recommendations to the Legislature. In the Highway Safety Study we have a traffic safety program for North Dakota which if adopted in full at the present time would result in a very substantial reduction in traffic accidents in our state. As is said on page 10 of the report: "If the recommendations of this report are adopted and faithfully administered, it is entirely possible for North Dakota to reduce its mileage death rate in traffic to the minimum practicable rate of three fatalities per 100 million vehicle miles by the year 1965. The final answer is up to the citizens of North Dakota. There is no question whatever that they can have just as much safety as they want—and are willing to pay for." This would mean a reduction of 60% from the present rate of 7.6 fatalities per 100 million miles to 3.0 fatalities for that number of miles. It would mean the saving of 95 lives per year, approximately

3,300 personal injuries and a \$10,000,000 saving in economic losses.

Desirable though the above reduction in accidents might be, we recognize that such a program must be sold to the public and to the Legislature. We are dealing here with not only a complicated, but also a comparatively new problem. While we have had traffic accidents for many years, still their total number has been steadily increasing and the public is just becoming aware of the severity of the problem.

In presenting this report and recommendations, those who prepared it offered it as a blueprint for present as well as future planning and action. We recognize that it may take considerable time to place all of the recommendations into operation. In offering our report and recommendations, we are recommending as much of it as we feel is legislatively feasible at the 1955 Session of the Legislature. As various parts of the program are adopted and successfully placed into operation they can be supplemented by having further portions of the program enacted in subsequent sessions of the Legislature. Perhaps the members of the Legislature and others may consider the recommendations of the Committee to be overly conservative. We feel that it would be best to enact a substantial portion of the proposed program and place it in operation, rather than to attempt a full scale enactment, perhaps before the public and Legislature is ready for such a program.

### Committee Recommendations

1. We believe that many of the functions recommended in the study could be performed by the Division of Public Safety. This Division was established in the 1953 Session of the Legislature and has proven its worth, even though operating on a limited basis for that short time.

As is stated on page 15 of the report:

"Most of the authority for traffic safety functions which is reviewed, and on which recommendations are made in this report, already exists.

"Three faults have been noted: (a) This authority, in general, is not modern so far as conformance with the Uniform Vehicle Code and (b) It is either scattered through two or more departments, or (c) The function is misplaced.

"To correct this situation, the Study Director recommends as a first step in the realignment of these traffic safety functions,

the giving of statutory authority to a separate Department of Public Safety. This Department already exists as a division of the State Highway Department and it is recommended that this division be lifted out of the State Highway Department and be constituted as the new Department of Public Safety.

"The next important step is the transfer to the new Department of Public Safety of certain functions, such as driver licensing from the Patrol, and from the Highway Department; Safety Responsibility and the Unsatisfied Judgment Fund from the Highway Department; Public Safety Education from the Highway Department, which would naturally accompany the lifting of the Department from the Highway Department; the creation of a Central Accident Records Bureau; development of an Official Employee Safety Program; and service by the Director of the Department of Public Safety as Executive Secretary of a Coordinating Committee to be created by statute."

It is felt that the functions to be performed by the Public Safety Department are sufficiently important to justify establishment of a separate Department, rather than to continue it as a Division of the Highway Department. However, it should be recognized that the important thing is the assigning and centralizing of duties to do the safety job, together with authority in the Department to carry them out. While we recognize that there are advantages in having the work handled under a Department of Public Safety, we do not urge the separation from the Highway Department since there is support for leaving it as a Division of the Highway Department, with the appointment made by the Governor;

2. The Committee recommends adoption of the Rules of the Road of the Uniform Vehicle Code, but with minor changes necessary for application to our predominantly rural environment and needs;
3. Authorization of joint action by the Superintendent of the Patrol and the Highway Commissioner for establishing speed zones on state highways is recommended, but it is felt that speed zoning on county highways might remain as is. The county commissioners are able to do zoning adequately, knowing the local problems, and joint authority in such cases could be administratively burdensome;



4. The Committee recommends section 40-0501 of the North Dakota Revised Code of 1943 be amended to permit municipalities to adopt by reference the Model Traffic Ordinance. Although there may presently be general authority already to allow this, specific authority will clarify the situation;
5. The Committee concurs in the recommendation of the study report as to accident records. The establishment of a central accident records system is basic to the operation of a sound traffic safety program. Many aspects of the program are dependent upon it;
6. It is recommended that section 39-0303 of the 1953 Supplement to the North Dakota Revised Code of 1943 be amended to remove the limitation on the number of patrolmen. The number would then be controlled by the biennial appropriation bill. The Committee feels that the addition of 23 patrolmen the first year, and 23 the second year of the biennium would be desirable but is probably not within the present will of the public or Legislature to support. Fewer men could more easily be trained and incorporated into the Patrol, and further increases could be added in later years. The Superintendent of the Patrol has submitted an estimate of the cost per patrolman during the first year of service to be \$9,275, including salary, car, and equipment, and for the second year the cost per patrolman is estimated at \$6,920, or a total of \$16,195 per man for the first biennium of service. These figures do not take into consideration costs of a training program for these new men. The Committee, therefore, recommends a gradual increase in the Patrol, with an addition of 12 men the first year and 6 men the second year of the biennium.
 

In recent sessions of the Legislature, objections have been made to the increase of the Patrol because of their not devoting sufficient time to patrolling the highways, and for other reasons. During the last two years the efficiency of the Patrol has increased substantially so that they are now in a position to take on additional personnel and use them effectively. Many valuable suggestions were made to the Patrol by the persons who conducted the study of this activity, which the Patrol has adopted;
7. In conjunction with the foregoing it is recommended that the minimum entry age for the Patrol be lowered from 25 years to 23 years. Occasionally some good prospects for the Patrol are not available at the age of 25, having already decided and embarked upon some other career or line of work. It is felt that at 23 the men selected will have the maturity necessary to carry a patrolman's initial responsibilities;
8. The Superintendent should be authorized to take necessary disciplinary measures against infractions of Patrol regulations and to maintain the efficiency and discipline of the Patrol, as the study report recommends. Statutory limitation on this power should be provided so that disciplinary measures without appeal shall be limited to a maximum total of seven days pay suspension at any one time and no summary imposition of the penalty more than two times in one year. A third imposition of such penalty in one year should be appealable to the Appeal Board now established for discharge appeals, which could at that hearing go into the merits of all disciplinary action in the case and review the patrolman's entire record. The Superintendent should also be allowed to demote a man one rank for any one incident or infraction, or to order a cut in the individual's pay for up to one year's duration, but both such orders should be appealable to the Board;
9. The Superintendent should be authorized by law to reorganize the Patrol into such divisions, bureaus, and districts as he deems advisable and necessary;
10. The Superintendent should be authorized by law to establish ranks and promotional procedure;
11. Legislation should be enacted to authorize by law the admissibility in court of evidence obtained by radar in speed violations;
12. Legislation should be enacted to require the North Dakota Supreme Court to establish by supreme court rule the use of the uniform traffic complaint and citation as recommended by the American Bar Association;
13. All courts should be required by law to report to the Division of Public Safety of the Highway Department driver convictions on moving violations, and failure to satisfy judgments under the Financial Responsibility Law and the Unsatisfied Judgment Fund;
14. Administration and jurisdiction over the Financial Responsibility Law and the Unsatisfied Judgment Fund should be trans-

ferred from its independent status within the Highway Department to the supervision and control of the Director of Public Safety. This transfer will involve no additional expense and no change in personnel but it will coordinate and centralize these matters with highway safety and better driver control. Unless these functions are transferred, it will result in some duplication as to accident reporting and records. The Unsatisfied Judgment Fund will still be defended and enforced by the Attorney General's office, and it is recommended that legislation be enacted to simplify the processes of that defense and enforcement.

NOTE: Additional detailed study and recommendations contained in the report of the American Bar Association have been forwarded by the subcommittee to the North Dakota State Bar Association for study and action.

15. Permissive legislation should be enacted allowing contractual arrangements between school districts so that two or more districts may establish necessary high school driver education programs;
16. Legislation should be enacted to amend the present equalization fund aid program to increase state aid to each school giving the complete driver education program and using a qualified teacher who holds the special instructor certificate for driver education; but that increased aid should be limited to a total of \$15,000 per year spread over the state school system. This type of program is most valuable in training drivers but it is quite costly to operate and some financial aid would be helpful;
17. Section 39-0407 of the North Dakota Revised Code of 1943 should be amended by inserting in subsection 3, after "engine number" the words "or vehicle identification number", to provide greater coverage and flexibility;
18. The present vehicle equipment provisions of Chapter 39-11 of the North Dakota Revised Code of 1943 should be repealed and the equipment provisions of the Uniform Vehicle Code adopted with such changes, omissions, or additions necessary to meet the requirements of North Dakota transportation operations;
19. Driver licensing provisions of Chapter 39-06 of the North Dakota Revised Code and the 1953 supplement should be repealed and the language of Chapter 6 of the Uniform Vehicle Code pertaining to operator licensing substituted therefor. Due to

the fact that licensing of chauffeurs is quite well controlled by both the municipality and the organizations for which they work and the further fact that chauffeurs' licensing has been rejected by previous legislatures, it is not recommended that the licensing of chauffeurs be included. But it is recommended that present minimum driving age be retained until such time that accident records show there should be a change. Although we concur in the recommendations of the study as to Driver Licensing, we recognize that some problems may be encountered in transferring the drivers' licensing functions to the Public Safety Division during the present biennium. The Legislature may feel that it is unable at this time to expand the budget of the Public Safety Division sufficiently to provide for the additional drivers' license examiners, besides the other new responsibilities. If the recommended additional personnel is given to the Highway Patrol they should be in a position to devote more time to drivers' licensing activities. If it is handled in this way during the next biennium, it will necessitate very close cooperation between the Highway Patrol and the Public Safety Department;

20. Legislation should be enacted to make North Dakota speed limits "absolute" as differentiated from the "prima facie" law now in the Code. The average citizen is under the impression that the law is "absolute" at present, anyway, and the Highway Patrol and States Attorneys favor such a change to aid in enforcement;
21. In order to provide for better control over the safe operation of pupil transportation in family or family-furnished conveyances, the expense of which is borne by local school districts, it is recommended that legislation be introduced to require insurance on such vehicles, to require that such vehicles meet standards and equipment specifications set forth by the Superintendent of Public Instruction in cooperation with the Director of Public Safety through certification by the clerk of the local school board, and to require a special examination and license for the drivers of such vehicles. This legislation should provide that it shall be unlawful to transport pupils for compensation without certification by the clerk of the school board, and unlawful for the school district to pay the expense of pupil transportation where otherwise compensable under the law unless the driver and vehicle involved have been certified by the school board clerk;

22. A Safety Coordinating Committee should be provided by law as outlined in the study report.

These comprehensive and important recommendations cannot, of course, be carried out without additional expense to the state. In order to meet the financial requirements of the program the following measures are recommended:

1. An increase in driver license fee of one dollar and an increase in the charge for driver permit of fifty cents. These increases should net total additional revenue of approximately \$300,000 per biennium to be appropriated as follows:
  - a. An additional \$240,000 to the Highway Patrol,
  - b. An additional appropriation of \$40,000 from the Highway Patrol Fund, representing income from drivers' licenses, to the Public Safety Division,
  - c. The remaining \$20,000 of the \$300,000 will be left in the special drivers' license fund for appropriation in the next biennium;
2. A transfer of \$10,000 from the Unsatisfied Judgment Fund for supervision of those activities;
3. Although the Director of Public Safety under the new organization will supervise the existing personnel handling accident records, financial responsibility law records and unsatisfied judgment fund records, it is thought that the Highway Department should continue to pay the salaries of the 5 people to be transferred to the Public Safety Division, plus overhead and equipment in use, out of Highway Department operating funds. Additional personnel needed can be paid from funds appropriated to the Public Safety Division.

It is estimated by the National Safety Council that the average economic loss resulting from each traffic safety fatality is \$95,000. The cost of the program recommended here is approximately the equivalent of three fatalities over a two-year period. If the program recommended by the Automotive Safety Foundation were adopted it would result in an estimated reduction of 60% in the present rate of fatalities by 1965. This would be a saving of 95 lives per year, approximately 3,300 personal injuries and a \$10,000,000 annual saving in economic loss. While the recommendations of the Committee for immediate adoption do not go as far as the full recommendations of the report, if our recommendations are adopted presently and placed into operation, it will start the state of

North Dakota on a sound traffic safety program and result in a substantial reduction in accidents. The increase in costs per driver of 50 cents per year would be returned to him many times over in safer highway travel. North Dakota has now had an excellent safety study and the public is anxious for more highway safety. We feel that these recommendations should be adopted by the Legislature and that legislation should be enacted to carry out these recommendations.

## DRAINAGE LAWS

This study was authorized by resolution of the Legislative Research Committee at its meeting of April 10, 1953. A subcommittee consisting of Senator Pyle, Chairman, Senator Morgan, and Representative Leet was appointed to bear the primary responsibility for the conduct of this study.

The resolution directing a study of drainage laws was a result of the numerous bills that are introduced at every session to amend the laws of the State of North Dakota relating to drainage districts and their operation. The number of bills that have been introduced on this subject at every session is indicative of the fact that the laws governing the operation of drainage districts have grown obsolete, making it very difficult for the drainage districts to function properly and carry out the responsibilities placed upon them by statute. In addition, the large number of amendments made to the chapter on drainage over the years has resulted in many conflicts of law and ambiguities, and in many instances has made the drainage law almost unintelligible. This is the situation that led to the resolution of the Legislative Research Committee directing the subcommittee to revise the drainage laws of the State of North Dakota in both form and substance, to the end that such laws would become a practical workable tool in the hands of the county drainage boards in meeting our drainage problems.

The first step of the subcommittee was to call a meeting of county engineers, state's attorneys, county commissioners, members of boards of drainage commissioners, legislators, and all other interested people of the counties of Richland, Cass, Traill, Pembina, Walsh, and Grand Forks, which meeting was held at Hillsboro on July 17, 1953, in order to discuss needed improvements in drainage laws and to obtain the opinions of the people in the six Red River Valley counties who are most vitally concerned with drainage districts. A very good attendance was had at this meeting, with over 60 people from the Red River Valley area present. Some five hours were spent in dis-

cussion of drainage problems and deficiencies in the existing drainage law. It was decided at this meeting that each board of county commissioners would appoint one representative from their county to represent them on an advisory committee of six persons, which committee would work with the subcommittee of the Legislative Research Committee on this problem. It was also decided that the local county representative of each county would call a public meeting of all persons in his county interested in the subject of drainage in order to determine definitely what recommendations for amendments each county desired to make.

Selected by each county to represent them in these matters were:

Mr. John Unke, County Commissioner, Pembina Co., Cavalier, North Dakota

Rep. George Saumur, Grand Forks

Mr. Gerhard D. Olson, County Auditor, Traill Co., Hillsboro

Mr. Elton W. Ringsak, State's Attorney, Walsh Co., Grafton

Mr. Manfred R. Ohnstad, Attorney at Law, West Fargo

Mr. Patrick T. Milloy, State's Attorney, Richland Co., Wahpeton

After the local public meeting held in each county, each county representative forwarded to the Legislative Research Committee a list of all recommendations from that county. These various lists of recommendations were consolidated, mimeographed, and mailed back to the county representatives, with the recommendation that a second public meeting be held in each county to discuss the specific proposals that had been made by all six counties concerned.

After the second local county meetings a second meeting of the six-man county committee and the subcommittee of the Legislative Research Committee was held on November 6, 1953, in Hillsboro. At this meeting, all of the proposals submitted by the counties concerned were discussed and recommended amendments to the drainage law were unanimously agreed upon. In addition to the specific amendments, the Legislative Research Committee was requested by the county committee to completely revise Chapter 61-21 of the North Dakota Revised Code of 1943, as amended, in order to provide a logical, well integrated set of laws upon the subject. Because the present Chapter 61-21 was such a patchwork of amendments, it was felt that it was impractical to attempt to amend and revise the law section by section. In general, the subcommittee on drainage was requested to clarify the existing law wherever it was

ambiguous or conflicting, remove surplus and redundant language, insert the new amendments agreed upon, and generally rearrange the statutes in a logical sequence.

After the subcommittee on drainage had prepared a draft of the revised drainage law, a third meeting with the county committee was held in Hillsboro on August 20, 1954. At that meeting, the proposed drainage law was gone over in detail, section by section, and after some additional changes, was unanimously approved by the subcommittee and the members of the county committee.

Since the full bill revising Chapter 61-21 of the Code is too voluminous to be incorporated into this report, copies of the bill, together with comments explaining each section, were mimeographed and mailed to each member of the Legislature for his study. Additional copies of the bill, together with a detailed explanation of its contents, are available in the office of the Committee for the use of the Senate and House committees when this bill comes before them for consideration. This bill is recommended to the Legislative Assembly as a workable, realistic, and practical drainage law for the State of North Dakota.

## ELEMENTARY AND SECONDARY EDUCATION

Senate Resolution No. 3 directed the Legislative Research Committee to carry on a study upon the feasibility of unifying state activities in the field of elementary and secondary education. To carry on this study, a subcommittee consisting of Representative Hofstrand, chairman, Representative Nygaard, and Senator Knudson was appointed. In the words of the Resolution, the Legislative Research Committee was directed to "study and consider the organization and administration of education in North Dakota, with a view toward promoting economy and efficiency, defining responsibility, and providing for coordination of all phases of the state school system. It shall consider the feasibility of unifying all educational phases under one state board of education and report the results of its appraisals to the Thirty-fourth Legislative Assembly in the form of bills, resolutions, proposed constitutional amendments, or otherwise as it may deem necessary". In the course of its study, the Committee has met with the Commissioner of Higher Education, State Superintendent of Public Instruction, officers and representatives of the North Dakota Education Association, and the North Dakota School Officers Association, and with the Director of the Correspondence School. The Committee wishes to express its thanks to these people and organiza-

tions for their excellent cooperation and assistance in the course of its work.

Senate Resolution No. 3 was introduced by the Senate Committee on Education as a result of proposals of the North Dakota Education Association for a consolidation of all state functions in the fields of elementary, secondary, and higher education under one state board of education, with the Superintendent of Public Instruction to be appointed by the Board as its chief executive officer. The North Dakota Education Association has since modified its recommendations and now favors the retention of the State Board of Higher Education as the board responsible for our institutions of higher learning, and recommends a separate board of public school education to be responsible for all state activities in the field of elementary and secondary education. Under their revised plan, the State Superintendent of Public Instruction would be appointed by and responsible to the state board of public school education. The state board of public education in turn would be either elected at large for staggered terms or appointed by the Governor with the approval of the Senate.

The proposal for the abolition of the present office of Superintendent of Public Instruction and the re-establishment of the office on an appointive basis would require amendment of Article 82 of the North Dakota Constitution. However, since Article 83 of the Constitution allows the Legislature to fix the duties of the Superintendent of Public Instruction, his office could be left an elective office and all duties could be transferred to a state board of public education, leaving him the functions of executive director of the board, to carry out the administrative functions of his present office and to execute the policies of the state board.

The North Dakota Education Association Plan recommends the transfer to a state board of public education of functions now being performed by the Board of Administration and Board of Higher Education in the fields of elementary and secondary education. From the State Board of Administration, they recommend the transfer of the responsibility for operation of the School for the Deaf, the School for the Blind, and the State Training School. From the Board of Higher Education, they recommend the transfer of programs involving vocational education and rehabilitation, and the State Correspondence School. They further recommend that joint meetings of the state board of public education and the state board of higher education be held periodically in order to formulate and define state programs of vocational education, teacher education, training and certification, extension and adult education, school finance programs, consulting and research programs,

educational guidance, and any other service in which coordination of activities appears desirable.

Certain functions in the field of elementary and secondary education are also presently being carried on by special and independent boards and agencies. These boards and agencies include the State Library Commission, State Board of Equalization Fund, State Board for Reorganization of School Districts, State Board of Teaching Scholarships, State Teacher Insurance and Retirement Fund, and the State School Construction Fund Board. The NDEA recommends the transfer to a state board of public school education of the functions presently being carried on by the State Library commission, the State Board for the Reorganization of School Districts, the State School Construction Fund Board, State Board of Equalization Fund, and the State Board of Teacher Scholarships. The Association recommends the State Teachers Insurance and Retirement Fund Board be left as presently constituted.

There are many arguments both for and against the creation of a single state board of public education to be responsible for all activities of the state in this field, and for the appointment of our State Superintendent of Public Instruction by such board. It is argued that by abolishing the numerous boards and separate agencies now operating in this field, the duplications, confusing conditions, and uncoordinated activities would be eliminated. It is stated that by appointing the Superintendent of Public Instruction his office would be completely removed from active politics or any real threat thereof, and that it would insure the appointment to our highest school office of a well qualified, professionally trained individual, and that by improving his tenure in office, it would provide an opportunity for more long-range planning in the field of education. It is further argued that the removal of the divided authorities and duplication of activities would provide for the saving of some state funds. Those arguing against such a consolidation of activities and the appointment of the Superintendent of Public Instruction feel that it is contrary to our principles of elective government to abolish an elective office as important as this, thereby removing the Superintendent of Public Instruction's direct responsibility to the voters. Under the NDEA plan his responsibility to the people would be very indirect, since he would rely on the Board for his appointment, which, in turn, would probably be appointed by the Governor. While the change may get the office out of politics, it easily could substitute private patronage politics. It is felt by those proposing this argument that if the Superintendent of Public instruction is not directly responsible to the people, the wishes and needs of the people can often be disregarded. It is further pointed out that the best

qualified people would not necessarily be appointed to the State Board of Public Education. In addition, it is stated that when the responsibility for the state education program is divided among a number of people serving upon a state board, it is possible that there will be a certain amount of 'buck-passing' among the members of the board, since it would not be necessary for any one man to assume the responsibility for the state education program, as is now had in the office of the Superintendent of Public Instruction.

In addition to the general pros and cons of the principle of consolidating state functions of elementary and secondary education into a single state board of public school education with an appointive Superintendent of Public Instruction, the merits of transferring each individual state activity in the fields of primary and secondary education should be considered. This report will, therefore, now discuss the individual activities that are affected by the NDEA plan, giving information on their present operation and some of the arguments for and against consolidation.

### **The Division of Vocational Education and Rehabilitation**

#### **Vocational Rehabilitation**

Chapter 15-20 and sections 15-4003 and 15-4105 of the North Dakota Revised Code of 1943 provide the enabling legislation for the vocational education and rehabilitation program.

The division of vocational rehabilitation maintains an office at the university at Grand Forks. All salaries as well as travel and office expenses are paid wholly from Federal funds. Other expenses, chiefly those involving support of a case load, are on a fifty-fifty matching basis. Under the program, a person to be rehabilitated may be sent to school at the necessary place, with the division paying the expenses on the basis of need. In addition, the division pays for medical examinations, surgery, therapy, hospitalization, and, where needed, prosthetic appliances. This division may operate by sending people to primary, secondary, trade schools, or college.

#### **Vocational Education**

The same chapter of the Code establishes the state board of higher education as the state board for vocational education. This program includes the educational programs in the fields of agriculture, home economics, business education, and trade and industrial education. Federal funds may also be used under these Acts for the guidance program. This is rather a sizeable operation. Last year the division of vocational education spent a total of \$700,341.25. In round numbers, \$202,-

000.00 came from Federal funds, \$226,000.00 from the state equalization appropriation, and \$272,000.00 from the funds supplied by local districts. Last year 6,575 full-time students and 3,436 part-time or evening class students were enrolled.

The vocational agricultural program is in operation in forty-six high schools and, counting part-time students, there were 3,886 students enrolled last year. The director or state supervisor of the vocational agriculture education program is a member of the faculty at the Agricultural College.

Vocational homemaking is taught at eighty-nine high schools and counting full and part-time students, 5,562 students were enrolled last year. The state supervisor of the vocational homemaking program is on the faculty of the Agricultural college.

The trade and industrial education program has been largely carried out at the state school of science, rather than at individual high schools as is done in some states. Last year 1,302 students took courses in the trade school field and of these, 888 were part-time students.

The distributive education program, sometimes called business education, is found in thirteen high schools, with a total of 233 students enrolled last year. In addition, 387 students attended sales clinics and produce schools for short periods of time. The state supervisor of this phase of the program is a member of the faculty at the University.

The state supervisor for the guidance services maintains his office at the University of North Dakota but is not a member of the faculty and is directly responsible to the office of the commissioner of higher education.

Another function in the division of vocational education is the preparation of teachers in the field of vocational education and this is carried on by the board of higher education without the aid of any Federal funds.

By far the greatest portion of the work carried on under these vocational and rehabilitation programs is definitely in the field of secondary education and it would seem that they should be under the supervision of the agency having responsibility for secondary education rather than under the board of higher education.

### **High School Correspondence Courses**

The statutory provisions for the establishment of high school correspondence courses are to be found in chapter 15-19 and section 15-4002 of the North Dakota Revised Code of 1943. The en-



abling legislation provides that a state director of correspondence courses in secondary education shall be appointed by the state board of higher education. The enabling legislation limits the scope of this division to strictly correspondence work.

The board of higher education established this division at the state agricultural college campus in Fargo and they presently occupy the third floor of a building there. Other than the furnishing of physical facilities on a rental basis by the agricultural college, there is no formal connection between that institution and the correspondence school. Because of the school's location, there is little personal supervision given by the commissioner of higher education, and the policies of the school are governed by the board only in a very general way. The correspondence courses offered are exclusively on a high school or secondary school level with the exception of a few out-of-school adults. These courses are taken almost entirely by students attending high school. Instances have been known where a student has taken his entire education by correspondence, but the more usual students are those already attending high school, who use correspondence courses to supplement the regular high school courses.

The correspondence school has taken on several additional activities outside the field of high school correspondence courses. These activities include providing lyceum entertainment programs to the schools of the state and to some schools in South Dakota and Montana; the establishment of an educational film library wherein the films are provided to the high schools and grade schools of the state as a visual aid in their teaching program, but not limited to use in connection with correspondence courses; and a library of tape-recorded speeches of great men or of notable events, kept by the correspondence school and made available on loan to the schools of the state for use in their school program. The director of the correspondence school states that no funds appropriated by the Legislature are used directly in operating the lyceum entertainment program circuits or in maintaining the film and tape-recorded speech library. Apparently it is intended that the fees charged for the lyceum programs and the rentals charged for the films and tapes are to defray the costs of purchasing and maintaining the films and carrying on the lyceum program.

The report of the North Dakota Education Association recommends that the supervision of the correspondence school be transferred from the board of higher education to the office of the superintendent of public instruction or a state board of public school education. There are certain apparent advantages to such a transfer of responsibility. First, the statutory functions of this department are in the field of secondary education

and, therefore, are much more closely tied to the responsibilities of the superintendent of public instruction than they are to the board of higher education. Second, the transfer would allow the superintendent of public instruction to more closely supervise the expenditure of funds and the fiscal activities of this division. Third, the program of this division and its standards could be integrated with the other work and standards of the office of the superintendent of public instruction in the field of secondary education. A possible disadvantage of such a transfer of responsibility would be the possibility that the National University Extension Association, an accrediting agency for correspondence schools, would not accredit the program should a transfer be made. It is their policy that in order to secure accreditation, the school must be attached to an institution of higher learning where the courses can be handled by professors of the institution. However, since professors at the Agricultural College are not now engaged in activities of the correspondence school to any appreciable extent, it may be that the mere change of responsibility from the State Board of Higher Education to the office of the Superintendent of Public Instruction would affect the credits of the school.

The Committee inquired of the North Central Association of Colleges and Secondary Schools whether that Association would be willing to accredit the Correspondence School if the school met proper standards. North Dakota is one of 19 states encompassed in the area in which the NCA operates. This association has for its function the accrediting of institutions of higher learning and secondary schools, and all such colleges and secondary schools which are members thereof must abide by its rulings and standards. The North Central Association is by far the most important accrediting association operating in this field. The Association ruled that it would accredit the Correspondence School upon its meeting proper standards if it is under the direct supervision of either a recognized college or university or under the office of the Superintendent of Public instruction. The association will not accredit the school until such a transfer of supervision is made, so the effect of this is to refuse the accreditation of the Correspondence School as it is presently organized. Since all major colleges, universities, and secondary schools within this 19-state area are members of the North Central Association and are bound by its rulings, this statement of non-accreditation is a serious blow to the standing of the Correspondence School.

The North Central Association has been requested by the Board of Higher Education to send a committee to evaluate the program of the Correspondence School in order to determine whether the school meets the other standards

necessary for accreditation. If the Correspondence School meets such standards, or can readily be improved to meet such standards as may not be met at the time of the evaluation, it would appear beneficial to transfer the school under the supervision of the Superintendent of Public Instruction and the proposed State Board of Public School Education in order to obtain the full accreditation of the North Central Association. In the opinion of the Committee, accreditation by the North Central Association would be a much stronger accreditation than that offered by the National University Extension Association.

Since office space is not available at Bismarck, it would no doubt be necessary for the school to continue to pay rent to the Agricultural College and maintain its present location should a transfer of supervision be made.

#### **Teachers' Insurance and Retirement Fund**

The enabling legislation for the teachers' insurance and retirement fund and the teachers' insurance and retirement board is to be found in chapter 15-39 of the North Dakota Revised Code of 1943. The board consists of the superintendent of public instruction, the state treasurer, and three members appointed by the Governor from members of the teachers' insurance and retirement fund. The board's function is to determine the policies and administration of all operations in regard to the teachers' insurance and retirement program subject to the provisions of the enabling legislation in chapter 15-39.

Since the teachers' insurance and retirement fund is essentially a trust fund for the benefit of the teachers who have paid into the fund, it appears that it is more proper to have a board made up as now constituted to govern this operation rather than placing it under a board of the type proposed by the NDEA for general school operation. The NDEA report does not specifically recommend any transfer of responsibility for the teachers' retirement plan board.

#### **State Library Commission**

The enabling legislation for the State Library Commission is to be found in chapter 54-24 of the North Dakota Revised Code of 1943. Under this statute the board of administration is ex officio the state library commission. The board has authority to appoint a secretary who shall be the director of the commission. The physical facilities of the state library commission are located in the Memorial Building on the Capitol grounds. The statutory functions of this library commission are

to provide an educational reference library, traveling libraries, and generally lending services to local and school libraries. In addition, they are to maintain a legislative reference bureau for the information and assistance of members of the Legislature and to catalog legislation of other states and information upon legal and economic questions in a manner which will make it easily accessible to the legislative assembly. The state library appears to be adequately maintaining an educational reference library and is maintaining a traveling library system. Their services are of special benefit to small town or rural libraries, and small school libraries. The library does not provide any legislative reference services, nor does it collect information for the specific use of the Legislature. Such legislative reference services as are provided to the Legislature are presently being carried on by the Legislative Research Committee.

Since the functions being carried on by the state library commission are for the benefit of public libraries of the political subdivisions as well as school libraries, it does not seem essential that responsibility for this work be given to the superintendent of public instruction or a state board of public education. A disadvantage that might arise should it be transferred under the jurisdiction of the superintendent of public instruction or a state public school board would be the natural tendency of such a governing body to slant its functions more toward school services to the possible detriment of the smaller public libraries, who are presently receiving services from the commission.

#### **State Equalization Emergency Fund Board**

The state equalization emergency fund board is created by section 15-4010 of the North Dakota Revised Code of 1943 with the statutory functions of carrying out the provisions of chapter 15-40 relating to distribution of the emergency fund to schools. The chapter itself sets forth the distribution of such funds very specifically and places the burden upon the superintendent of public instruction of carrying out the administrative provisions of the Act. Since this program has been in operation for a number of years and since the statute is most detailed as to the manner in which the program shall operate, the superintendent of public instruction in fact entirely administers the program. The board which consists of the governor, the attorney general, and the superintendent of public instruction has not in fact met for a number of years. Since this board has practically nothing to do, it seems that such responsibilities as it might have at some time could be transferred to a state board of public education should such a board be created, or its functions could even be entirely dispensed with and full responsibility placed upon the



superintendent of public instruction to administer the program, as he has in fact done for many years.

### **State Committee for the Reorganization of School Districts**

The state committee for the reorganization of school districts was created in section 15-5303 of the 1953 Supplement to the North Dakota Revised Code of 1943. This committee consists of the superintendent of public instruction, as chairman, and the attorney general and the state treasurer as advisory members. The superintendent of public instruction is the director of school reorganization and has the authority to appoint such personnel as may be necessary to carry out the duties of chapter 15-53 in regard to school district reorganization. The functions of this committee are to aid county committees on this subject, to receive, examine, approve, or disapprove reorganization plans, to appoint the county committees, and to transmit approved plans to the county superintendents. This committee or board meets as often as may be necessary to take care of such matters as come before it but seldom, if ever, meets more than once a month.

Should a state board of public school education be created, there seems no reason why the functions of this state committee on school district reorganization could not be transferred to such board, since they could still call upon the attorney general and the state treasurer for such advice and counsel as they might need. Such a transfer would be in accordance with a policy of consolidating the many boards now dealing with school matters and relieving certain elected public officials from the duty of serving on a board in which they have little direct official interest. Since the statute is quite definite upon the matters to be considered by the board in approving any reorganization plans, its duties to a large degree seem to be ministerial. In addition, since such plans must be passed by the county committee and voted on by the people in a district, there is little opportunity for any arbitrary action by a state board, and therefore the fact that the members of such a board are entirely elected public officials directly responsible to the people would seem of little concern.

### **State Board of Teaching Scholarships**

The state board of teaching scholarships is created under section 15-5701 of the 1953 Supplement to the North Dakota Revised Code of 1943. The board consists of the superintendent of public instruction, as chairman, and four other mem-

bers appointed by the Governor, one of whom must be the president of a state-supported college, two must be county superintendents, and one must be a person serving in an "In service teaching department" of a state educational institution. The duties of this board are to grant scholarships as provided in chapter 15-57 and provide rules and regulations, establish standards, requirements, and procedures for administering the chapter. The over-all purpose of the chapter and scholarship program is to encourage people to enter the rural teaching program. This board in practice meets about four times per year.

There seems to be no special reason why this board would have to be made up entirely of professional people of the teaching profession. It probably, therefore, could be transferred to any state board of public education that was formed so long as the superintendent of public instruction was a member and the executive director of such a board. This would serve in eliminating an additional board dealing with our educational program.

### **Advisory Council on Special Education**

The advisory council on special education is created by section 15-5902 of the 1953 Supplement to the North Dakota Revised Code of 1943 with the duties of administering the provisions of chapter 15-59 relating to the special education of exceptional children. The superintendent of public instruction is chairman of the council, and he is empowered to employ a director of special education and such assistants as may be necessary. Other members of the board are the state health officer, the director of the division of child welfare of the public welfare board, a director of the division of vocational rehabilitation of the state board of higher education, the superintendent of the state school for the deaf, the superintendent of the state school for the blind, and the superintendent of the Grafton state school. The effect of this statute is to give the superintendent of public instruction full authority and responsibility of administering the program with the advisory council acting in a strictly advisory capacity. Since the responsibility for the administration of the program as well as the authority of governing it lie with the superintendent of public instruction, there seems little need for the existence of a special board on this subject. The advisory functions of this board could quite readily be transferred to any state board of public education or the board itself could be entirely eliminated. The superintendent of public instruction could no doubt obtain the voluntary cooperation of any of the members of the present board in any instance where such cooperation might be necessary.

## **State School Construction Fund**

The State School Construction Fund and the State School Construction Fund Board, which administers the Fund, was established under enabling legislation found in chapter 15-60 of the 1953 Supplement to the North Dakota Revised Code of 1943. Its purpose is to grant long term loans to school districts in need of new buildings and improvements but which are unable to finance such facilities on a current basis or through bonding. The State School Construction Fund Board consists of the Superintendent of Public Instruction, chairman, Director of the State Equalization Fund, secretary, Manager of the Bank of North Dakota or an assistant appointed by him, and the Attorney General or an assistant appointed by him. It does not seem essential that a separate board govern the operation of the Fund so long as the legal services of the Attorney General and the financial and investment counsel of the Bank of North Dakota is available to any board that is responsible for the Fund. It would therefore seem that these functions could be transferred to a single board of public school education with the requirement that the assistance of the Attorney General and Bank of North Dakota be available. This transfer would serve as eliminating another independent board dealing with the confusing education picture in North Dakota.

### **School for the Deaf, School for the Blind, State Training School**

The above schools are presently supervised entirely by the state board of administration in the same manner as other institutions of the state. The North Dakota Education Association has modified its original recommendation in regard to these schools and now feels that their functions could be left under the control of the board of administration and that the superintendent of public instruction, by virtue of his membership on the board of administration, may coordinate their programs to any degree that may be necessary. It would definitely seem inadvisable to transfer the responsibility for these three schools to any state board of public school education or to the office of the superintendent of public instruction, since the responsibilities of institutional administration differ so substantially from the normal elementary and secondary activities of education.

### **Joint Meetings With Board of Higher Education**

It seems very advisable that at least an annual meeting be required between the board of higher education and the superintendent of public instruction or any state board of public school education that may be formed, for the purpose of

coordinating their programs and specifically considering matters in relation to teacher training, teaching standards, and teacher certification. At present, responsibility for teacher certification lies with the office of the superintendent of public instruction, while teacher training is under the state board of higher education through its control of our normal schools and colleges.

## **Recommendations**

The Committee feels that there is a modified version of the North Dakota Education Association's plan which is practical, workable, and yet not subject to the objections against an appointed board of education with an appointed Superintendent of Public Instruction. It is possible for the State Legislature, without constitutional amendment, to create a state board of public school education with limited functions and to transfer to this board all the present state activities being carried on by other special boards, with the Superintendent of Public Instruction being a member and its executive director. This is the plan the subcommittee on education recommends to the Legislative Research Committee.

Under this plan, all the responsibilities currently found in the Department of Public Instruction would be left untouched and the Superintendent of Public Instruction would remain an elective office, but the office would have the additional duty of carrying out the policies of the state board of public school education within the limited area of jurisdiction of such board. The Committee believes that the principle of direct responsibility of the Superintendent of Public Instruction to the people by election is very important in giving the people of the state a direct voice in the administration of school affairs at the state level. In the Committee's opinion, the elective office of Superintendent of Public Instruction has always attracted men of high caliber, and it is recommended that the salary level of the Superintendent of Public Instruction be raised by the next Legislature. It has come to the Committee's attention during the course of this study that only the state of Idaho pays a smaller salary to the Superintendent of Public Instruction than does the state of North Dakota, while some 46 states pay more, ranging from \$6,000 to \$17,500.

It is felt by the Committee that if the office of Superintendent of Public Instruction is left an elective office, the Superintendent of Public Instruction will then be directly and personally responsible for the education system of the state of North Dakota, including the appointment of all personnel, and consequently he should be vested with all authority necessary to carry out these

responsibilities, rather than transfer all such authority to a state board of public school education.

It is recommended, however, that a single state board of public school education be created with the limited functions of carrying out the responsibilities of all the miscellaneous, independent boards dealing in the fields of elementary and secondary education, and that all state officers and agencies provide such information and assistance to the board as may be requested from time to time. It is recommended that this be an ex officio board consisting of the Governor, the Attorney General, the Superintendent of Public Instruction, as executive director and secretary, and the presidents of the North Dakota Education Association and the North Dakota School Officers Association. No salary should be paid to any member of this board for his services, but the travel and per diem expenses of the presidents of the North Dakota Education Association and the North Dakota School Officers Association should be paid by the Department of Public Instruction from a proper item of appropriation.

More specifically, the Committee recommends that the program of vocational education and rehabilitation be transferred from the Board of Higher Education to the new board of public school education. The Committee does not wish to make a final recommendation upon a transfer of the responsibility for the supervision of the Division of High School Correspondence until its accredited status can be more definitely determined by an evaluation committee of the North Central Association.

It is further recommended that the State Equalization Emergency Fund Board, the Advisory Board for School District Reorganization, the State Board of Teaching Scholarships, the Advisory Council on Special Education, and the State School Construction Fund Board be abolished, and all responsibilities of these various boards be transferred to the state board of public school education.

The merits of transferring these responsibilities have been previously discussed, under the individual topic heading in this report. The transfer of these activities with the Superintendent of Public Instruction as a member of the board and responsible for carrying out all its policies as its executive director, will result in less confusion in the fields of elementary and secondary education, more coordination of activities, and possibly some savings of state funds.

The Committee does not feel that it is necessary to transfer the functions of the State Library Commission to a state board of public education, since its functions are not entirely within the elementary or secondary educational field. In addition,

the Committee does not believe that it would be proper to transfer the functions of the State Teachers Insurance and Retirement Fund Board to a state board of public school education, in view of the fact that this board handles funds that are essentially trust moneys of the teachers of the state of North Dakota, and therefore should be administered by the present board.

It is further recommended that periodic joint meetings of the Board of Public School Education and the State Board of Higher Education be required, at the call of the Superintendent of Public Instruction and commissioner of Higher Education, in order to consider and coordinate matters of mutual interest.

### STATE LICENSING, INSPECTIONS, AND LIQUOR TAXATION

The Legislative Research Committee by resolution at their meeting of April 29, 1954, requested the Research Director to prepare an informational report upon the licensing and field inspection functions being carried on by the State of North Dakota with special emphasis upon the licensing, inspection and regulatory activities of the state as they affect the liquor industry. An informational report upon this subject was submitted to the Legislative Research Committee by the Research Director on September 15, 1954, and copies of such informational report were sent to all members of the Legislature. This informational report showed that there were some 98 types of businesses or 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. The report also pointed out that there were some 33 departments or divisions of the State of North Dakota which employed 195 field inspectors or auditors. The length, variety, and duplication shown in the tabulation of licensing and inspections carried on by the State of North Dakota is indicative of the cumulative effect of various uncoordinated attempts to regulate particular groups of people, products, or industries, or to facilitate the collection of taxes.

It was obvious to the Committee, after reviewing the informational report prepared by the Research Director, that it would be impossible in the limited time available after its submission to make a detailed study of all the licensing and inspection functions so that an over-all plan for the removal of the confusion and duplications could be presented to the 1955 session of the Legislature. It did seem, however, that the area of liquor licensing, inspections, and taxation was a field in which some detailed study could be made prior to

the Legislative session, and some concrete recommendations for improvement offered.

A subcommittee consisting of Representative Nygaard, chairman, Senator Knudson, and Representative Leet was, therefore, appointed by the Legislative Research Committee to study the field of liquor licensing, inspection, and taxation in sufficient detail to make specific recommendations for the removal of duplication and the coordination of these activities. In the course of this study, representatives of the offices of Attorney General, State Treasurer, State Tax Commissioner, and State Laboratories Department were heard and the operations of their offices in the field of liquor licensing, regulation, taxation and related licensing and inspectional activities were discussed. In considering the activities of these departments affecting the liquor industry, it was also necessary to give some consideration to other non-related licensing, inspection, or taxation functions being carried on by these same departments.

## PART I

### Inspections and Licensing

As noted in the previous report prepared by the Research Director of the Committee, the Attorney General presently licenses amusement games, bowling alleys, dance halls, pool halls, sale of soft drinks, taxicabs, moving picture theatres, retail sale of alcoholic beverages, private halls used by the public, establishments selling tobacco, and also enforces the state liquor regulatory laws. To carry on these functions, the Attorney General's office is allowed by statute one chief inspector and 6 field inspectors. At the present time, there is one chief inspector who is a Special Assistant Attorney General and 5 field inspectors. The field inspectors of the Attorney General's office receive a salary ranging from \$225 to \$350 per month. Their annual reimbursement for mileage and travel expense averages about \$1736 per inspector per year.

The State Laboratories 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 sale of ice cream, the manufacture and sale of oleomargarine, livestock medicines, hotels and lodging houses, tourist camps and cabins, commercial feeding 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 in-

spection activities and 7 inspectors assigned to the other inspection functions of the department. The salaries paid to these inspectors of the State Laboratories Department vary from \$275 per month to \$325 per month.

After considerable study by the Committee and consultation with the various department heads concerned, it is recommended by the Legislative Research Committee that all functions of licensing and inspection currently carried on by the Attorney General's office with one exception, be transferred to the State Laboratories Department.

It is the opinion of the Committee that all inspection activities of the Attorney General's office can be carried on by the inspectors of the State Laboratories Department, who are presently assigned to the miscellaneous licensing and inspection activities of that department, by increasing the number from 7 to 9 or 10 inspectors, plus a chief inspector. This would amount to the elimination of 3 or 4 inspectors from the number presently allowed to the State Laboratories Department and the Attorney General's office combined. It will be necessary for the State Laboratories Department to make their inspector districts somewhat smaller than they presently exist, in order to allow each inspector to accomplish the combined duties within his district. This will result in less travel expense for the individual inspectors within their smaller districts and will result in their spending more time in actual inspection duties, rather than in traveling from place to place. In other words, the effect of this change will be to reduce both the number of inspectors and the amount of travel expense of those remaining inspectors and to make it possible for a greater portion of the inspector's salary check to go toward his true inspection duties rather than for time spent in traveling from place to place. A further advantage will be that many businessmen will have only one single inspection by one department instead of two inspections by two departments. It is estimated by the Committee that this change will amount to a saving of at least \$35,000 per biennium to the state of North Dakota through decreased salary and travel expenses of inspectors.

The one exception to the transfer of licensing and inspection functions from the Attorney General's office involves the licensing by that office of taxicabs. Since taxicabs are licensed for tax purposes by the Motor Vehicle Department, by most municipalities, and if they operate outside city limits are regulated by the State Public Service Commission, there appears no valid reason for an additional license by the state of North Dakota. The loss of revenue to the state by abolition of this license will be insignificant, but if this revenue is desired by the state of North Dakota it is

recommended that there be consideration of a revision of the fee schedules of taxicabs as presently collected by the Motor Vehicle Department.

It is further recommended that the licensing of the sale of tobacco products by the State Tax Commissioner be transferred to the State Laboratories Department so that all licensing of this product can be carried out by one single department.

As a final recommendation upon this section of our report, we recommend that a merit system be established for the employment of the field inspectors of the combined inspector force of the State Laboratory Department. 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 Laboratory Department in retaining and employing competent inspectors.

## PART II

### Liquor Taxation

As stated in the previous report by the Research Director upon the subject of licensing and taxation, there are two sets of tax laws affecting the liquor industry. One set affects the taxation of ale and beer of an alcoholic content not greater than 5% by volume, and is administered and collected by the State Tax Commissioner. The second set of laws affects the taxation of alcoholic beverages having an alcoholic content of greater than 5% by volume, and is administered and collected by the State Treasurer. As an aid to the collection of these taxes, the state licenses the sale of liquor by common carriers such as airlines, and railroad companies, which licenses are issued by the State Treasurer. A similar provision has been made for the licensing of breweries, should any be constructed in the state, and such license would be issued by the State Tax Commissioner as an aid to the collection of beer taxes by his department.

At present the collection of beer and ale taxes is handled by a single employee in the office of the State Tax Commissioner, with occasional audits and inspections by field auditors for the sale and income tax divisions. The State Tax Commissioner reports, however, that he has found it necessary to request funds from the next Legislature to assign a specific auditor to this activity. The State Treasurer has two employees assigned to the administration of the liquor tax laws with some occasional assistance in the field by the State Treasurer or his deputy. By far the greater amount of revenue from alcoholic beverages is collected by

the State Treasurer's office through the tax laws upon the so-called hard liquor in excess of 5% by volume. The collection costs of both departments are very low per dollar of revenue collected.

There are approximately 28 wholesalers who sell both beer and alcoholic beverages greater than 5% alcohol by volume plus an additional 42 wholesalers selling beer or ale having an alcoholic content of less than 5% by volume. It will be noted that almost all wholesalers of the higher alcoholic content beverages also sell beer and ale having less than 5% of alcohol, while there are many beer and ale wholesalers who do not sell any beer or ale of greater than 5% of alcohol by volume. It would therefore, appear that under the present practice of having the two taxes administered by two separate departments some duplication of travel and auditing of the same firms does of necessity arise.

It is recommended that the administration of both taxes be transferred to the office of the State Treasurer. Through such a transfer, the duplication of effort in auditing the same firms would be eliminated, along with much confusion in statutes and in minds of the people of the state. The office of the State Treasurer is recommended as the more proper place for the administration of the entire set of tax laws upon alcoholic beverages, because they at present have more extensive activities in this field and are presently collecting the greater share of the tax moneys that are derived from the liquor industry. In addition, it is noted that the office space of the State Tax Department is extremely limited at the present time, while adequate office space is available in the office of the State Treasurer for the administrative unit handling these taxes. Furthermore, the subcommittee takes cognizance of the recommendation of the Legislative Research Committee, which would if passed by the Legislature, transfer the administration of the gas refund laws to the State Tax Department. It is felt that this transfer would put a great premium upon office space and personnel in the State Tax Department; consequently, a transfer of all the alcoholic beverage taxes to that department would place a greater burden upon it than would result if those taxes were transferred to the office of the State Treasurer. It also follows that the licensing of breweries and wholesalers, which are used as aids to the collection of taxes upon beer and ale, should be transferred to the office of the State Treasurer. It is believed that the addition of one employee, possibly transferred from the tax department, can adequately administer all taxes upon alcoholic beverages in the office of the State Treasurer.

## PART III

### General Comments, Information, and Recommendations

It is the opinion of the Committee that a complete and detailed study of all licensing and inspection activities should be carried on by the State of North Dakota. Such a study should determine the exact day-by-day operations of the departments in the various fields of licensing and inspections, so that it can be determined if further consolidation of these activities is practical and if substantial lessening of confusion and saving of state funds might result. If the Legislature desires such an over-all study to be made, a concurrent resolution should be introduced and passed at this session of the Legislature directing the Legislative Research Committee to make such a study. Such concurrent resolution should be accompanied by an adequate appropriation to enable the Legislative Research Committee to carry out this work.

There is one additional minor recommendation that can be made by the Legislative Research Committee at this time. The statutory provisions for the stallion registration board are now obsolete and the board provided for this purpose has not met for a good number of years. It is therefore recommended that the board be abolished and the state licensing of stallions be transferred to the office of the State Veterinarian.

### WORKMEN'S COMPENSATION

The study of Workmen's Compensation was carried on pursuant to Senate Resolution No. 9, which directed the Legislative Research Committee to "undertake a study of the North Dakota workmen's compensation insurance program, in order that the Committee may recommend to the next legislative assembly a comprehensive system of laws and changes in existing laws which will eradicate the inequalities and injustices which exist under the present program." A subcommittee consisting of Senator Rilie R. Morgan, chairman, Representative R. H. Lynch, and Representative H. C. Nygaard were appointed by the Committee to supervise this study.

The Committee has held numerous meetings upon this subject and has thoroughly considered the laws of the State of North Dakota relating to Workmen's Compensation. Requests for changes in the existing Workmen's Compensation laws have been received from the commissioners of the Workmen's Compensation Bureau and from interested parties in labor, industry, and the general public. A public hearing upon all proposals for

amendment of existing laws was held with some fifteen representatives of labor, employers, and the general public in attendance, in addition to commissioners and personnel of the Workmen's Compensation Bureau.

In addition to matters dealing with the laws governing the Workmen's Compensation program, a survey was made of the administration of the Department in processing compensation claims, in order to determine the rate at which claims for compensation were filed and disposed of by the Department. The following in tabular form is the result of the survey filed and the date of payments thereon:

1. Number of claims filed in year Jan. 1, 1953, through Dec. 30, 1953. ....	2717
2. Number of claims filed during above year and disposed of in a final manner within 30 days from date of filing. ....	1799
3. Number of claims filed during above year and disposed of in a final manner within 60 days from date of filing. ....	573
4. Number of claims filed during above year and disposed of in a final manner within 90 days from date of filing. ....	168
5. Number of claims filed during above year and disposed of in a final manner within 120 days from date of filing. ....	67
6. Number of claims filed during above year and disposed of in a final manner within 180 days from date of filing. ....	51
7. Number of claims filed during above year and disposed of later than 180 days from date of filing. ....	43
8. Number of claims filed during above year and not disposed of within 1 year from date of filing, .....	16

The recommendations of the Committee for amendments to the existing Workmen's Compensation laws can be best stated by setting forth the amendments, section by section, together with brief comments upon the reason for the proposed change. These amendments are set forth somewhat in bill form, with the deleted material being bracketed and the newly inserted material being underlined.



Supp. 65-0102. DEFINITIONS.)

5b3. Any executive officer of a business concern. ((who receives a salary of more than twenty-four hundred dollars per year))

**“Executive officer” shall mean only the president, vice presidents, secretary, or treasurer of a business corporation whose duties are solely those of such executive office, and if an executive officer also performs duties of a kind generally performed by an employee, such employment is not exempt;**

5c. Persons employed by a subcontractor, or by an independent contractor operating under an agreement with the general contractor, for the purpose of this chapter shall be deemed to be employees of the general contractor ((until such time as the sub-contractor or independent contractor has complied with the provisions of this title)) who shall be liable and responsible for the payments of premiums for the coverage of these employees until the sub-contractor or independent contractor has secured the necessary coverage and paid the premium therefor. This subdivision shall not be construed as imposing any liability upon a general contractor other than liability to the bureau for the payment of premiums which are not paid by a sub-contractor or independent contractor;

6. Delete entire subsection 6.

Supp.  
65-0109. INJURY THROUGH NEGLIGENCE OF THIRD PERSON; OPTION OF EMPLOYEE; FUND SUBROGATED WHEN CLAIM FILED.)  
When an injury or death for which compensation is payable under the provisions of this title shall have been sustained under circumstances creating in some person other than the fund a legal liability to pay damages in respect thereto, the injured employee, or his dependents may claim compensation under this title and proceed at law to recover

(( ( )) means that whatever is included within the parentheses is to be omitted.

**Bold face type** means that the material is new.

Note:

The language to be deleted serves no useful purpose and tends only to confuse as to when and under what conditions an executive officer is excluded. This is especially true when taking into consideration subsection 6 of this section which defines “executive officer” and for that reason subsection 6 is consolidated with subsection 5b3.

NOTE:

This section has a two-fold purpose. One is to afford the general contractor an immunity from common law actions, arising out of injuries, by the employee of the general contractor and the sub-contractor or the employee of an independent contractor or sub-contractor, or any combination thereof, and at the same time imposing upon the general contractor the duty and liability to insist upon the sub-contractor or independent contractor having the necessary coverage and paying the premium thereon and maintaining their coverage in full force and effect at all times. As the original section is found the provision “until such time as the sub-contractor or independent contractor has complied with the provision of this title” can easily lend itself to be construed that when the independent and sub-contractor comply with the provisions of the title of their employees are no longer deemed to be employees of the general contractor and therefore the immunity against the common law actions has been erased. In brief, this provision as proposed would afford the general contractor the immunity but at the same time would impose upon him a liability for payment of premiums if such premiums are not paid by the sub-contractor.

NOTE: Consolidated with 5b3 above for clarity.

NOTE:

This proposed amendment is to provide a speedier method in causing third party actions to be instituted and finally pursued to their proper end.



damages against such other person. The fund shall be subrogated pro tanto to the rights of the injured employee or his dependents to the extent of the amount of compensation paid or to be paid and the action against such other person may be brought by the injured employee, or his dependents in the event of his death, in his or in his dependents' own right and name and as trustee for the workmen's compensation bureau for what it has paid or what is to be paid on such claim (((, or such action may be brought by the bureau upon ninety days notice to the employee or to the dependents of a deceased employee. Expenses and costs of such litigation shall be prorated between claimant and bureau, should any damages be awarded, over and above claimants award by bureau plus cost of such litigation. If no damages are awarded, the cost of litigation shall be paid by the party instituting the action. The injured employee, or the dependents of a deceased employee, may by instrument in writing waive the notice required by this section, in which case the bureau shall be authorized to proceed at once in the institution of a suit against such third person))). Such action may be brought by the claimant or his dependents within sixty days after date of injury. Failure or neglect to bring the action within the prescribed sixty days will entitle the bureau to bring the action in its own name and as trustee for the claimant or his dependents. If the action is brought by the claimant or his dependents, the actual cost of such litigation shall be prorated between the claimant and the bureau should any damages be awarded and no fees shall be allowed for any recovery made for the bureau without first obtaining the bureau's approval thereon. If no damages are awarded the cost of litigation shall be paid by the party instituting the action.

Code

65-0201. WORKMEN'S COMPENSATION BUREAU; MEMBERSHIP; TERMS OF OFFICE.) The North Dakota workmen's compensation bureau shall be maintained for the administration of the provisions of this title. Such bureau shall consist of three workmen's compensation commissioners who shall be appointed by the governor. The terms of the commissioners shall be six years, and shall be arranged so that the term of one commissioner, and of only one, shall expire on the tenth day of (((January))) July in each odd-numbered year. One of the commissioners shall be a representative of labor, one shall be a representative of the public, and one shall be a representative of the employers. The commissioners shall devote their entire time to the duties of the bureau, and each commissioner shall serve until his successor has been appointed and qualified. Any commissioner may be removed by the governor for cause.

Under the section as found originally, it permits undue delay on the part of the claimant, or dependents, to determine if he wishes to bring the action, and it requires ninety days' notice on the part of the bureau before it may bring the action. This can and has resulted in permitting 120 days and more to pass before any definite action is taken in instituting a lawsuit. In the interim, witnesses and other material information have been lost or are no longer available. This proposed change would impose a duty on the claimant, or dependents, to bring the action within the prescribed time, and by neglecting to do so the action would revert to the bureau and thereby permit the bureau to assemble the evidence and reduce it to such status as is required to make it available at the proper time. The provision pertaining to attorney fees is to avoid complications which arise, by arrangements made by the claimant to have the action brought on a contingency fee basis and by indirect compulsion compelling the bureau to allow a final contingency fee for the amount recovered for the bureau. The bureau has available counsel to bring suit for the amount it has expended on the claim and should therefore not be required to pay attorney fees for litigation for which they have their own attorney, who, if need be, may seek additional assistance. Under the proposed plan it would permit the joining of the claimant's attorney with the bureau's attorney, or vice versa, in instituting and prosecuting an action to its finality.

NOTE:

The purpose of this amendment is to change the date of the expiration of the terms of Workmen's Compensation Commissioners to July 10 from January 10, because a new Commissioner appointed in January does not become sufficiently acquainted with the rate structure to pass upon the specific items of Workmen's Compensation rates which are set on the 1st of July each year. By changing the term of the Commissioners to expire on July 10, there would always be experienced Commissioners available to pass upon Workmen's Compensation rates.

**Code**

**65-0205. OFFICE SPACE FOR BUREAU; EXPENDITURES FROM FUND FOR ASSISTANTS AND SUPPLIES; MILEAGE.)** The bureau shall be provided with office space in the state capitol. The bureau, at the expense of the fund, shall provide all necessary equipment, supplies, stationery, and furniture and all clerical and other help necessary to carry out the provisions of this title. The members of the bureau and its assistants shall be entitled to receive from the fund for each mile actually and necessarily traveled in the performance of official duty by motor vehicle or team the sum ((of five cents per mile, and for transportation by rail or other common carrier the amount actually and necessarily expended, not exceeding five cents per mile))) **provided in chapter 54-06, as amended.** If travel is by a motor vehicle owned by the state, or by any department or political subdivision thereof, no allowance shall be paid for such mileage. Vouchers for mileage and expenses shall be sworn to and shall bear the approval of the chairman before payment is made therefor. Expenditures made under the provisions of this section, however, must be within the limitations designated by the legislative assembly in appropriation measures adopted from time to time.

**Code**

**65-0425. SERVICE OF NONRESIDENT EMPLOYED IN SUIT FOR PREMIUM OR IN SUIT AGAINST AN UNINSURED EMPLOYER.)** If the (((defendant))) employer in an action to collect delinquent premiums or for injuries sustained in his employment for which he did not carry the required insurance is a nonresident of this state, or a foreign corporation doing business in this state, service of the summons may be made upon any agent, representative, or foreman of said (((defendant))) employer in this state, and where there is no agent, representative, or foreman upon whom service can be made service upon the secretary of state shall constitute personal service upon such nonresident employer who has either failed to secure the necessary coverage or who is delinquent in his premiums, or service may be made in any other manner designated by law.

**NOTE:**

The purpose of this amendment is to make mileage for transportation in the Workmen's Compensation Department uniform with the provisions of chapter 54-06, as amended, which is the chapter governing all state officials and employees.

**NOTE:**

It has been the experience of the Workmen's Compensation Bureau that there are a number of employers who come into the state, make an application for coverage, and at the same time file an estimate of the proposed expenditure for wages, which is later found to be substantially less than the amount of wages actually paid. It then becomes necessary for the Bureau to collect an additional premium upon the wages which were found to be over and above the estimate, and this is often quite difficult since the employer may already have left the state. A situation also occasionally occurs where an out-of-state employer makes an application for coverage, but neglects to pay the advance premium based upon his estimated wages. In such instances the employer often again leaves the state before the collection of the premium is made. A similar situation occurs where an out-of-state employer does not obtain the required coverage and a claim is subsequently made by one of his employees who has sustained an injury. Before the bureau can obtain service upon the employer he may have left the state, leaving the claimant and the bureau virtually helpless in obtaining judgment against such an uninsured employer.

**Code**

**65-0427. REINSTATEMENT OF COVERAGE IN FUND UPON PAYMENT; EFFECT OF PARTIAL PAYMENT OF JUDGMENT.)** The payment of a judgment rendered in an action brought against an employer for the collection of defaulted premiums, or the voluntary payment of the amount of premium, penalties, and costs prior to judgment shall entitle the employer and his employees to the benefits provided in this title from the date of the pay-in-order (((billing))) which bills the employer for the premiums. ((If a judgment for defaulted premiums cannot be paid in full, the bureau shall determine the date upon which the right of the employees to participate in the fund ceased.))) **Where the injury is sustained in an employment when the premium is in default and has been certified to the attorney general for collection, the same remedy and course of action shall be available to the injured employee as provided for under chapter 65-09 of this title except that the benefits payable under such claim shall be available to the claimant without first obtaining a judgment against such delinquent employer and the injury and claim shall be treated, processed, and proceeded thereon in the manner outlined in chapter 65-09.**

**Code**

**65-0505. PAYMENTS MADE TO INSURED EMPLOYEES INJURED IN COURSE OF EMPLOYMENT AND TO THEIR DEPENDENTS.)** The bureau shall disburse the fund for the payment of compensation and other benefits as provided in this chapter to employees, or to their dependents in case death has ensued, who:

1. Are subject to the provisions of this title;
2. Are employed by employers who ((have paid into the fund the premiums applicable to the classes to which they belong in accordance with the provisions of chapter 4 of this title))) **are subject to this title;** and
3. Have been injured in the course of their employment.

**Where the injury is sustained outside the state of North Dakota and compensation is claimed and received through some other state act no compensation shall be allowed under this title.**

**Supp.**

**65-0511. MAXIMUM AND MINIMUM COMPENSATION ALLOWANCES; TOTAL AND PARTIAL DISABILITY.)** The weekly compensation for total disability shall not be more than thirty-one dollars and fifty cents, except where an allowance for dependents is made in compliance with

**NOTE:**

The proposed change and addition to this section is primarily to afford the injured employee the same remedy where employer is in default in the payment of premiums as is afforded against an uninsured employer. Under the present Act where the employer allows his premium to become delinquent and an injury is sustained during that period, it virtually leaves the claimant helpless until the employer can be compelled to pay the premium, which in many instances requires lengthy litigation. This therefore defers actual assistance to the claimant at a time when he is most likely in need of the benefits to which he is entitled under the Act.

**NOTE:**

This proposed amendment is to prevent injured employees from filing in more than one state and receiving compensation from the various states, and also to compel the claimant to seek his remedy in one jurisdiction. It is virtually impossible to recover from the claimant any duplicate benefits paid and serves an injustice on the employers. Subsection 2 is amended to bring it into conformity with the proposed amendment to section 65-0427.

**Note:**

This has served its usefulness in providing an effective date for increasing benefits and allowing it to remain in the Act only tends to misinterpretation and confusion.

section 65-0509, nor less than fifteen dollars. (((This provision shall be applicable to all permanent total disability awards from the effective date of this Act.))) The weekly compensation for partial disability shall not be more than thirty-one dollars and fifty cents. If the injured person, at the time of the injury, was a minor or was employed in a learner's capacity, and was not physically or mentally defective, the bureau, from time to time, shall determine the probable increase in weekly earning capacity of such person if such injury had not occurred, and shall base its award for compensation upon such probable weekly wage-earning capacity.

Supp.  
65-0513. SCHEDULED INJURIES; PERMANENT LOSS OF MEMBER; WEEKLY COMPENSATION; TIME COMPENSATION PAYABLE.) (Last sentence only of this section copied.)  
If any employee dies from some independent cause, the right of any compensation payable under section 65-0512 of this section, unpaid at the date of his death shall survive and pass to his dependent spouse, minor children, ((or)) parents, or his estate and in that order named.

Note:  
This addition permits the unpaid permanent partial disability benefits to be paid to the individuals enumerated and in that order. Without this addition, the unpaid balance could only be paid to the dependent spouse, minor children, or parents without providing how each one is to share or whether they would share equally, and if there are no takers other than the spouse, children or parents there is no provision for making the payment to the estate which is contemplated under section 65-0527. With this addition, section 65-0527 can be easily reconciled and harmonized with this section.

Supp.  
65-0517. WEEKLY COMPENSATION FOR DEATH.) If death results from an injury.....:  
1.  
2.  
3.  
4.  
5.  
6.

Note:  
This language served its purpose of establishing an effective date for increases in benefits at the time it was inserted in the Act, is no longer useful, and only leads to confusion and brings about a mis-interpretation of the section.

The weekly wages of the deceased employee shall be considered to have been not more than forty dollars, and not less than thirty dollars. (((The increase in payments resulting from the enlargement of the salary base shall be payable to all pensioners and dependents but only from and after the taking effect of this Act.)))

In addition to the awards made to a pensioner, etc. ....

Code.  
(((65-0518. PROVISIONS OF SECTION 65-0517 RETROACTIVE.) The provisions of section 65-0517 shall be retroactive, and the bureau, upon ap-

Note:  
This language served its purpose of establishing an effective date for increases in benefits at the time it was inserted in the Act. is no longer useful

plication or upon its own motion, may adjust compensation previously awarded, or if compensation has been refused, it may award compensation in accordance with the terms of this chapter.)))

**Code**

**65-0801. EXTERRITORIAL COVERAGE — WHEN AND HOW FURNISHED.)** Compensation shall be paid on account of injuries occurring outside this state or because of death due to an injury occurring outside of this state only when:

1. The employee is a duly qualified peace officer of this state who received injury or was killed outside of this state in the course of his employment; or
- ((2. The employer and the bureau previously shall have contracted for insurance protection for employees while working outside of this state in the employment in which the injury occurred.)))
2. The employee sustains an injury beyond the borders of this state in a service which is incidental to and is referable to the principal employment, the situs of which is within North Dakota;
3. The employer and the bureau previously shall have contracted for insurance protection for employees while working outside of this state in the employment in which the injury occurred, which employment is not incidental to or referable to the principal employment the localization and situs of which is not in North Dakota.

**Supp.**

((65-1001. APPEAL: RIGHT OF; HOW TAKEN.) If the final action of the bureau denies the right of the claimant to participate at all in the fund on the ground that the injury was self-inflicted, or on the ground that the accident did not arise in the course of employment, or upon any other ground going to the basis of the claimant's right, the claimant may appeal to the district court of the county wherein the injury was inflicted. The payment of doctor, hospital and medical bills by the bureau shall not be deemed, for the purpose of this section, a participation in the fund by the claimant. An appeal involving injuries received under insurance provided under contracts with extraterritorial coverage shall be triable in the district court of Burleigh County. Such appeal shall be taken in the manner provided in chapter 28-32 of the title Judicial Procedure, Civil, as now or hereafter amended. In such a proceeding, the state's attorney of the county wherein the appeal

and only leads to confusion and brings about a misinterpretation of the section.

**Note:**

The purpose of this amendment is to extend extraterritorial coverage without special contract to employees who very occasionally go beyond the boundaries of the State of North Dakota for purposes incidental to their in-state normal employment.

Coverage for employees whose principle employment normally takes them beyond the boundaries of the state must still be covered by special contract as in the past, or when coverage is desired for work not incidental to their normal employment.

**Note:**

Section 65-1001 was amended by chapter 342, section 3, 1951 Session Laws and by chapter 344, section 10, 1951 Session Laws. Since this section was amended by two bills during the same Session there is now some doubt as to which amendment is effective. Section 10 of chapter 344, Session Laws of 1951 is more limited than the other section as to the right of appeal and therefore is recommended for repeal.

is taken, without additional compensation, shall represent the bureau. The clerk of court of the county within which the appeal is taken shall notify the state's attorney of the filing of such appeal.))

Supp.

65-1103. SALARY OF SAFETY ENGINEER.) The salary of the safety engineer shall be ((not more than five thousand dollars per annum))) the sum appropriated for that purpose by the legislative assembly, plus necessary travel expenses.

Note:

It has been the policy of the Legislature for some years to remove specific salary requirements or limits from the statutes and allow the salaries of state employees to be set by the Legislature through appropriations. This change would remove the requirement of a set salary for the State Safety Engineer and allow it to be set in a more flexible manner by the Legislature through appropriation bills.

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## REHABILITATION OF COAL MINING LAND

House Resolution No. 3 directed the Legislative Research Committee to undertake a study of feasible and practical methods of rehabilitating lands affected by coal mining activities. To carry out this study, the Legislative Research Committee appointed a subcommittee consisting of Sen. Nordhougen, chairman, Rep. Lynch, Rep. Sailer and Sen. Livingston. Legislators other than those serving on the Legislative Research Committee were asked to serve upon this subcommittee in order to obtain a broader geographical representation in areas affected by coal mining activities.

In the course of this study, the Legislative Research Committee had the assistance of representatives of all major coal companies presently operating in the State of North Dakota. The subcommittee found a report of the North Dakota Research Foundation entitled, "Some Effects of the Coal Mining Industry on Economics of the State of North Dakota" to be especially helpful.

Official records show that coal has been mined in North Dakota since at least 1884. Prior to 1920 coal was mined almost exclusively by the underground methods. Since that time there has been a steady trend toward the use of strip mining methods and such trend progressed until 1953 when the last large underground coal mine was closed. Because of the lower costs and greater efficiency of the strip mining method, it seems probable that all future lignite mining operations of the State of North Dakota will be carried on by the stripping method.

It is estimated that some 3,294 acres of land have been strip-mined by the 17 major coal com-

panies since strip mining operations were begun. The total of all land strip-mined by all companies probably would not exceed 5,000 acres in North Dakota.

The acreage of land damaged by strip coal mining operations is therefore less than .008 of one per cent of the acreage of the State of North Dakota. It seems probable that the acreage of coal land strip-mined in North Dakota is less than the land affected by gravel pit operations. It also appears that the land damaged by strip coal mining operations is not a substantial problem to the State of North Dakota as a whole, although it may be of greater importance in small areas of the state where strip coal mines are in closer proximity to one another.

Among the methods most commonly suggested for rehabilitation of coal mine lands in North Dakota and other states having strip coal mining operations are those of saving of top soil for eventual replacement, leveling and rounding off of spoil banks, and the planting of grass, trees, and shrubs.

It has been estimated by a mining engineer employed by the North Dakota Research Foundation that the cost of retaining the top soil for eventual replacement in strip coal mining operations would average about \$497 per acre or an average of slightly over 3c per ton of lignite produced. However, it has been the experience in other states, and this fact is also shown in North Dakota when some of the older North Dakota strip mines are examined, that grass, shrubs and trees, will grow on spoil piles without replacement of the top soil. This situation has a logical explanation. Much of the land strata in the overburden of strip coal mines are actually old soils that have

been leached of their humic content upon burial in past geological ages. Such strata contain all mineral ingredients necessary to support various types of plant life. It appears that such plants as clover and alfalfa grow quite satisfactorily by the second and third year after their planting abandoned strip mines. It must be noted, however, that although such plants and shrubs can usually be grown upon spoil banks, the rough terrain of the mined area makes the terrain unsuitable for farming operations, although after some erosion has taken place the ridges of the spoil banks do round themselves off sufficiently for cattle to cross over and among the spoil banks while grazing.

The requirement of leveling spoil banks does not appear practical in North Dakota or in other states that have considered the matter. This may be illustrated by the following hypothetical case. In the course of several years of strip mining operations, a coal company might move some twenty thousand cubic yards of overburden and waste material which are piled into irregular and individualized spoil banks. To level such spoil banks by approximately 35% would require the movement of 7,000 cubic yards of material at a cost of approximately 15c per cubic yard. Such a project would therefore cost approximately \$1,050,000. It can easily be seen that the value of restoring such premises through the method of substantially leveling the spoil piles would be far in excess of the value of the land and would be a prohibitive operation for any mining company. It is the opinion of the mining engineer employed by the North Dakota Research Foundation, who made a survey of the major strip coal mines of the State of North Dakota while working upon a project of the Research Foundation, that some of the irregularities and unevenness of the spoil banks could be avoided by more careful handling of the waste material and overburden. He states that equipment is available for strip mining which will assist in this type of operation and that when the present equipment of mining companies is eventually replaced, consideration might be given to equipment which will do a more satisfactory job of surfacing spoil banks. It does appear, however, that some small amount of leveling of the extreme peaks of spoil banks might be feasible.

As stated above, the planting of grass, trees, and shrubs does appear feasible in areas where such plantings are desired, and satisfactory growth of clover and alfalfa can be had on the second and third year after planting. Some planting of trees and shrubs has been carried on in the past by various coal companies both individually and in cooperation with the State Game and Fish Department.

The State Game and Fish Department has been interested in acquiring abandoned strip coal-mined

areas in certain portions of the state. The Department reports that strip-mined land affords very good winter cover for wildlife because of the rough terrain and that if good vegetative cover is established it provides good nesting cover, which is presently short in some areas of North Dakota. In addition, their somewhat inaccessibility makes them natural game refuges. The Game and Fish Department therefore desires to acquire limited amounts of strip-mined lands in certain areas for these purposes. The coal companies owning the abandoned strip-mined land are generally willing to lease such property on a long term basis to the State Game and Fish Department for a nominal consideration. Since title to such land would remain with the coal companies, who would pay real property taxes upon them, it is believed that this practice should be encouraged. It is the opinion of the Committee that the development of wildlife habitat upon such lands, through the cooperation of the Game and Fish Department and the coal companies, will be of substantial benefit to the propagation of wildlife in some areas of the state.

The Committee has also reviewed the laws of other coal mining states insofar as they affect the rehabilitation of coal mining lands. Some states have empowered their Department of Conservation to enforce reasonable regulations for the planting of shrubs, trees, and grasses upon abandoned mining lands and in some instances to require a certain minimum amount of rounding off of spoil piles. It should be pointed out, however, that the value of the coal per acre mined in these other states is much greater than in the State of North Dakota, and, therefore, the amount of rehabilitation that may be reasonably required would also be greater than in lignite mining operations in North Dakota.

The Committee wishes to briefly call attention to the present economics of the lignite industry in the State of North Dakota. There has been a drop in lignite production since 1951. This may be only a temporary setback or it may be permanent. This drop in production has resulted from fuel oil displacing lignite as a heating fuel. When natural gas becomes available in larger quantities within the State of North Dakota, the market for lignite will be further reduced. More than 85% of the lignite produced in North Dakota is sold within the state, with some 15% being sold beyond our borders. It is uneconomical to transport lignite great distances because of the low B. T. U. content of the coal. Any increase in the cost of mining lignite within North Dakota will of necessity be reflected in the price that the mining companies must charge for their product. An increase in price of lignite will further restrict the marketing area of the lignite industry and the restriction of the marketing area will naturally



also be accompanied by a further drop in the production of lignite in the state. Because of the existing competition of fuel oil with lignite and the anticipated increased competition of natural gas, the future of the lignite coal industry in the State of North Dakota is very uncertain.

In view of the high cost of the replacement of top soil or of substantially leveling spoil banks in the State of North Dakota and considering the very small size of the area affected by strip coal mining activities, it is the opinion of the Committee that it would be impractical to attempt to force coal mining companies to use these methods of rehabilitating coal mining lands. Further, in consideration of the uncertain economic conditions affecting the lignite industry and the unsettled future of the industry within this state, this does not appear a suitable time to impose any restrictive provisions upon the industry in regard to the rehabilitation of coal mining lands. It is certain that any substantial rehabilitation program would add to the cost of the lignite produced, with the resulting further deterioration of the competitive position of the lignite industry. The Committee therefore recommends no specific legislation for adoption at this time.

The Committee does, however, recommend that the Game and Fish Department continue the policy of cooperating with coal companies in the establishment of wildlife habitat upon strip coal-mined lands in limited areas where such activities would be of substantial assistance in the propagation of wildlife.

## LAND MANAGEMENT ALONG WATER PROJECTS

House Resolution Seven directed the Legislative Research Committee to study problems and factors in the management of land acquired by federal agencies along water projects in North Dakota in order to determine whether agencies in the State of North Dakota should participate in the management and development of recreational areas in the vicinity of such projects. A subcommittee consisting of Senator Solberg, chairman, Senator Knudson and Representative Lynch was appointed by the Committee to consider this matter.

It appears that the Bureau of Reclamation and the Army Corps of Engineers, the two principal federal agencies involved in water development in North Dakota, are willing to provide for improvements along water projects for the purpose of developing the recreational values of such areas. However, it is the policy of these agencies to take responsibility only in the field of initially de-

veloping such recreational areas, but to insist that the management and maintenance thereof be assumed by some state or local agency. Therefore, if the State of North Dakota or its political subdivisions desire recreational areas to be developed, who own such water projects, it will be necessary for them to cooperate in the management and maintenance of these areas after the initial capital outlay for development.

The Game and Fish Department has joined with the Corps of Engineers in the development of wildlife habitat along the Baldhill Reservoir. In this area the Corps of Engineers provided some \$23,000 for the planting of shrubs and trees as replacement cover for that being inundated by the closing of the reservoir. In order to obtain such plantings, however, the Game and Fish Department was forced to agree to supervise planting and to receive reimbursement from the federal government. The Legislature appropriated the sum of \$10,000 to a revolving fund for the purpose of financing operations until reimbursement was received from the Corps of Engineers. The planting program at Baldhill has now been completed and the State Game and Fish Department has been completely reimbursed for the amount expended in the area.

The Game and Fish Department has also cooperated with the Bureau of Reclamation in the development of recreational areas along the Heart Butte Reservoir in accordance with enabling legislation passed by the 1953 Legislature, which legislation is now found in section 20-0125 of the 1953 Supplement to the North Dakota Revised Code of 1943. This enabling legislation expires under its terms on June 30, 1955. At the time of construction of the Heart Butte dam, the Bureau of Reclamation acquired some 4,881 acres of land above the normal pool level. Most of this land was grazing land when taken by the Bureau and the small amount of crop land then existing has been reseeded back to grass upon the direction of the Bureau of Reclamation. Eight hundred forty-one acres of this land was replanted into shrubs, trees and other cover for the purpose of replacing wildlife cover that was inundated by the reservoir, and a long term lease upon these lands planted to cover was made to the Game and Fish Department. In addition, the Bureau of Reclamation was willing to set aside 310 acres of the land as organized camp sites for boy scouts, 4-H clubs, church organizations, etc; 285 acres in cabin sites to be leased to individuals; 116 acres for general public use areas; 35 acres for private club sites; and 17 acres in concession areas. The Bureau of Reclamation, however, refused to supervise the development of these recreational areas, and in order to make the recreational areas available to the residents of the state it was necessary for some state agency

to agree to supervise the development. The Game and Fish Department accepted this responsibility under the enabling legislation quoted above.

In order to provide a small amount of funds for use in the development in this area the Game and Fish Department also agreed to accept the responsibility for the management of the 3,264 acres of grazing land which was available for leasing back to the original landowners or adjacent landowners. This grazing land is divided into 27 different leases which range from 30c to 54c per acre. From this source some \$4,804 has been received by the Game and Fish Department, of which \$1,696 has been spent in some small development projects within the recreational area.

Since the 3,264 acres of grazing land above the normal water level would be covered with water only in an extremely unusual year of high water, it would seem that such land is not needed by the Bureau of Reclamation, and such lands could be resold to the former land owners by the Bureau, subject to a flowage easement to protect the Bureau from damages in such exceptional years of high water. This apparently is the desire of the landowners in the area along the project.

It is recommended by the Committee that the authority of the Game and Fish Department to supervise the development of the recreational area along the Heart Butte dam be made for an indefinite period in order to provide for the development of the recreational possibilities of the area. It is further recommended that the Game and Fish Department be given authority to continue the management of the grazing lands along the project in order to provide a source of revenue for the development of the recreational areas until such time as legislation is passed by Congress to authorize the resale of such grazing lands to the original owners.

The Game and Fish Department has also been requested by the Army Corps of Engineers to cooperate in the development of wildlife cover through a tree and shrub planting program adjacent to the Garrison dam impoundment. As a result of this impoundment some 88,000 acres of trees and brush lands will be inundated. As a partial replacement for such cover, the Army Corps of Engineers have agreed to provide funds for the planting of 1,005 acres of trees and shrubs on 146 selected sites. This program would involve the preparation of the seed bed for planting of the trees, fencing of the area to protect trees and shrubs from livestock, and the cultivation of the trees for a period of five years. Again, the Army Corps of Engineers has felt it is beyond its field of operations to engage in a tree planting program, but it has agreed to make the sum of \$245,609 available to the Game and Fish Department if it

will supervise the planting and cultivation in early years. Under such a plan the Game and Fish Department would be required to carry on the program but would be reimbursed for all expenses involved by the Corps of Engineers. The Corps is also willing to make an advance of \$15,000 to the Game and Fish Department for the purchase of equipment and to serve as operating capital for the department in carrying on the project so that no state funds need be involved. Upon completion of the project all equipment purchased and used would become the property of the State of North Dakota. Since this program would involve the planting of less than 2% of the cover lands being inundated, it would seem that this very modest planting program should be carried out within the state. Since no state funds would be involved in any manner under such a program it is recommended that the Game and Fish Department be given authority to participate in this program and to accept federal funds for the purpose of carrying out and maintaining the cover plantings.

The Army Corps of Engineers has also offered to make available to the State of North Dakota or its political subdivisions certain areas along the Garrison dam impoundment for the purpose of park or recreational areas. In accordance with the policy of the Corps of Engineers, it appears that the Corps will be able to make some improvements in these areas such as providing access roads, clearing beaches, and similar work in order to develop the recreational values of certain areas. But again, the Corps feels that the management of recreational areas is not their function. Therefore, in order to secure the development of such areas it will be necessary for the State of North Dakota or its political subdivisions to assume the management and maintenance after initial development by the Corps of Engineers is completed. The State Historical Society reports that there are at least three areas in which the state or its political subdivisions may be interested in as park or recreational areas, but no steps toward acquisition of such areas will be taken until there is specific legislative authorization. In addition, a final selection of any such areas must wait until the exact effects of fluctuation upon the shoreline of these specific areas is known, and this information may not be available for two or more years.

If it is believed by the State Legislature that the State of North Dakota should participate in the management of any areas developed by the Corps of Engineers for recreational purposes, it would seem that some interest should be expressed by the state in the form of a resolution requesting the Corps of Engineers to develop certain recreational areas for the benefit of the citizens of the State of North Dakota and to authorize the State Historical Society to explore proper methods of

state cooperation for the management of these areas, but reserving the final decision on the acceptance of the management responsibilities of any recreational areas for determination by the Legislature at a later date. Should the State of North Dakota accept responsibility for the management and maintenance of parks or recreational areas it would be reasonable to presume that an appropriation of approximately \$10,000 for the management and maintenance of each recreational area during a biennium would be required.

In the course of the Committee's work it has come to their attention that both the Bureau of Reclamation and Corps of Engineers have acquired substantial acreages of land over and above the amount needed for normal operating levels of the Heart Butte dam and the Garrison dam impoundment. At the time these projects were begun it was the policy of both federal agencies to purchase all interests in such lands as were needed, but in later years this policy has been changed to that of acquiring only a flowage easement for lands over and above the normal operating level of the impoundments. Under the later policy the lands can be left with the original owner for such use as he may see fit, and the flowage easement would protect the federal agencies for any damages that might result from a very occasional period of high water. It is the desire of most landowners who have sold a portion of their lands to these federal agencies to repurchase such portions of them as are above the normal operating level of the impoundments. It is therefore recommended by the Committee that the Thirty-fourth legislative assembly, by concurrent resolution, memorialize the federal Congress to pass enabling legislation authorizing the resale of surplus lands above the normal operating level of the Heart Butte and Garrison dam impoundments to the original landowners upon the same terms as they were acquired, subject to flowage easements to the Bureau of Reclamation or Corps of Engineers.

## LAND CLASSIFICATION AND ASSESSMENT

A subcommittee on land classification and assessment, consisting of Representative Hofstrand, chairman, Representative Leet, and Senator Pyle, was appointed by resolution of the Legislative Research Committee for the purpose of continuing the work of the Legislative Research Committee in the field of land classification and assessment which was begun during the previous biennium. More specifically, the subcommittee was directed to cooperate with officials at the North Dakota Agricultural College in carrying out a land reconnaissance and economic survey which was

begun under authorization and appropriation of the 1953 Legislative Assembly.

The 1953 report of the Legislative Research Committee to the Thirty-third Legislative Assembly recommended that the State of North Dakota embark upon a rural land classification program for the purpose of equalizing taxes upon farm lands in the State of North Dakota and also equalizing taxes upon such lands between townships and between counties of this state. The basis for this method of land classification is a soil survey which maps the areas of different kinds of soil and the predominant slopes of such areas. Kinds and amounts of crops that can normally be produced on each type of soil are then determined by studying production records. From this information, the anticipated income that can be expected from each type of soil is calculated. By measuring the acreage of each type of soil in a farm, a productivity rating can be established. A study of current sales values can then be made showing the relationship of the productivity or economic rating to the current market value of the farm or tract. In short, the plan recognizes that the market value of farm land is determined by the income or the productivity of the land. The purpose of the soil study is to determine the various classes of soil that exist in the state, their location in the various counties of the state, the income that can be expected from these various types of soils, and consequently determine the average market value of such types of land.

There are three main steps to the scientific land classification plan as advocated by the report of the Legislative Research Committee in 1953. These steps are: (1) A reconnaissance soil survey; (2) A basic or detailed soil survey; and (3) An economic appraisal and analysis. It was contemplated in the 1953 report of the Legislative Research Committee that the reconnaissance soil survey in step (1) could be completed in four years, with the cooperation of the Bureau of Plant Industry and Soil Conservation Service. It was also contemplated that the economic appraisal and analysis as provided in step (3) would be begun and would keep pace with the reconnaissance soil survey. Should the state decide to follow the plan in its entirety, the second step would be the basic detailed soil survey wherein all tracts of land would be surveyed in a detailed manner on a small acreage basis. It is estimated that a period of twenty years would be required to complete the detailed survey with a six-man crew in the field during the summer months and with the analysis of field surveys by this crew during the winter months. However, whether step (2) is followed in its entirety or not, the reconnaissance soil survey and the accompanying economic appraisal and analysis would be of great value to the state of North Dakota in equalizing taxes upon rural property between coun-

ties, between townships and to a more limited extent between individual farms.

The 1953 Legislature appropriated the sum of \$50,000 to the Agricultural College to commence the reconnaissance soil survey and to begin the economic appraisal and analysis. It was contemplated that this appropriation would carry on the first portion of a four-year program, which was the estimated time for the completion of the reconnaissance survey. As the reconnaissance has progressed during the current biennium, it has been found that the soil surveys of the Soil Conservation Service and other soil surveys that are available were of much more use than was originally believed, and it therefore appears that even though Federal assistance through the Bureau of Plant Industry and the Soil Conservation Service has not been forthcoming as was at first planned, the four-year period for the survey will be sufficient to complete it in all respects.

Before the present reconnaissance was begun, it was found that about 37% of the state had no soil survey information that was adequate for tax assessment purposes, 55% had fairly adequate soil surveys, and 8% had adequate information. The immediate objective for the soil survey program during this biennium has been to make reconnaissance surveys in those areas which had inadequate soils information available. From July, 1953, through November, 1954, 345 townships were surveyed in the counties of Barnes, Sargent, Nelson, Grand Forks, Bowman, Slope, Hettinger, Williams, Burleigh, Kidder, Benson, and Stutsman. During the winter months, the acreages of the different soil areas on the survey maps are measured and the extent of each soil type in a county compiled. From these acreages and the economic ratings of each soil type, the total value of agricultural land can be determined for each county. During this period, while the reconnaissance soil survey has been carried on, progress has also been made on the economic appraisal and analysis through the assembling of crop yield data on the various types of soil, obtaining sales and assessment data on land having the various types of soil, and the analysis of such information has been carried on. Initial work has been done on constructing budgets as a preparatory step in calculation of land values. When satisfactory yield data has been established, by land classes, this data will be utilized in calculating the gross product per farm. By the application of prices, gross returns will be obtained. From this sum, the farm operation costs including an allowance for family living will be deducted to arrive at a net return available for capitalization into land values. From work presently carried on, in gathering information on assessment-sales ratios, it has been revealed that the respective counties tend to assess land at a rather uniform rate per

acre regardless of the widely varying sales values of such land. Consequently, poor lands tend to be over-assessed relative to good lands.

It is estimated that by the end of the present biennium the number of townships having inadequate soil surveys will be reduced from 709 to 240 townships. In addition, there are some 1,072 townships which, while having fairly adequate soil surveys at the present time, will require some additional work. In order to complete the soil reconnaissance survey and the economic appraisal and analysis by July 1, 1957, it will be necessary to increase the field men working on the reconnaissance survey from four men to six men. To carry on this work during the next biennium, an appropriation of \$75,000 will be required. This appropriation will be expended in accordance with the following proposed budget:

#### Suggested Budget for 1955-57 Biennium.

Soil Survey	
1 supervisor (½ time joint employee)	\$ 3,000
4 Soil Surveyors	40,400
Field Expenses	6,400
Car Expenses	9,600
Maps, miscellaneous	1,200
Economic Survey	
1 man and expenses	14,400
	<hr/>
	\$75,000

#### Total cost for the biennium — \$75,000

It is recommended by the Legislative Research Committee that the Legislature appropriate the sum of \$75,000 for the purpose of completing the soil reconnaissance survey and the accompanying economic survey and analysis.

#### CAPITOL BUILDING OFFICE SPACE

The Legislative Research Committee was requested by several legislators, the State Board of Administration, and other state departments to investigate the shortage of office space in the State Capitol Building and to study methods for meeting the problem in an adequate manner.

In order to determine the exact extent of the office space shortage, the Committee submitted a questionnaire to each department of state government presently housed in the State Capitol Building and to those renting offices in the vicinity of the City of Bismarck and requested that they report to the Committee on a square foot basis the number of additional feet of office space, if any, which they felt was required to adequately house their department or agency. Upon tabulating the

questionnaires, it was found that the various departments of state government requested additional office space of 41,452 sq. ft. In order to provide an office building with over 41,452 sq. ft. of usable space, such a building would have to include an additional 16,290 sq. ft. of hallways and basements. After consultation with local architects, it was estimated that a suitable new office building would cost approximately \$19 per sq. ft. On this basis, in order to provide a new state office building of sufficient size to provide quarters to the full extent of additional space requested, an expenditure of approximately \$1,097,000 would be required.

It was obvious to the Committee that the State of North Dakota does not at present have sufficient money in the General Fund to support such a building appropriation, although some \$300,000 is available in the Capitol Building Fund account for construction purposes upon the Capitol grounds.

Several other states have met their needs for additional Capitol office space by various plans other than a direct appropriation of state funds. One method that has been used is to create a separate public authority or public corporation which would build the capitol office building and issue bonds for an amount sufficient to pay all costs of construction. The bonds of this public authority would then be paid off from revenue obtained from the various departments or agencies occupying the building. In most cases the departments occupying such building and paying rent are those which are primarily supported by special tax funds or fees as distinguished from those departments of state government which are supported by general tax funds of the state. It is estimated by the Committee that should the construction costs and payment of the bonds under such a plan be amortized over a period of twenty years, some \$55,571 of annual net income from rentals would be required. In order to obtain this sum and pay for the costs of operation and maintenance of such a building, it would be necessary to charge each department and agency occupying such a building the sum of \$1.37 per sq. ft. of office space used.

Another plan used in some states for the construction of capitol office buildings without a direct outlay of state funds is that of having a building constructed by a private company or investment group, which is leased to the state or a department or agency thereof upon a rental-purchase plan. Under this method, rent is paid by the departments or agencies until the full price of the building has been paid, upon which time the building is deeded over to the state. Under this plan, however, the building costs are greater than when the state constructs the building itself by direct appropriation or through a state-owned building

authority, since the building is usually subject to real estate taxes during the period the title is in the hands of the private group, and since they must pay taxes upon the rental income as well as recover a reasonable profit for their operation.

A third plan used in some states is that of requiring certain state agencies whose functions are of a quasi-governmental nature to supply their own quarters, either through construction or lease, and to pay such rents from money appropriated by the state legislature from special funds supporting that agency.

Although some 41,452 sq. ft. of additional office space was requested by the various state departments, it is felt by the Committee that while the addition of such space may be desirable, the various departments of the state can operate reasonably well with the addition of less space than requested. It is the Committee's opinion that the addition of approximately 14,000 sq. ft. of office space would make it possible for the departments of state government to be adequately housed at least for the next few years.

Approximately 7,400 sq. ft. of office space has now become available in the State Capitol Building on the seventeenth floor, which was recently vacated by the Unemployment Compensation Division. If one additional floor of the Capitol Building could be vacated, it seems probable that sufficient space would be available to take care of the most urgent present needs for additional office space. Perhaps the most practical method of providing this additional space would be to amend the statutes governing the operation of the Workmen's Compensation Bureau and authorizing it to construct or lease suitable office space in the City of Bismarck to adequately house the Bureau. Should it be desirable for the Bureau to construct their own building, reserves presently existing in the department could be used for this purpose and replaced over a period of years through the addition of a very small amount to the premiums charged by the Bureau. The Workmen's Compensation Bureau is suggested as a logical agency to provide its own quarters because adequate reserves exist in funds of that department for this purpose and since the cost of construction of their office facilities could be recovered over a period of years by a very infinitesimal increase in Workmen's Compensation premiums. In providing a state-operated workmen's compensation system the state is operating in only a quasi-governmental capacity, and it would seem logical that the employers of the state should bear the full cost of operation of the department; instead of requiring the entire state of North Dakota to furnish free office space for the department's functions. Consideration might also be given to similar arrangements for the Game and Fish Department, the State Hail Insurance Department,

State Plumbing Board, State Board of Nurse Examiners, and the Poultry Improvement Board.

While the Committee has not introduced a bill upon the subject of Capitol office space, it was felt that information upon office space shortage should be brought to the attention of the Legislature for such action as they might deem desirable. Further detailed information upon the subject can be found in the files of the Legislative Research Committee and will be made available to any individual Legislator upon his request.

## STATUTORY REVISION

Statutory revision is one of the responsibilities conferred by law upon the Legislative Research Committee. However, because of a lack of funds, very little revision has been done by the Legislative Research Committee with the exception of revising certain chapters of the Code in the course of making other studies in that field. The greater portion of the Committee's efforts in the field of revision has not been true revision but rather the compiling of cumulative supplements to our Code in order to make it easier to find the laws of the State of North Dakota.

During the present biennium, the Legislative Research Committee has had a number of requests from legislators and a formal request from the State Bar Association to step up its efforts in this field with the institution of a continuous statutory revision plan.

In the past, North Dakota has followed the practice of allowing our statutes to simply accumulate for twenty to thirty years, whereupon a bulk revision project was carried out to bring them up to date. Most states have found that bulk revision of statutes has not been satisfactory because of the magnitude of the work of revising all the statutes at once over a short period of time. Such a hurried revision must be accomplished largely by inexperienced persons, because it is impossible to find the number of trained people needed to carry on such a short-term project. In addition, it is impossible for the Legislature and other interested groups to appraise the job of revision and know exactly what is contained in the bill of revision when the entire Code is adopted at once. Further, with bulk revision certain chapters of the Code will become in need of revision much sooner than others, but all must wait until the entire Code has deteriorated to the point where it has become almost unworkable.

Under a plan of continuous statutory revision, however, those chapters of the Code which become obsolete, ambiguous, conflicting and general-

ly unworkable through numerous amendments or the passage of time could be revised as the need arose and revision bills upon those individual chapters of the Code could be presented to the Legislature for their adoption at every session. It would not then be necessary to wait twenty or thirty years until the entire Code became unworkable before revising our statutes through an expensive and hurried bulk revision plan as has been done in the past. Periodically, individual volumes of our Code could be published when all the chapters in that volume have been revised.

The adoption of a plan of continuous revision would make it possible to obtain permanent, trained personnel to carry on the specialized and continuous work of statutory revision. It should be pointed out, however, that the expenditure of funds for continuous statutory revision would not be a new expenditure but would simply spread the work and cost of bulk revision of our statutes over a period of years, rather than having it done and paying for it in one or two bienniums, as was done with the 1943 revision of our Code. It is estimated that the statutory revision work of the Legislative Research Committee can be carried on for over thirty years at less expense than would be required for a bulk revision project at today's costs. In addition, continuous statutory revision would render much greater service to the Legislature, courts, county and state officials, attorneys, and the public at large than would the system of bulk revision, for under continuous revision the statutes can be revised and clarified whenever the need arises rather than some ten or twenty years later. The statutory revisor would also assist in drafting bills for legislators prior to and during each session of the Legislature.

The Legislative Research Committee, by resolution, has approved the plan of continuous statutory revision and has requested an addition to the appropriation of the Legislative Research Committee of the sum of \$20,700 to carry on this work during the next biennium. It is contemplated that this sum will be sufficient to establish the office and pay the salaries of one attorney and a stenographer to carry on this work. This item of appropriation has been approved by the State Budget Board, and it is recommended that the appropriation be approved by the Legislature.

## LEGISLATIVE ORIENTATION CONFERENCE

With the growing complexity of state problems and the increasing role that state legislation plays in solving these problems, aids and services to legislators have been introduced in this and other states to promote the greater efficiency and



productivity of state legislatures. In this regard, it has long been recognized that the legislator serving his first term has not been able to represent his constituents to the full nor carry his full share of the legislative labors of the Assembly, through no fault of his own. It is not until the first session is almost finished that most new legislators become established in their understanding of the legislative machinery, methods, and rudimentary rules of parliamentary procedure; are able to find and avail themselves of the state services and facilities at their disposal; and realize the rights, prerogatives, and limitations of their membership in the Legislature; to say nothing of their becoming adequately acquainted with other state offices and officers who may ask or give them advice.

In addition, returning legislators often find it necessary during the early weeks of a session to re-check procedures and regulations, to re-acquaint themselves with the state offices, officers, and facilities available, and to re-educate themselves on many phases of the legislative machinery where their memory does not recall previous experiences two or more years before.

Many individual legislators, members of the Legislative Research Committee, and the North Dakota State Bar Association have considered the foregoing situations, and in the interests of more productive legislation the Legislative Research Committee was asked to formulate some possible solution.

The Committee finds that 28 other state legislatures have adopted some form of orientation program for their legislators in order to better prepare them for the oncoming legislative session. Some of these programs are for new legislators only, and some are for all who may wish to attend, including legislative employees. Some programs are given the week before the assembly convenes, some are administered in the evenings or at odd daytime hours during the first days of the assembly. Some are presented in the form of lectures, some as mock sessions, some merely distribute a printed handbook to legislators, and some are a combination of these ideas. In most instances, the state bar association has assisted in implementing the program, and usually the veteran legislators give the lectures, comprise the seminars, or publish any informational handbooks. In every case, legislatures adopting these programs have endorsed them as increasing the productivity and efficiency of the whole legislature as well as new members, and have adopted them as continuing and permanent facets of the legislative assembly.

The President of the North Dakota State Bar Association met with the Legislative Research Committee and offered the services of the Association in organizing and formulating an Orientation

Conference for legislators if and when the Legislative Research Committee might recommend it and the Legislature favor it.

The Committee feels that the people of North Dakota and the members of the Legislature would welcome and greatly benefit from such an introductory or orientation program, geared for attendance by all legislators and legislative employees who may wish to attend. It is recommended that the program be conducted by veteran legislators, and be organized and formulated by the Legislative Research Committee with the assistance of the North Dakota Bar Association. It is recommended that the scope of the program include:

- a. The use of the North Dakota Code and Session Laws;
- b. The rules, organization and procedures of the North Dakota Legislature;
- c. Constitutional, legal, and customary limitations upon the legislative branch of government, and its relation to the executive and judiciary;
- d. Rights, prerogatives and duties of legislators; and
- e. Facilities and services available to legislators.

It is further recommended that a House Concurrent Resolution be introduced to implement such an orientation program.

## OIL AND GAS REVENUE

On a questionnaire submitted to all members of the State Legislature, as previously mentioned in this report, a substantial number of legislators requested that the Committee provide the coming session of the Legislature with information relative to the operation and yield of the oil and gas gross production tax. Other requests have been received for information upon the amount of revenue derived by the State of North Dakota through the lease of state-owned lands and royalties from producing wells on such lands.

During the first year of the biennium from July 1, 1953 to June 30, 1954, the sum of \$416,355 was received from this source. Under the formula for the distribution of such tax revenue, the sum of \$270,941 was distributed back to the counties from which the oil and gas was produced, while some \$145,414 was transferred to the state general fund. The counties receiving a portion of this tax, together with the amount received from July 1, 1953 to June 30, 1954 is as follows:



County	County 3/4 Allocation
Billings .....	\$ 4,089.51
Bottineau .....	927.07
Bowman .....	509.56
Burke .....	1,308.41
McKenzie .....	9,592.47
Mountrail .....	58,601.49
Williams .....	195,912.76
<b>Total .....</b>	<b>\$270,941.27</b>

After conferences with the State Geologist, the Committee has estimated the total oil production during the fiscal year beginning July 1, 1954 and ending June 30, 1955 at 10,000,000 barrels of oil. Assuming a price of \$2.50 per barrel, this oil would have a gross value of \$25,000,000. On this basis, the gross production tax, at a rate of 4 1/4% of the gross value of oil produced, would yield the State of North Dakota some \$1,062,000 during the present fiscal year. The Committee therefore estimates the total yield of the oil and gas production tax during the 1953-1955 biennium to be approximately \$1,478,500.

In estimating the yield of the gross production tax during the present biennium, no estimate has been made of the income that will result through the application of the tax to the operations of the gasoline plant at the city of Tioga in Williams County. As of the date of this report the value of such products, which will serve as the tax base for the application of the rate of tax, has not been determined by the State Tax Department. It is estimated, however, that some 500,000 barrels of gasoline will be recovered by the operations of this plant, which will be subject to the gross production tax. In addition, no estimate has been made of the income which might be received by the State of North Dakota through a sale of natural gas because no markets exist for the sale of this gas at the time this report is written.

In addition to the revenues received by the State of North Dakota from the oil and gas production tax, the State of North Dakota has received substantial sums from oil and gas leases, lease bonuses and royalties from state and institutional lands. Up to December 1, 1954 the Bank of North Dakota has received some \$1,339,000 from oil and gas lease rentals and lease bonuses. In addition to this sum, the Bank has received \$80,000 in royalties from producing oil and gas wells. The greatest revenue from the oil and gas industry has been received by the Board of University and School Lands from the management of school and institutional lands under its control. The Board of University and School Lands has received \$4,104,000 from oil and gas lease rentals and bonuses upon leased lands up to Dec. 1, 1954. In addition, the Board has received some \$212,000 as of

December 1, 1954, from producing oil and gas wells in which the State has an interest.

It appears that the mechanics of the oil and gas production tax law are functioning satisfactorily at the present time and will need no amendment at the coming session of the Legislature. The Committee expresses no opinion as to the adequacy or inadequacy of the present rate of tax under the oil and gas gross production tax Act.

## MENTAL HEALTH

Dr. Russell Saxvik, Superintendent of the State Hospital at Jamestown, North Dakota, and several of his staff appeared before the Legislative Research Committee in a September, 1954 meeting to request general revision of our mental health laws, in keeping with modern trends and scientific knowledge. It was clearly demonstrated to the Committee that our present laws in this field are inequitable, inefficient, and administratively burdensome.

The Legislative Research Committee decided that there was not sufficient time between the meeting and the Session to make the study necessary for a complete revision of all the laws relating to mental health. However, the Committee felt that there were portions of the mental health laws obviously out-of-date and in need of change, yet with an easy statutory solution by amendment or repeal. They therefore requested Senator Clyde Duffy to serve as chairman of a subcommittee of the Legislative Research Committee consisting of himself and Representative Ralph Beede, and Senator Carroll E. Day, to investigate and report on the immediate needs for legislation in this field.

After study of the complicated structure of our mental health laws and the growing problems encountered thereunder—especially with regard to Indian patients, alcoholics, criminals, and payment of hospital expenditures as between the individual or county—the Legislative Research Committee adopted the following recommendations:

1. The Thirty-fourth Legislative Assembly should adopt a resolution directing the Legislative Research Committee to conduct a comprehensive study and analysis of the North Dakota mental health laws, their operation, and administration, with a view to introduction of a single Mental Health Act;
2. Section 25-0308 of the North Dakota Revised Code of 1943 should be changed to require the Superintendent of the State Hospital to prescribe the form for use by insanity boards in

providing information deemed necessary by the Superintendent regarding patients for admission, instead of the present specific questions set forth in that section of the Code;

3. Section 25-0309 of the North Dakota Revised Code of 1943 should be changed to provide simply that failure by an insanity board to furnish such answers required by the Superintendent of the State Hospital shall be sufficient grounds for refusal to receive the patient at the hospital;
4. Section 25-03071 of the 1953 Supplement to the North Dakota Revised Code of 1943 should be amended to allow seven days' detention of a voluntary patient after he demands release, instead of three days now specified, and allowing seven days, instead of the present three days, for the Superintendent to file for legal commitment of such patient where the Superintendent deems release not to be in the best interest of the patient, his family, or the public;
5. Section 25-03071 of the 1953 Supplement to the North Dakota Revised Code of 1943 should be amended further by adding an alternative where a patient, his parents, or guardian does not agree or guarantee to pay hospital expenses incurred by his treatment and maintenance. In such cases the Superintendent should be able to require an affidavit of such party, listing his property, showing his financial condition, and stating that he is unable to pay;
6. Section 25-03071 of the 1953 Supplement to the North Dakota Revised Code of 1943 should be amended further to require the county insanity board where the patient resided, upon receiving a copy of such affidavit of inability to pay, to either direct the discharge of the patient or permit his detention at the expense of the county. It should be provided further that in event such insanity board directs discharge, but the Superintendent finds that such discharge might be dangerous to the patient or public, the Superintendent shall have the patient brought for legal commitment before that insanity board or the Stutsman County insanity board;
7. Legislation should be enacted providing for admission to the State Hospital of alcoholics, drug addicts, and persons suffering from mental illness, either by commitment of the insanity board or by voluntary admission under such rules, regulations, and limitations as may be promulgated by the Superintendent of the State Hospital;
8. Legislation should be enacted to provide that the word "insane" wherever used in chapter 25 of the North Dakota Revised Code of 1943

and the 1953 Supplement thereto shall be deemed to include alcoholics, drug addicts and persons suffering from mental illness insofar as the admission, care, treatment and discharge of such patients from the State Hospital may be concerned.

## EXPLANATION OF BILLS

### Senate Bills 1 to 32—Appropriations.

**Senate Bill 33. Operation of Drainage Districts.** This bill completely revises in both form and substance Chapter 61-21 of the North Dakota Revised Code of 1943, as amended, which is the chapter of the North Dakota Code governing the operation of drainage districts. In general, the purpose of this bill is to clarify ambiguities, remove conflicts, and generally modernize the operating procedures of drainage districts. A further explanation of the purpose of this bill may be found by reading the prior section of this report entitled, "Drainage Laws". In addition, copies of this bill containing an explanation, section by section, of the exact changes made in the proposed bill can be had by any legislator by contacting the office of the Committee. Copies of this detailed report will be made available to the proper committees of both the House and Senate.

**Senate Bill 34. Workmen's Compensation.** This bill results from a study of Workmen's Compensation laws undertaken by the Committee pursuant to Senate Resolution No. 9. Its general purposes are to remove conflicts and ambiguities found in the Workmen's Compensation law, to relieve hardship in certain instances, and to provide for more efficient operations by the Workmen's Compensation Bureau in the payment of claims and recovering of premiums. A more detailed section by section explanation of this bill is to be found in a prior portion of this report entitled, "Workmen's Compensation".

**Senate Bill 35. Admission, Retention, and Discharge of Patients at the State Hospital.** This bill allows the Superintendent of the State Hospital to prescribe information for answer by applicants for admission; requires affidavit of property and financial condition where the patient is unable to pay for expenses; provides alternatives of discharge, assumption of cost by the residence county or legal commitment proceedings in such case; allows a discretionary 7 instead of 3 days detention period by the Superintendent of voluntary patients demanding discharge; includes alcoholics and drug addicts in procedures for admission; all as outlined earlier in this report entitled "Mental Health Laws."

**Senate Bill 36. Errors in the Code.** The purpose of this bill is to correct minor ministerial and typographical errors in the North Dakota Revised Code of 1943 which have come to the attention of the Committee.

**Senate Bill 37. Suspension of Sentences.** The purpose of this bill, which was requested by the State Judicial Council, is to increase the discretion of district judges to suspend the sentence of a person convicted of a felony for the first time even though such person might have been convicted of a prior misdemeanor such as a minor traffic offense or others.

**Senate Bill 38. Postponement of State Census.** The purpose of this bill is to postpone the decennial census from 1955 to 1965. The decennial census of the State of North Dakota has not been taken by the state for a number of decades and there appears to be no reason why such a state census would be necessary during the year 1955.

**Senate Bill 39. Tax Levies for School District Building Funds.** This bill would require the county auditor to levy the full ten mill building levy of any school district which holds a contract with unpaid obligations to the State School Construction Board. Its purpose is to protect the State School Construction Fund in instances where the clerk of any school board might, through error or negligence, fail to make such a levy as required by law. It also clarifies the method for discontinuance of a building fund levy. In addition, the amendment specifically authorizes the use of proceeds of building fund levies for payment to the State School Construction Fund, in instances where the school district has made a loan from the State School Construction Fund.

**Senate Bill 40. Filing Date for Petitions of Precinct Committeemen.** The purpose of this bill is to remove confusion as the filing dates of petitions to place the names of candidates for precinct committeemen on the ballot. This amendment would change the period of filing to the same dates as other county officers.

**Senate Bill 41. Penalties for Violation of Alcoholic Beverage Licensing and Regulatory Laws.** This bill amends section 5-0520 of the 1953 Supplement to the North Dakota Revised Code of 1943. Its purpose is to clarify the penalty provided for violations of alcoholic beverage licensing and regulatory laws. When this law was amended by the 1947 Legislative Assembly, it apparently was their intention to set up one penalty for first offense, with a second and more severe penalty for second and subsequent offenses. However, during the process of amendments the words "for a second or subsequent offense" were erroneously dropped from the bill, leaving the penalty section very confusing since two distinct penalty ceilings

are provided for the same act. This amendment will clarify the section by setting up a ceiling for penalties upon first offense and a second ceiling of penalties for second offenses as was originally intended by the 1947 Legislature.

**Senate Bill 42. Repeal of Chapter 57-29 relating to Taxation of Mineral Rights.** This chapter of the Code has been declared unconstitutional by the North Dakota Supreme Court and is, therefore, entirely invalid. The purpose of this repeal is to formally remove the chapter from the statute book in order to prevent further confusion in regard to mineral taxation.

**Senate Bill 43. Travel Expense Receipts.** The purpose of this amendment is to remove the requirement for obtaining a receipt for all meals costing \$1.00 or more when employees of the State of North Dakota are traveling within the state on expense accounts. The ceiling of \$4.00 a day for meals and other miscellaneous expenses is still retained. Since the cost of meals at most places within the State of North Dakota now exceeds \$1.00, it has become necessary for state employees to obtain receipts for most of their meals or forego reimbursement by the state for their full travel expenses. This bill would not require the employees to obtain such receipts and would remove the nuisance to the department concerned, the State Auditor's office, and the State Auditing Board in processing such receipts.

**Senate Bill 44. Mortgaging of Property Under Probate.** The purpose of this amendment is to correct errors which occurred during the revision of the statutes when the North Dakota Revised Code of 1943 was passed. Prior to the revision of the Code, the probate court was given discretion to determine what moneys from an estate should be used to pay off mortgages upon property undergoing probate. Through error, when this section was revised this discretion was taken away and it was made mandatory that payments upon mortgages be made only from income from the mortgaged property. Hence, if the statute is followed strictly, mortgages could not be paid off from other income or assets available in the estate. This amendment will return the discretion to the county judge to allow the payments on mortgages from any moneys available.

**Senate Bill 45. Management of Lands Along Heart Butte Reservoir.** This bill would amend Section 20-0125 of the 1953 Supplement to the North Dakota Revised Code of 1943. Its purpose is to extend the authority of the Game and Fish Department to manage recreational and grazing lands along the Heart Butte area until such lands are resold to the original land owners. This amendment is in accordance with recommendations of the Legislative Research Committee which are

found in an earlier portion of this report entitled, "Land Management Along Water Projects".

**Senate Bill 46. Cooperation of Game and Fish Department with Army Corps of Engineers.** This bill would authorize the Game and Fish Department to supervise the planting of trees, shrubs and replacement cover along the Garrison Dam reservoir, which operations are to be paid for entirely by the Army Corps of Engineers. This bill will carry out the recommendations found in an earlier section of this report under the title, "Land Management Along Water Projects."

**Senate Concurrent Resolution "A". Amendment of Section 93 of the North Dakota Constitution.** The purpose of this resolution is to submit a constitutional amendment at the primary election to be held in June of 1956, for the purpose of amending Section 93 of the North Dakota Constitution. The proposed amendment would remove the mandatory requirement for the publishing of the North Dakota Supreme Court Reports and place the manner and form of their publication at the discretion of the Legislature. At present, very few of the North Dakota Supreme Court Reports are sold, since most attorneys and officials rely upon the "Northwest Reporter", published by the West Publishing Company, which become available some months earlier than the Supreme Court Reports. The State Bar Association of North Dakota has also recommended the amendment of this section, in order to remove the mandatory requirement of publication of Supreme Court Reports. If the publishing of these Supreme Court Reports could be discontinued, a saving to the state of in excess of \$10,000 per biennium would result.

**Senate Concurrent Resolution "B." Sale of Surplus Lands Along Federal Water Projects.** This resolution would memorialize Congress to authorize the sale of surplus lands lying above the normal pool level of the Garrison Dam and Heart Butte impoundments. It appears that the retention of a flowage easement by the Federal agencies concerned would be sufficient for their purposes and that such lands could be resold to the original landowners upon the same terms as they were acquired. This resale is desired by the majority of the landowners concerned. This concurrent resolution is in accordance with recommendations of the Committee found in an earlier portion of this report under the title, "Land Management along Water Projects".

**Senate Concurrent Resolution "C". Development of Recreational Areas Along the Garrison Dam Impoundment.** This resolution would request the Army Corps of Engineers to develop recreational areas along the Garrison Dam reservoir for the benefit of the residents of the State of North Dakota. This recommendation is in accordance

with a report entitled, "Land Management Along Water Projects", which is found in an earlier portion of this report.

#### **House Bills 501 to 533—Appropriations.**

**House Bill 534. Additional 1c Gasoline Tax.** This bill would impose an additional 1c refundable gasoline tax upon all highway gasoline or motor fuels used upon the highways of North Dakota, in accordance with recommendations of an earlier section of this report entitled, "Highway Finance".

**House Bill 535. Increase in Registration and Ton Tax Fees.** This bill would impose a 10% increase in the registration fees of all passenger cars upon the highways of the State of North Dakota, in accordance with a recommendation of the Legislative Research Committee contained in an earlier section of this report entitled, "Highway Finance". A 5% increase in the registration fees for all trucks is also imposed. Although a 10% increase in the registration fees of all commercial trucks was recommended in the "Highway Finance" report of the Legislative Research Committee, it is necessary that the balance of the 5% recommended increase for commercial trucks be placed in the ton-tax fees of the State of North Dakota in order to make the increase administratively workable.

**House Bill 536. Transfer from Auto Transportation Fund.** This bill would transfer the sum of \$200,000 from the Auto Transportation Fund to the State Highway Department Construction Fund in accordance with a recommendation found in an earlier section of this report entitled, "Highway Finance".

**House Bill 537. Appropriation from Bank of North Dakota.** This bill would appropriate the sum of \$1,500,000 from the undivided profits of the Bank of North Dakota to the State Highway Department Construction Fund in accordance with recommendations found in an earlier section of this report entitled, "Highway Finance".

**House Bill 538. Appropriation from General Fund.** This bill would appropriate the sum of \$3,344,000 from the General Fund to the State Highway Department Construction Fund, in accordance with recommendations contained in an earlier section of this report entitled, "Highway Finance".

**House Bill 539. Extension of 1c Gas Tax.** This bill would make permanent the one cent gas tax presently earmarked for the retirement of highway revenue anticipation certificates, which will expire approximately on January 1, 1957, upon the retirement of all such outstanding certificates. This bill is in accordance with recommendations found in an earlier section of this report entitled, "Highway Finance".

**House Bill 540. Rules of the Road and Traffic Regulations.** This bill adopts the provisions of the Uniform Vehicle Code covering rules of the road and traffic regulations in accordance with recommendations of the Highway Safety Report "Safer Highway Travel for North Dakota" and the Committee recommendations set forth earlier in this report.

**House Bill 541. Driver Licensing.** This bill places authority for issuance, suspension, revocation, and cancellation of operators' licenses in the Division of Public Safety, and conforms to provisions of the Uniform Vehicle Code for operators but retains existing age limitations, as recommended in the Committee report set forth in prior pages of this report.

**House Bill 542. Central Accident Records System.** This bill adopts the recommendations of the Committee's Highway Safety Report and "Safer Highway Travel for North Dakota", placing a central accident records system under the supervision of the director of public safety, in accordance with the Uniform Vehicle Code.

**House Bill 543. Vehicle Equipment.** This bill replaces chapter 39-11 of the North Dakota Code covering equipment of vehicles with the equipment requirements of the Uniform Vehicle Code, in accordance with the recommendations of the Committee set forth earlier in this report.

**House Bill 544. Unsatisfied Judgment Fund and Financial Responsibility.** This bill amends chapters 39-16 and 39-17 of the 1953 Supplement to place administration of these laws under the Director of Public Safety instead of the Highway Commissioner, and improves procedures for defense of the Unsatisfied Judgment Fund in accordance with the Committee report set forth earlier in this report.

**House Bill 545. Contracts for Pooling Driver Training Instructors.** This bill will permit contractual arrangements between school districts with small enrollment to use the same driver training instructor on an itinerant basis, as outlined in the Committee report earlier in this report.

**House Bill 546. Highway Patrol.** This bill will remove the limitation on the number of patrolmen, authorize the Superintendent to redistrict and reorganize the Patrol, and set up disciplinary authority in him, in accordance with the Committee report set forth earlier in this report.

**House Bill 547. Appropriation to Public Safety Division and High Schools for Driver Training.** This bill appropriates \$30,000 from the state equalization fund to be distributed to all high schools pro rata for each pupil completing the driver training program. \$40,000 is also appropriated

from the special fund for drivers' licenses to be used by the Public Safety Division for the enlarged safety program, as set forth earlier in this report.

**House Bill 548. Consolidation of Elementary and Secondary Education Functions.** This bill would consolidate various elementary and secondary education functions now under the supervision of numerous independent educational boards, in accordance with recommendations found in an earlier section of this report entitled, "Elementary and Secondary Education".

**House Bill 549. Transfer of Attorney General's Licensing Department.** This bill would transfer the Attorney General's Licensing Department to the State Laboratories Department, in accordance with recommendations found in an earlier section of this report entitled, "Licensing, Inspection, and Liquor Taxation".

**House Bill 550. Merit System for State Laboratory Inspectors.** This bill would establish a merit system for the employment of inspectors of the State Laboratories Department, in accordance with recommendations found in an earlier section of this report entitled, "State Licensing, Inspections, and Liquor Taxation".

**House Bill 551. Consolidation of Beer Licensing and Taxation.** This bill would transfer the responsibility of the licensing and taxation of beer and ale from the office of the State Tax Commissioner to the office of the State Treasurer, in accordance with recommendations found in an earlier section of this report entitled, "State Licensing, Inspections and Liquor Taxation".

**House Bill 552. Transfer of Functions of Stallion Registration Board.** This bill would transfer the functions of the Stallion Registration Board to the office of the State Veterinarian, in accordance with recommendations found in an earlier section of this report entitled, "State Licensing, Inspections, and Liquor Taxation".

**House Bill 553. Appropriation for Soil Reconnaissance Survey.** This bill would appropriate the sum of \$75,000 to the Agricultural College for the purpose of completing the soil reconnaissance survey and economic study, in accordance with recommendations found in an earlier section of this report entitled, "Land Classification and Assessment".

**House Bill 554. Appropriation for Statutory Revision.** This bill would appropriate the sum of \$2,125 to the Legislative Research Committee for the purpose of carrying on statutory revision during the balance of the present biennium. An emergency clause is attached.

**House Bill 555. Transfer of Gas Tax Refund Division.** This bill would transfer the responsibil-

ity for the collection and refund of gasoline taxes from the office of the State Auditor to the office of the State Tax Commissioner, in accordance with recommendations found in an earlier section of this report entitled, "Highway Finance". Certain provisions for information to be supplied by refund applicants and for the administrative handling of refund claims have been inserted into this bill.

**House Bill 556. Administration of Special Fuel Tax Laws.** The purpose of this bill is to provide a new workable method of collecting motor fuel taxes upon diesel, propane, butane, and other special fuels. At present the North Dakota law is ambiguous and almost impossible to properly administer. The proposed new tax law upon special fuels is patterned after a recommended law upon this subject prepared by the North American Gasoline Tax Conference. Under this law the tax upon such special fuels would be fully refundable upon fuel used off the highways. Under the proposed bill, the administration of the special fuel tax laws would be placed in the office of the state tax commissioner.

**House Concurrent Resolution "A". Legislative Orientation Conference.** This resolution directs and authorizes the Legislative Research Committee, in cooperation with the North Dakota State Bar association, to formulate and organize an orientation program primarily for new legislators, to be conducted by veteran members of the North Dakota Legislature. A more detailed discussion of this program is included in an earlier section of this report entitled, "Legislative Orientation Conference".