

**REPORT**  
**of the**  
**IOWA LEGISLATIVE RESEARCH COMMITTEE**

**PURSUANT TO CHAPTER 2 OF THE CODE OF IOWA (1966)**

**FIRST SESSION, SIXTY-THIRD GENERAL ASSEMBLY**

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Members  
Sixty-third Iowa General Assembly  
First Session

Pursuant to law I have the honor to transmit to you the report and recommendations of the Iowa Legislative Research Committee.

The report includes the reports and recommendations of all study committees created by law or action of the Legislative Research Committee subject to the jurisdiction of the Legislative Research Committee during the 1967-1969 interim period.

The subjects of the studies in many cases are complex and, in some cases, controversial. It is because of the complex and controversial nature of the subject matters involved that the study committees were created. While all study committee members and Legislative Research Committee members may not agree on every specific recommendation being made, it is believed that the recommendations are deserving of careful consideration by the members of the Sixty-third General Assembly.

The recommendations contained in this report are the result of thousands of hours of study by legislators and private citizens who served on the study committees. The Legislative Research Committee is deeply grateful to each of these persons for the time and effort expended in developing these recommendations.

Respectfully submitted,

*Marvin W. Smith*  
Representative Marvin W. Smith  
Chairman  
Iowa Legislative Research Committee

#### **PREFACE**

This report is a compilation of the reports of study committees created by the General Assembly or by the Legislative Research Committee. All study committees whose reports are compiled in this report operated under the direction of the Legislative Research Committee.

The Legislative Research Committee meeting on November 19 and 20, 1968 approved the reports for submission and consideration by the Sixty-second General Assembly as well as the proposed legislation accompanying such reports.

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\*Resigned as legislator but subsequently appointed as advisory member.  
\*\*Succeeded Mr. Gittins as legislative member.

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# History and Functions of the Legislative Research Committee and Bureau

The Iowa Legislative Research Committee and Legislative Research Bureau were created in 1955 for the purpose of filling the need for legislative staff assistance on a permanent basis. The Legislative Research Committee is composed of sixteen members; the President Pro Tem of the Senate, the Speaker of the House of Representatives, the Majority and Minority Floor Leaders of the Senate, five members of the Senate appointed by the President of the Senate, the Majority and Minority Floor Leaders of the House of Representatives, and five members of the House of Representatives appointed by the Speaker of the House of Representatives.

The Legislative Research Committee establishes policy for the operation of the Research Bureau, employs the Research Director, assists the Director with staffing the Bureau, reviews the work of the Bureau, makes recommendations for the improvement of Bureau services, establishes and works with the legislative study committees between sessions, and has authority to make recommendations to the General Assembly.

The Legislative Research Bureau provides services relating to research, bill drafting, administrative assistance, and other legislative services that appear to be necessary to legislators for a more efficient and effective operation of the General Assembly. Legislative Research Bureau staff are employed and work on a nonpartisan basis in order that information resulting from the services will be objective and unbiased. The Research Bureau is by statute a nonrecommending agency.

Present Bureau staff members hold educational degrees in the fields of law, political science, journalism, education, and related fields.

The Legislative Research Bureau is directed by statute to give assistance to legislators in the following order of priority:

1. Studies assigned to a study committee by the General Assembly.
2. Studies assigned to a study committee by the Research Committee.
3. Research work for interim committees.
4. Studies conducted without the assistance of a committee.
5. Studies for individual legislators.

The Legislative Research Bureau provides bill drafting assistance to legislative committees and individual legislators. In the past bill drafting assistance has been provided primarily prior to and during the session of the General Assembly. It is anticipated that in the future bill drafting services will be provided continuously throughout the year and that less reliance will be placed upon the use of part-time lawyers and other personnel for bill drafting services. The development of a permanent bill drafting service will only come about through the development of a permanent and competent bill drafting staff.

# Final Report of the Banking Laws Study Committee

Pursuant to a proposal presented by the Superintendent of Banking, John Chrystal, the 1965-67 Legislative Research Committee established the Banking Laws Study Committee, in September, 1965, to begin consideration of the recodification of Iowa's banking statutes. Representative Al Meacham of Grinnell was designated as Chairman of the Study Committee, and Senator Kenneth Benda of Hartwick was elected Vice Chairman at the organizational meeting. Also serving on the 1965-67 Banking Laws Study Committee were Senators C. Joseph Coleman of Clare, Robert K. Rigler of New Hampton, and Alan Shirley of Perry, and Representatives James V. Gallagher of Waterloo, Leroy S. Miller of Shenandoah, and Clark R. Rasmussen of West Des Moines.

It was known, at the time the Banking Laws Study was authorized by the Legislative Research Committee, that the magnitude of the banking law recodification project would prevent its being completed for submission to the 1967 Legislative Senate Concurrent Resolution 41 of the Sixty-second General Assembly directed that the study be continued during the 1967-69 interim. Senator Benda was designated Chairman of the 1967-69 Banking Laws Study Committee, and Representative Gallagher was elected Vice Chairman. As Representative Miller had been designated Chairman of another study committee, and Representatives Meacham and Rasmussen were no longer members of the Legislature, they were succeeded on the 1967-69 Study Committee by Representatives Ray V. Bailey of Clarion, William H. Harbor of Henderson, and J. E. King of Albia.

Although the 1965-67 Banking Laws Study Committee was able to hold only three meetings, much of the actual work of preparing material for submission to the Study Committee was done during this period. The 1967-69 Study Committee thus had a "running start", and held ten meetings in the period from August 29, 1967 through October 29, 1968. Most of these were joint meetings with the Banking Laws Advisory Commit-

tee, the organization of which is explained elsewhere in this report.

## STUDY PROCEDURE

The organization and procedures employed in conducting the Banking Laws Study are in some respects unique among study committees functioning under the Legislative Research Committee. It was decided at the outset that the Department of Banking, rather than the Legislative Research Bureau, would have primary responsibility for development of legislative proposals to be presented to the Banking Laws Study Committee. The Legislative Research Bureau has provided secretarial and other staff services to the Study Committee.

## Advisory Committee

Section 2.55, *Code of Iowa* (1966) permits appointment of persons other than legislators as advisory members of study committees established by the Legislative Research Committee, and the Banking Laws Study Committee was so organized during the 1965-67 interim. Advisory members appointed were Superintendent Chrystal, Mr. J. H. Gronstal of Carroll, Mr. M. J. Klaus of Charles City, and Mr. John F. O'Neill of Burlington. A number of additional persons were suggested by the Iowa Bankers Association for appointment as advisory members of the Study Committee late in the 1965-67 interim.

When the Banking Laws Study was resumed in mid-1967, a different organizational approach than had been taken during the 1965-67 interim was developed. A separate Banking Laws Advisory Committee was appointed, including among others those persons who had been serving, or had been suggested for appointment, as advisory members of the Banking Laws Study Committee during the previous interim, all representing the banking industry. On November 16, 1967, Senator Benda announced the further expansion of the Banking Laws Advisory Committee to include representatives of many other segments of

Iowa's economy. It may be noted that none of the thirty-six persons who served on the Banking Laws Advisory Committee during 1967 and 1968 were reimbursed by the state for travel or other expenses incurred in attending meetings of the Committee. Those persons were:

Mr. John B. Rigler, Muscatine  
Chairman

Mr. George E. Allbee Waterloo	Mr. Stanley R. Barber Wellman
Mr. Edmund W. Braack Davenport	Mr. John Bryant Des Moines
Mr. Ben C. Buckingham Des Moines	Mr. J. L. Campbell, Jr. Humboldt
Supt. John Chrystal Des Moines	Mr. J. S. Craiger Des Moines
Mr. Paul D. Dunlap Red Oak	Mr. Cecil Dunn Eagle Grove
Mr. D. W. Ernst Dubuque	Mr. Wendell Gibson Des Moines
Mr. Joe H. Gronstal Carroll	Mr. Oliver A. Hansen Durant
Mr. John R. Hensley Green Mountain	Mr. Robert H. Henstorf Farragut
Mr. Charles S. Johnson Des Moines	Mr. Richard D. Johnson Sheldahl
Mr. Don Kirchner Riverside	Mr. Merton J. Klaus Charles City
Mr. Arthur E. Lindquist, Jr. Des Moines	Mr. E. W. Maser LeMars
Mr. Arden E. Melcher LaPorte City	Mr. James F. Meyer Paullina
Mr. Jake B. Mincks* Ottumwa	Mr. Donald E. Noller Evansdale
Mr. John F. O'Neill Burlington	Mr. James H. Redman Fort Dodge
Mr. Carl G. Riggs Tingley	Mr. Dale C. Smith Des Moines
Mr. Hal Stookey* Des Moines	Mr. Edward S. Tesdell Des Moines

Mr. Carleton C. Van Dyke Sioux City	Mr. L. D. Vickers Newton
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Mr. Max von Schrader  
Ottumwa

\*Mr. Stookey succeeded Mr. Mincks on the Advisory Committee during the interim.

#### Drafting and Revision

On July 13, 1966, the Iowa Executive Council approved the retention by the Department of Banking of Meade H. Emory, Assistant Professor, University of Iowa College of Law, to undertake the actual drafting of a recodified Iowa banking statute. Professor Emory's principal assistant in this work has been Mr. Howard Sokol, Assistant to the Dean of The University of Iowa College of Law. Students of The University of Iowa College of Law also provided research and drafting services in connection with the study.

An outline was developed for recodification of all of Iowa's existing banking statutes, and of related statutes. The proposed Iowa Banking Act of 1969, prepared pursuant to this outline, is organized in eighteen divisions, in a manner which will be discussed later in this report.

Initial drafting of the recodified banking statute was the responsibility of Professor Emory, assisted by Mr. Sokol. Upon completion of each group of two to four divisions, the material was reviewed by a drafting group consisting of Superintendent Chrystal, Deputy Superintendent of Banking Holmes Foster, Mr. Lindquist and Mr. Gibson, as well as Professor Emory and Mr. Sokol. Mr. Foster, in particular, has devoted many weeks of work to the banking law recodification over the past three years.

When the drafting group was satisfied with a group of divisions, the material was submitted to the Banking Laws Study and Advisory Committees for their consideration. Any portion of the material with which Committee members were not satisfied was referred back to Professor Emory, Mr. Sokol and the drafting group for further revision. In some cases, drafts of a single division or section were considered and discussed at three or four separate meetings of the joint Committees before being accepted. The final

group of divisions was accepted by the Banking Laws Study Committee at a joint meeting of the Study and Advisory Committees on June 6, 1968.

#### Review of Completed Draft

Immediately thereafter all eighteen divisions, as accepted by the Study Committee, were assembled into a tentative final draft which was intensively reviewed by Professor Emory, Mr. Foster and Mr. Sokol in an attempt to clarify the language of the bill wherever possible and eliminate any internal inconsistencies or other ambiguities remaining in the bill, while preserving the intent of the Banking Laws Study Committee. In addition, explanatory comments were written for each section of the proposed Iowa Banking Act of 1969, stating the purpose of the section and its relationship to existing Iowa law.

The revised draft of the completed bill was then prepared, with the relevant explanatory comments appearing immediately following each section. Several hundred copies of this version of the bill, which was designated tentative final draft number two, were published at the expense of the Iowa Bankers Association and widely circulated to bankers, attorneys, and many other interested parties in the state. Tentative final draft number two was presented for review and discussion at regional symposiums sponsored by the Bankers Association in Storm Lake on September 17 and Iowa City on September 25, and at the Bankers Association convention in Des Moines on October 29. It has also been reviewed by officials of Federal agencies whose primary jurisdiction is in the field of banking, and by the Iowa Bar Association, particularly the Bar Association's probate committee.

The suggestions received pursuant to review of tentative final draft number two by the foregoing parties were considered at the final meetings of the Banking Laws Study Committee, and a number of changes were adopted. These changes are incorporated in the proposed Iowa Banking Act of 1969, which has been prepared for introduction in the Sixty-third General Assembly as Senate File 18.

#### RECOMMENDATION

The Banking Laws Study Committee recommends to the Legislative Research Committee and the Sixty-third General Assembly the enact-

ment of the proposed Iowa Banking Act of 1969, which is hereafter referred to in this report as Senate File 18. The text of Senate File 18 with explanatory comments following each section, which has been printed and bound separately from this report due to the length of the bill and comments, will be distributed to all members of the Sixty-third General Assembly and is available upon request from the Legislative Research Bureau.

NOTE: Care should be taken not to confuse the blue-bound copies of tentative final draft number two of the Iowa Banking Act of 1969, printed and distributed in mid-1968, with Senate File 18. Due to the changes made by the Banking Laws Study Committee in preparing the bill for recommendation to the Legislative Research Committee and introduction in the Sixty-third General Assembly, there are significant differences between tentative final draft number two and Senate File 18.

#### Objectives of Senate File 18

The broad objectives of Senate File 18 are:

1. To rearrange existing Iowa laws governing establishment and operation of state-chartered banks into a single chapter of the Code, so as to achieve improved organization, consistency, and clarity.
2. To update Iowa banking law where necessary, to the extent possible without becoming involved in matters believed to be controversial and therefore likely to be the subject of considerable debate when proposed to the Legislature.
3. To end the variety of state-chartered banking entities authorized by present law and substitute a single entity, to be known in law simply as a "state bank".
4. To prescribe more precisely the requirements for establishment and dissolution of corporations which exist for the purpose of carrying on a banking business, and place these requirements in the same chapter of the Code with other banking laws of the state.

These objectives are discussed in slightly greater detail in the following paragraphs. For more fully detailed information, the text of Senate File 18

and the comments following each section of the bill may be consulted.

**Rearrangement of Existing Law**—Senate File 18 would repeal and replace chapters 524 through 532, inclusive, of the *Code of Iowa* (1966), as amended. These chapters constitute all of Title XXI of the Code, entitled "Banks", except the last two chapters (533, "credit unions", and 533B, "sale of certain instruments for payment of money"). Most of the provisions of the repealed chapters are included in Senate File 18, but are arranged in what is considered a more orderly sequence. Also, some provisions now found in other parts of the Code are placed in the proposed bill in the interest of creating a single, largely self-contained state banking statute.

**Updating of Banking Law**—In some instances, specific portions of existing banking laws believed obsolete are entirely repealed by Senate File 18. An example is the present section 528.1, which specifies varying minimum capital requirements for new state-chartered banks according to the size of the community in which the bank is to be established. The proposed bill includes a uniform state-wide minimum capital requirement of \$100,000 for any new state bank, and allows the Superintendent in his discretion to require a greater capitalization (state-chartered banks presently having less than \$100,000 capital need not increase their capital above the amount they have on the effective date of the bill).

Conversely, some features not found in existing law have been written into the proposed bill if there appears to be fairly general agreement that the new features are necessary or desirable. An example is section 519, which requires that the Superintendent of Banking be notified of any change in ownership of shares of stock in a state bank which will result in a change in control of the bank, as evidenced by power to elect, directly or indirectly, the board of directors.

Two areas in Iowa banking law, of which there has been considerable discussion in recent years, have been deliberately avoided. These pertain to permissible rates of interest on loans to individuals, and the legalization of branch banking in Iowa. The 1965-67 Banking Laws Study Committee decided at its organizational meeting that both of these matters should be specifically excluded from consideration, because they are sufficiently controversial to pose a threat to enact-

ment of the general recodification of state banking laws, which it is hoped will not encounter significant opposition. This decision was reaffirmed by the 1967-69 Study Committee at its first meeting.

The Study Committee believes it only fair to state that a number of Iowa bankers disagreed with this decision, particularly as it applies to interest rate limits. Others who accepted the decision—perhaps reluctantly—nevertheless believe there is an urgent need to increase the permissible rates of interest on loans to individuals (Iowa law presently places no limits on rates of interest which may be charged corporations). The fact that Senate File 18 would permit no increase in the existing maximum interest rates should not be interpreted as indicating that Iowa bankers are satisfied with present limits. It is not known how much support may exist for a change in the present law prohibiting branch banking in Iowa.

**Single Banking Entity**—Present Iowa banking law permits, at least in theory, the existence of no less than five different types of state-chartered banking entities, namely state banks, savings banks, trust companies, private banks, and cooperative banks. Senate File 18 provides for establishment of only one type of state-chartered banking entity, which will be known in law as a state bank, and will have general and complete commercial banking powers. Any state bank may also exercise fiduciary (i.e., trust) powers upon authorization to do so by the Superintendent of Banking.

Nearly all of the state-chartered banks now doing business in Iowa are established under present law as either state banks or savings banks. There are some technical distinctions between the two, but it has been concluded that these are no longer meaningful. Under Senate File 18, any newly established state banks will receive perpetual charters, and existing state or savings banks will be enabled to renew their charters in perpetuity as the present charters expire, or at any earlier time if they so desire. Newly chartered banks will be required to have the word "state" and either the word "bank" or the word "trust" (the latter only if the bank is authorized to exercise trust powers) in their names. Present state and savings banks would not be required to change their names to conform to the recodified banking statute.

Although a number of Iowa banks, both national and state, have the word "trust" in their names, there is only one true trust company, as defined in present Iowa law, remaining in business in the state. This trust company will be able to remain in business, under the provisions of Senate File 18, until the expiration of its present charter, which has a number of years to run. It is believed that this trust company will suffer no undue hardship by reason of being unable to renew its charter, since it is wholly owned by and has its offices in the same building with one of the state's larger banks, with which the trust company may be merged.

Iowa law has prohibited establishment of private banks since April 19, 1919, but a very few such banks which were in business before that date have been permitted to remain in existence under sections 524.26 through 524.30, inclusive, *Code of Iowa* (1966), the substance of which is incorporated into Division XVII of the proposed recodified Iowa banking statute. Chapter 531 of the Code, relating to cooperative banks, is inoperative, since cooperative banks have not been successful in Iowa and none have been in existence in the state for many years.

**Corporation Law for State Banks**—Professor Emory, principal draftsman of Senate File 18, has prepared the following explanation of the bill's provisions relating to formation of corporations for the purpose of conducting a banking business:

Existing banking law is deeply intertwined with chapter 491 of the Code of Iowa, the "old" corporation law of this state. This corporation law was replaced, as the general corporation law, by chapter 496A, an enactment of the modern and well drafted Model Business Corporation Act which has been adopted in many states. Because of practical problems and its applicability to many existing corporations, including banks and insurance companies, the continued existence of chapter 491 has been tolerated. There is, however, a great deal of uncertainty in existing law regarding the extent of the applicability of chapter 491 to banks organized and operating under the law of this state. Obviously some provisions which explicitly refer to banks have application (e.g., sections 491.33, 491.34, 491.35 and 491.37), but the extent of the application in other situations is not as certain. Since clarity on these questions was obviously a goal of the revision project, it is im-

portant to disclose with certainty the extent to which general corporation law shall have application to banks. In view of the fact that . . . (chapter 496A) is a well drafted and widely adopted statutory format relating to corporate matters generally, it is deemed wise to relate corporate matters involving banks to that statute where appropriate. Since section 496A.142(1) specifically renders . . . (chapter 496A) non-applicable to banks organized and operating under the laws of this state, it is necessary to make positively applicable those portions of chapter 496A which are relevant to banks. Except in a few instances in which incorporation by reference has been the technique to reduce statutory bulk, specific provisions of chapter 496A have been incorporated either verbatim or with only minor changes in wording where appropriate. Thus, only when specifically made applicable by the banking laws, or when incorporated therein, will the provisions of chapter 496A be applicable to banks. Those provisions of chapter 491 specifically dealing only with banks will be repealed. This technique will allow all statutory material relating to banks, either corporate or regulatory, to be within one statutory enactment.

#### Organization of Senate File 18

In conclusion, a brief comment should perhaps be made regarding the organization of Senate File 18. As previously indicated, the bill consists of 18 divisions, each designated by a roman numeral, the headings of which are as follows:

Division I	— General Provisions
Division II	— Department of Banking
Division III	— Incorporation
Division IV	— Capital Structure
Division V	— Shares, Shareholders and Dividends
Division VI	— Directors
Division VII	— Officers and Employees
Division VIII	— General Banking Powers
Division IX	— Investment and Lending Powers
Division X	— Fiduciary Powers
Division XI	— Affiliates

- Division XII — Offices
- Division XIII — Dissolution
- Division XIV — Merger, Consolidation and Conversion
- Division XV — Amendment to Articles of Incorporation
- Division XVI — Penal
- Division XVII — Private Banks
- Division XVIII — Effective Date and Repealer

Each division is composed of two or more numbered sections. Although the entire bill is intended to become a single chapter of the *Code of Iowa*, the sections are not numbered serially through the bill. Instead each section is assigned a three or four digit arabic numeral, the first one or two digits corresponding to the roman numeral assigned the division of which the section is a part, and the latter two digits indicating the position of the section in the division. Thus the first section in Division VII is section 701, the second is section 702, and so forth. This arrangement, to which the Code Editor's office has agreed, will permit any new sections which it might be necessary to add in future years to be placed in the proper division without disrupting the numbering of sections in succeeding divisions.

# Final Report of the Divorce Laws Study Committee

A petition signed by twenty-six members of the Iowa General Assembly was submitted to the Chairman of the Legislative Research Committee in October, 1967 requesting that the Research Committee authorize a study of the Iowa divorce laws during the remainder of the 1967-1969 legislative interim and establish a Study Committee to conduct the study.

The petition requested that attention be directed to the following matters during the course of the study:

1. The need for requiring that when a divorce suit is filed, there be a mandatory counseling procedure with the couple involved to explore all possibilities of reconciliation before the divorce is granted.

2. A mandatory 120-day waiting period between filing of a suit for divorce and granting of the final divorce decree.

3. When it appears that there is no possibility of reconciling husband and wife, mandatory appointment of an attorney to protect the interests of children of the couple seeking the divorce.

4. Fairness and relevance to present day conditions of existing law and practices with respect to alimony and other financial arrangements involved in divorce.

In accordance with this request, the Research Committee appointed in March, 1968 a Study Committee composed of ten members of the General Assembly and four nonlegislative advisory members.

The membership of the Study Committee is as follows:

## Legislative Members

Senator John Leonard Buren, Forest City  
Senator Joseph W. Cassidy, Walcott  
Senator Alden J. Erskine, Sioux City

Senator Chester O. Hougen, Waterloo  
Representative John Camp, Bryant  
Representative A. June Franklin, Des Moines  
Representative Arlo Hullinger, Leon  
Representative Bernard J. O'Malley, Des Moines  
Representative Elizabeth Orr Shaw, Davenport  
Representative Marvin W. Smith, Paullina

## Advisory Members

Judge Robert O. Frederick, Fifth Judicial District, Winterset  
Mr. James McNally, Iowa Catholic Conference, Des Moines  
Pastor Bruno Schlachtenhaufen, American Lutheran Church, Des Moines  
Mr. Ted Sloane, Attorney at Law, Des Moines

Representative Marvin W. Smith was designated by the Research Committee to serve as Study Committee Chairman. At the Study Committee's organizational meeting on April 18, 1968, Senator John Leonard Buren was appointed Committee Vice Chairman.

Initial meetings involved representatives of the State Department of Public Instruction, Department of Social Services, Polk County Juvenile Court, The Lutheran Social Service of Iowa, and the Black Hawk County Welfare Department meeting with Study Committee members to discuss the problems that confront members of a family, both prior to and following the granting of a divorce and which have come to the attention of such representatives.

## I. TRENDS, PROCEDURES, PROBLEMS UNDER CURRENT DIVORCE LAW

### A. Divorce Rate Trend

According to statistics made available by the Division of Vital Statistics of the State Department of Health, Iowa courts granted a total number of 6,018 decrees of divorce in calendar year 1967. This figure represents an increase of 8.8% over the 5,532 decrees granted during 1966. The

1967 total represents an increase of 47% over the 4,091 decrees granted in 1957. The increasing number of divorces, together with the problems generated by divorce, constitutes a matter of considerable concern to the public.

### B. Grounds

Section 598.8, *Code of Iowa* (1966), authorizes a divorce to be decreed against the husband for the following causes:

1. When he has committed adultery subsequent to the marriage.
2. When he willfully deserts his wife and absents himself without a reasonable cause for the space of two years.
3. When he is convicted of a felony after the marriage.
4. When after marriage, he becomes a chronic alcoholic.
5. When he is guilty of such inhuman treatment as to endanger the life of his wife.

Section 598.9 of the Code states that a husband may obtain a divorce from his wife for any of the causes set forth in section 598.8 "and also when the wife at the time of the marriage was pregnant by another than the husband, of which he had no knowledge, unless such husband had an illegitimate child or children then living, which at the time of the marriage was unknown to the wife."

Divorce actions are most often brought alleging the cause of inhuman treatment since this is the ground more applicable to most situations where there is a breakdown of the marriage. This ground has been construed by the Iowa Supreme Court to be applicable to many situations.

### C. Doctrine of Recrimination

English common law provides that civil actions may be tried at law or in equity. When no specific remedy is provided by law, the action must be tried in equity. A party who brings an action in a court of equity must satisfy the court that he is not at fault in regard to the action to be tried. He must come into court with "clean hands." If both the plaintiff and the defendant are at fault with respect to the action to be tried, no relief may be granted by the court. This com-

mon law principle is known as the doctrine of recrimination.

Actions for divorce in Iowa are tried as actions in equity, and as such are subject to the doctrine of recrimination which holds that neither party to the action may be granted a divorce if both parties have grounds (are at fault). The application of this doctrine is illustrated by the following example. The Iowa divorce law sets forth causes or grounds for which a divorce may be decreed against either the husband or the wife. A wife may obtain a divorce from her husband on proof of any of the statutory causes against the husband, unless he is able to demonstrate proof of any of the causes against the wife. Under such circumstances no divorce can be granted to either party.

### D. Adversary Nature of Divorce Proceedings

Since divorce is a remedy obtained in an action in equity, and since that remedy is not available unless one party to the action can demonstrate fault in the other party, divorce proceedings are adversary in nature. The adversary nature of the proceedings is demonstrated by the following procedures under the Iowa divorce law.

#### 1. Allegations in Petition

The Iowa divorce law and the Rules of Civil Procedure require the petition for divorce to set forth the facts constituting the cause of action asserted and for which the plaintiff claims the relief sought. Unless the parties have mutually agreed to a divorce prior to commencement of the proceedings, in which event the case will be tried as an uncontested case or default action, the defendant is confronted with having to deny the allegations of the petition with respect to grounds as well as the claims for alimony, child support, and property disposition. This situation intensifies feelings of antagonism which exist between the parties prior to commencement of the proceedings and places the parties in an adversary position in a legal sense once proceedings are initiated. Each party strives to prove that the other party was at fault by alleging specific acts committed by the opposite party which constitute grounds for divorce. The result of this moral joust may prove to be quite ironic, because if both parties successfully prove the other to be guilty of improper conduct constituting a ground for divorce, the doctrine of recrimination prevents either one of them from securing a divorce.

Thus an unfortunate marital situation may be intensified and perpetuated. The children of the marriage are often victimized in such situations by being caught in the middle of the controversy.

## **2. Sixty-Day Waiting Period**

Section 598.25 of the Code sets forth a waiting period of sixty days between service of original notice of the divorce action and the granting of the decree, subject to the provision that the court may grant a decree prior to the expiration of such period under certain circumstances.

Although it is possible that the parties may on their own initiative resolve their differences during the waiting period and dismiss the action, circumstances are usually such that neither party is willing to actively participate in efforts directed toward reconciliation. The absence of statutory authority expressly providing for a program of conciliation services further hinders conciliation during this period.

During the sixty-day waiting period the parties submit their respective pleadings and motions. Because of the inflammatory nature of the pleadings and the absence of legislation authorizing or requiring efforts directed toward reconciliation, the result of the current sixty-day waiting period is often a further intensification of antagonism between the parties, accentuation of the adversary position assumed by each party, and the creation of an atmosphere not conducive to effecting a reconciliation.

## **E. Uncontested or Default Actions**

As previously mentioned in this report, there are five grounds or causes for divorce in Iowa. Since the first four are often not available to the parties, considerable reliance is placed on the fifth ground—"inhuman treatment as to endanger life . . . ." Reliance on this ground is common because it has been broadly construed by the courts and it is perhaps the most innocuous of the grounds. However, this ground often does not accurately reflect the true circumstances of the marriage since in many cases no danger exists to the life of either party. In such cases, if the marriage is to be terminated, it would seem more appropriate to grant the divorce on grounds or evidence not currently provided for by statute.

Also, the concept of fault in equity actions requires that the divorce be decreed against one of the parties, when in fact both parties may have contributed to a deterioration or breakdown of the marriage relationship.

Many divorce actions are tried as uncontested or default actions when both parties have concluded that the marriage should be terminated with a minimum amount of adversity. By avoiding a contested action, the danger that the doctrine of recrimination will be invoked is also avoided.

## **F. Rights of Children Not Adequately Protected**

Uncontested or default actions can produce a number of undesirable consequences quite apart from the issue of grounds. Some of these consequences are stated below:

### **1. Lack of Adequate Information Concerning Financial Circumstances of the Parties**

In uncontested divorce cases, the parties often compromise and reach an agreement with respect to alimony, custody, and disposition of property. Although the case may be tried as an uncontested action, one party often requires concessions from the other as a condition to abstaining from a contested action or agreeing to seek the divorce. Such circumstances often result in stipulated agreements as to child support and alimony that do not accurately reflect the husband's ability to provide for the needs of his family or the wife's ability to support herself. Sometimes the amounts agreed upon are too low, while on other occasions they may be excessive. If the amounts agreed upon are too low, the family may not receive an income adequate to maintain a reasonable standard of living, and the needs and interests of the children may be neglected.

A related problem occurs if as a consequence of an inadequate support agreement reached by compromise the mother must apply for public assistance to make up the difference between the total income needed to maintain the home and the amount of child support awarded by the court. The burden is then placed upon the taxpayers to pay, in the form of public assistance, amounts which should be taxed to the father as child support. Although in many instances the incomes of parties to an action for divorce are

so limited that a portion of the cost of maintaining the mother and children must be absorbed by the public assistance program, it is nevertheless desirable for the courts to have adequate information concerning the financial circumstances of the parties on which to base a judgment of alimony and child support. If applications for awards of alimony or child support were accompanied by detailed financial statements, the courts might find this information useful in making awards in those cases where the court has reason to believe that stipulated agreements will not adequately provide for the family's needs or reflect the actual financial circumstances of the parties.

## 2. Custody and Visitation

In cases where no aspect of the divorce proceedings is contested in court, the parties normally arrive at an agreement prior to trial with respect to custody of minor children and visitation rights. The plaintiff usually receives custody of the children and the defendant is allowed visitation rights. Since the circumstances of many divorce actions are such that both parties have contributed to a breakdown of the marriage relationship, the court might find it useful to have access to reports or other information concerning the respective fitness of both parties to receive custody. In some cases it is possible that neither party should receive custody and that custody should be vested in a third party or a child welfare agency. A custody investigation or the appointment of an attorney to represent the interests of the children during the proceedings could be of assistance to the court in rendering a decision on matters of custody and visitation.

## G. Effects of Disrupted Homes

Although all members of a family suffer from the consequences of divorce, the effects of a disrupted home are likely to be particularly acute for the children. Although it can be scarcely argued that to force parents, who are unable to resolve their differences, to live together in an atmosphere of animosity and hostility is conducive to the welfare of their children, there is evidence to show that the consequences of divorce are often destructive to the normal and healthy development of the children. The juvenile probation department of one metropolitan Iowa county has found that a substantial number of referrals

come from homes where a divorce or separation of the parents has occurred. A substantial number of additional referrals arise in situations where normal home life has been disrupted because of circumstances requiring the absence of one or both parents for a period of time.

## II. RESEARCH FOR THE IOWA DIVORCE LAWS STUDY

In compiling background information for the divorce laws study, the Legislative Research Bureau sent questionnaires to eleven states requesting information on the procedures used in family courts or conciliation courts of those states. The states contacted were: Arizona, California, Colorado, Michigan, Montana, New Jersey, Ohio, Oregon, Rhode Island, Washington, and Wisconsin. In addition to evaluating the information received from these states, the Research Bureau consulted a number of law review articles and surveyed the laws of the various states with respect to conciliation procedures, waiting periods, and matters relating to custody. This research supplemented the information presented at Committee hearings.

Of the states contacted, only two have statutes providing for the courts to exercise jurisdiction over the broad spectrum of domestic relations matters affecting both adults and juveniles. These states are Ohio and Rhode Island. By statute or rule, courts in these states exercise jurisdiction over proceedings involving divorce and legal separation; delinquent, neglected, and dependent children; adults contributing to delinquency, dependency, and neglect; abandonment; and paternity. In addition, the Rhode Island Court has jurisdiction over adoption proceedings. The jurisdiction of the courts of other states is primarily limited to offering counseling or conciliation services to persons experiencing marital problems.

Information compiled by the Research Bureau indicates that there are several procedures for commencing conciliation proceedings by persons experiencing marital problems. Some states allow petitions for conciliation to be filed on a voluntary basis either prior to or after commencement of the divorce action. One state, Wisconsin, requires that conciliation proceedings under court auspices be commenced only in conjunction with the divorce action. The Wisconsin statutes require that all divorce actions be commenced in a manner that will permit the parties

to have an opportunity to participate in efforts directed toward reconciliation.

The Wisconsin Family Code, which was enacted in 1960, made the family court procedure applicable to all counties of the state. In the four years preceding adoption of the Code, 39% of the cases in Milwaukee County were dropped before trial. Four years after enactment of the Code, the percentage of cases dropped before trial rose to 48%.

Another jurisdiction that has experienced considerable success in effecting reconciliations is Los Angeles. Los Angeles has established a conciliation court as a division of the superior court, which is a court of general jurisdiction. In Los Angeles, conciliation proceedings may be commenced in the conciliation court prior to or after commencement of the divorce action in the superior court. In 1963, the conciliation court had a successful reconciliation rate of 64.2% in cases where both parties participated. The reconciliation percentage for 1965 was 58.9%.

It is important to note several distinctions between the conciliation procedures used by both Wisconsin and Los Angeles. The basic difference is that the Wisconsin procedure is mandatory, while the Los Angeles method is at the option of the parties. Only a limited number of divorce actions adjudicated by the Los Angeles Superior Court are ever referred to the conciliation court. Because of this selective approach, divorce actions involving thousands of marriages are heard by the court without the benefit of conciliation services. Many of these divorce proceedings involve parties with children.

The Wisconsin concept of mandatory application of conciliation procedures is based on the premise that although many parties with marital problems demonstrate an attitude of antagonism toward each other, such cases often present favorable prospects for conciliation. The Wisconsin procedure is mandatory only in that the parties are required to submit to the jurisdiction of the court for the purpose of determining whether a reconciliation is possible and for determining the method by which the reconciliation should be attempted.

The Wisconsin Family Code provides stringent protection of the rights and interests of minor children with respect to matters of support

and custody in divorce actions. The Ohio statutes also emphasize protecting the rights of children in divorce actions.

Attention should be directed to the fact that neither the Wisconsin family court nor the Los Angeles conciliation court has jurisdiction over matters relating to dependency, neglect, juvenile delinquency, or adoption.

The conciliation courts of a number of states emphasize effecting an amicable settlement of issues relating to alimony, child support, custody, and visitation rights in cases where the parties are unable to resolve their marital differences through the counseling services offered by the courts and the action proceeds to the trial stage. Law review articles surveyed indicate that some states have experienced success in the resolution of such problems even though the marriage itself could not be saved. A family court judge from a western state observed, in his reply to a Research Bureau questionnaire, that the sole function of a family court is not necessarily to effect a reconciliation of the parties. Some marriages cannot be saved and in fact should be terminated for the best interests of all concerned. However, in such cases the family court can function in a very important manner by helping the parties to arrive at an equitable solution of the problems of child support and custody.

With respect to the role of the family court judge, one study observed that the judge should be a specialist in the field of domestic relations with tenure adequate to insure the development of the skills required for adjudicating domestic relations problems. The study indicated that these standards have particular application to the appointment of judges to courts exercising jurisdiction over the broad spectrum of domestic relations problems affecting both juveniles and adults.

On the basis of information obtained through research, the presentations at Committee hearings, and instructions received from the Study Committee, legislation has been prepared to establish a system of family courts in Iowa.

### **III. VARIOUS APPROACHES FOR THE DEVELOPMENT OF FAMILY COURT LEGISLATION**

The first draft of the family court legislation studied by the Committee provided for mandatory establishment of a family court division

of the district court in every county having a population of 25,000 or more persons. Provision was made for counties of less than 25,000 to establish a family court on an optional basis or to participate in the joint establishment of a court. Only the counties within a specific judicial district could participate in establishing a multiple-county family court. However, a review of the divorce statistics indicated that the number of cases filed and adjudicated in counties in the 25,000 population range did not justify establishment of a family court in each such county. Consequently a decision was made to establish a family court for each judicial district.

Since the original draft did not contemplate mandatory establishment of a family court in each county, the effect of that study bill was to leave jurisdiction over juvenile matters divided between district courts, municipal courts, and family courts where established. In accordance with the Study Committee's directions that each judicial district be required to establish a family court, the first draft was further amended to authorize the court to exercise jurisdiction over all juvenile matters.

The first draft also vested the family court with jurisdiction over criminal matters involving the members of a family. A decision was made to limit the jurisdiction of the family court over criminal matters to adjudicating juvenile delinquency proceedings of a criminal nature and contempt proceedings in divorce and child support actions.

Another problem occurred in providing for service of the original notice and the divorce petition. The current Rules of Civil Procedure authorize several methods of notifying a defendant of the commencement of an action for divorce. The plaintiff may cause the original notice to be personally served on the defendant with a copy of the divorce petition attached to the notice. An alternative method of personal service requires service of only the original notice setting forth the cause of action and notifying the defendant that the divorce petition is on file in the office of the clerk of court. If personal service cannot be had, the original notice may be published.

The first draft of the family court proposal required service of two original notices to commence both conciliation and divorce proceedings.

A petition for conciliation was designed to give original notice of the commencement of conciliation proceedings, and a petition for divorce was to give original notice of commencement of the divorce action, should the matter proceed to the stage where the action could be tried. After reviewing this matter extensively, the Study Committee concluded that there should be service of only one original notice and petition which would give the court jurisdiction over both conciliation and divorce proceedings. By requiring service of only one original notice, the present Rules of Civil Procedure will be preserved without having to enact a special amendment to apply to divorce proceedings initiated in the family court.

#### **IV. COMMITTEE RECOMMENDATIONS**

The Study Committee has prepared a legislative proposal authorizing the establishment of a family court system for Iowa. The procedures for establishing the court, together with matters relating to jurisdiction and commencement of proceedings, are summarized as follows.

##### **A. Establishment and Jurisdiction of Family Court in Each Judicial District**

The Committee recommends establishment of a family court to function in each judicial district of the state. The family court will function as a division of the district court and exercise jurisdiction over most domestic relations actions and proceedings. The proposed legislation defines domestic relations as the field of law which pertains to marriage, dissolution of marriage, annulment of marriage, separate maintenance, alimony, support of children, custody of children, third party interference with marriage, neglected and dependent children, legitimation of children, adoption, paternity, juvenile delinquency, relations between parent and child, and any other matters involving the legal relationships between members of a family unit. The proposed legislation will have the effect of transferring jurisdiction over all such matters to the family court although a new court is not in fact being created, rather a specialized unit within the structure of the district court system is established.

##### **B. Judges and Staff of the Family Court**

It is recommended that the State Supreme Court be authorized to appoint a sufficient num-

ber of judges from each judicial district to serve as family court judges and hear matters within the jurisdiction of the court. It is believed that by creating a family court division within the structure of the district court system, less confusion will result than would be the case if a completely new court system were to be established. Existing facilities, personnel, and procedures may continue to be used and followed in many cases, and there does not appear to be any resulting conflict with a proposed reorganization of the minor court system in Iowa.

The chief judge of each judicial district will appoint a family court commissioner and such assistant commissioners, counselors, investigators, stenographers, and other assistants as are determined to be necessary to staff the family court. Such commissioner will succeed to the duties presently exercised by probation officers and it could conceivably happen that persons presently serving as probation officers will become family court commissioners. It may also happen that an assistant will perform all probation duties depending upon the needs of the specific judicial districts. Qualifications will be prescribed by the Supreme Court for such appointments. Salaries of staff members will be fixed by the chief judge of the judicial district.

#### **C. Commencement of Actions Involving Marital Disputes**

The Committee recommends that the term "divorce" be changed to "dissolution of marriage" following proposed family court legislation in California.

An action for dissolution of marriage or separate maintenance would be commenced by personal service upon the defendant of an original notice together with a petition for conciliation or dissolution of marriage. In cases where personal service could not be obtained, the defendant would be apprised of the action by publication of the original notice in accordance with the Rules of Civil Procedure. The original notice must set forth all information required by the Rules of Civil Procedure in addition to information required by the family court act. The original notice will direct the defendant to appear for purposes of scheduling a conciliation conference.

The petition for conciliation or dissolution may allege that the defendant has committed an

act or acts which constitute a breakdown of the marriage relationship. By restricting the allegation to a general statement that the defendant has caused the breakdown of the marriage, an attempt has been made to mitigate the antagonism which exists between persons experiencing marital problems, which antagonism is accentuated when the defendant receives a divorce petition alleging specific acts which constitute a ground or cause for divorce.

In the event service must be made by publication, the published notice will contain the allegation that would otherwise be set forth in the petition for conciliation or dissolution.

The petition will notify defendant that the court will retain jurisdiction of the action for the purpose of determining whether the marriage should be dissolved in the event a reconciliation is not effected or the action dismissed.

The petition must state that the plaintiff will submit to the jurisdiction of the court for the purpose of determining if a reconciliation of the parties can be effected or if the marriage should be terminated.

A period of sixty days is set aside for purposes of conciliation, subject to waiver under certain conditions. A sixty-day period is also provided after the order to plead is entered and before the marriage may be dissolved, subject to waiver in specified cases.

#### **D. Conciliation Conferences**

Under the proposed legislation, the family court commissioner will hold a hearing to be attended by both parties to the action for the purpose of inquiring into the marital dispute and determining the prospects for reconciliation. The family court commissioner will schedule the hearing at the earliest possible time consistent with the time established for appearance of the defendant set forth by the Rules of Civil Procedure. It is believed that an early hearing on the matter, together with prohibiting the petition from setting forth allegations of an inflammatory nature, will help create an atmosphere conducive to reconciling the parties. If it appears that the parties can be reconciled, the family court commissioner is authorized to refer the parties to counseling services provided by the court or recommend that

they consult qualified agencies or persons offering counseling services. All communications between one or both parties and the counselor are privileged, and no person participating in a counseling relationship with the parties shall be permitted to divulge to the court any communications received from the parties.

If at the initial hearing the family court commissioner concludes that the marital dispute cannot be resolved, he may certify his findings to the court and recommend that the remainder of the sixty-day conciliation period be waived. The sixty-day conciliation period may also be waived upon written motion by either party supported by an affidavit setting forth grounds of emergency and necessity and facts which satisfy the court that immediate action is warranted or required to protect the substantive rights or interests of any party or person who might be affected by the decree.

Upon waiver or expiration of the conciliation period, the court will enter an order instructing the defendant to plead, which order commences the running of the second sixty-day period. The order to plead will be entered in all cases where the defendant has appeared as required by the original notice. The order to plead will also be entered when the court sets aside a default entered against the defendant for failure to appear as required by the original notice, and when no default is taken against the defendant for failure to appear as required by the original notice. Upon the expiration of the second sixty-day period or waiver of such period the trial court considers whether the evidence justifies termination of the marriage.

#### **E. Appearance by the Family Court Commissioner in Default Actions**

The proposal provides for the family court commissioner to participate in the trial of actions for dissolution of marriage or separate maintenance when either of the parties fails to appear in the action. For the purposes of this portion of the proposed bill, the term "failure to appear" is construed as meaning failure of the defendant to submit an answer to plaintiff's petition or the failure of the plaintiff to support the petition or oppose any counterclaim by the defendant.

The purpose of providing for the participation of the family court commissioner in default

actions is to ensure that evidence presented by the party seeking to prevail is valid and would justify a decree dissolving the marriage and in order to protect the interests of the parties involved as well as the public interest. To this end the family court commissioner is required to make a fair and impartial investigation and submit his findings to the court. All such findings must be substantiated by competent evidence.

#### **F. Custody Determinations and the Appointment of Attorneys to Represent the Interests of Minor Children**

The Committee recommends that, in the trial of an action for dissolution of marriage, the family court should be authorized at its discretion to cause an investigation to be made with respect to the fitness of the parties to receive custody of minor children. The proposed bill provides that the person conducting the investigation shall prepare a report which shall be made available to the court and the attorney for each party. The report may at the discretion of the court be received into evidence without the stipulation or consent of the parties subject to the right of examination and cross-examination of the person preparing the report and the persons furnishing information on which the report is based.

The court has discretion to cause such investigation and report to be prepared in the trial of any action where minor children are involved. The court might also find it advantageous to use this procedure in default actions where there is no evidence presented by one of the parties to the action and this power is granted to the court in the proposed legislation. In addition, the family court is authorized to appoint an attorney to represent the interests of the children at any stage of a proceeding for dissolution of marriage. Wisconsin has authorized this procedure to be used in cases when the issue of custody and visitation rights is hotly contested by both parties to the action.

#### **G. Alimony, Child Support, and Disposition of Property**

##### **1. Financial Statements Pertinent to the Granting of Alimony and Child Support**

Currently in default or uncontested actions, the courts must rely on the evidence presented by the plaintiff to substantiate the claims for alimony and child support set forth in the divorce

petition. Even in contested actions adequate financial information may not be made available to the court. Consequently, the plaintiff may ask for and receive awards of alimony and child support that do not adequately reflect the needs of the plaintiff and minor children or the ability of the defendant to contribute to their support.

The Committee recommends that any application for temporary or permanent alimony and child support be supported by affidavits setting forth detailed information concerning the financial circumstances of the parties. The financial statements submitted must be adequate for setting both temporary and permanent alimony and support. The statements required to be submitted by the plaintiff with respect to temporary claims will have to include the plaintiff's income and the best estimate of the income of the defendant. Information with respect to personal expenses and debts required to be paid during the anticipated pendency of the action will also have to be included. The defendant will be required to file a financial statement at the time he or she files an application for alimony and child support, or whenever he or she desires to resist the application by the plaintiff, or when the court so orders. If an application for temporary alimony and support is filed with the petition and the court acquires personal jurisdiction over the defendant through service of the original notice, the notice shall inform defendant that a hearing will be held on plaintiff's application at a date and time specified therein.

The affidavits submitted must also contain information satisfactory for the purpose of enabling the court to make an award of permanent alimony, child support, and disposition of property. A detailed listing of income, assets, liabilities, and obligations must be submitted to the court.

## **2. Applications for Public Assistance**

Currently a problem can arise when persons of limited income become parties to an action for divorce. The plaintiff may seek an award of public assistance and at the same time set forth in the divorce petition a claim for either temporary or permanent alimony or child support. On other occasions no demand for alimony or support may be made. A claim set forth in the petition may also be too low to accurately reflect the ability of the defendant to contribute to the support of his family. There appears to be a lack of coordination

between the courts and welfare officials. The proposed bill provides that when the petition contains an application for child support, the commissioner shall, if he has entered into an agreement with the welfare department to do so, furnish the welfare department with a copy of the financial statement in cases where either of the parties is receiving welfare assistance, has applied for welfare assistance, or where application for such assistance appears likely. The court clerk will also furnish the welfare department with copies of any orders or decrees awarding child support. Such information will assist the welfare department with respect to determining the eligibility of the plaintiff to receive public assistance and computing the amount of assistance to be awarded.

## **H. Payment of Alimony and Child Support to the Clerk of Court—Assignment of Support**

The Committee recommends that child support and alimony payments be made to the recipient through the clerk of the court. The proposed legislation further authorizes the commissioner to enter into agreements with the welfare department which provide for reimbursement of grants of public assistance made to a party in an action for dissolution of marriage. In such cases the amount of child support required to be paid by temporary order or final decree will be paid to the clerk of court and remitted to the welfare department. The welfare department has the right to initiate contempt proceedings where a delinquency in payments occurs. The success of the provisions of this portion of the proposed bill may depend to a great extent upon the willingness of county welfare departments to cooperate with the family courts in implementing the procedures enumerated.

## **1. Contempt Proceedings**

In the legislative proposal, the Committee has directed attention to several problems which occur under the present procedures for initiating contempt proceedings against a party who has been delinquent in making alimony and child support payments. Currently a party who has defaulted in making payments can avoid punishment for contempt by paying the amounts in default immediately prior to the contempt hearing date. For example, the party required to pay can delay making the payments until the person en-

titled to them is forced to initiate contempt proceedings and the contempt citation is avoided by a last minute payment. To correct this situation, the proposed legislation sets forth procedures in accordance with which the delinquent party shall be required to attend a hearing and if it is shown that the default in payments has been willful, the party may be punished for contempt, regardless of whether he has paid the amounts in default prior to the hearing. It is felt that such an allowable procedure will aid in preventing habitually late payments of alimony and support. The Committee also recommends that when a party entitled to support payments initiates contempt proceedings and the defaulting party is found to be in contempt, such party will be taxed with the cost of the contempt action.

Although the current statutes do not require an employer to accept a wage assignment, the recommended legislation provides for the court to request an assignment as the result of a finding that the delinquent party has been in willful default. If the employer accepts the assignment, an amount equal to the amount of alimony and child support required to be paid will be deducted from the employee's salary and remitted to the clerk of court. The assignment shall apply to amounts in default as well as payments to be made in the future.

An amendment to the current statute provides that willful defaults in payment of temporary, as opposed to permanent, alimony and child support shall be subject to contempt proceedings. Currently, only defaults in final judgments of alimony and support appear to be subject to contempt proceedings.

#### **J. Courts Exercising Concurrent Jurisdiction**

During the course of the study, the Committee was informed that proceedings affecting a divorce decree may be subsequently commenced in a court other than the court granting the decree. Since the court issuing the decree retains jurisdiction to modify the terms of the decree with respect to matters of alimony, child support, and custody, it is possible that courts in two separate judicial districts may adjudicate the same issues. In such cases, both courts might issue orders that are in direct conflict. For example, if adoption proceedings involving the minor children of a divorced couple were commenced in a

court other than the court granting the decree, each court might enter an order affecting such children without the knowledge of the action of the other court. The court hearing the adoption proceeding might enter an order granting the adoption with the consent of the parent who had been granted custody by the divorce decree. Just prior to the entering of such order, the court granting the decree might hold a hearing on an application to modify custody, and as a result enter a conflicting order giving custody to the other parent.

To remedy this situation, the Committee recommends that whenever a proceeding involving the parties to a divorce decree is commenced in a court other than the court granting the decree, such court must serve notice of such proceeding upon the parties to the original action, if the parties can be located. The court, or either of the parties to the decree, may request that a copy of the transcript of the proceedings of the court which granted the decree be made available for the consideration of the court in which the proceedings for adoption or modification of alimony, support, or custody are pending.

#### **K. Grounds for Dissolution of Marriage—Repeal of Doctrine of Recrimination**

The grounds or causes for which a decree of divorce may be granted have been previously mentioned in this report. Although the grounds are available to either the husband or the wife, they are, under the adversary system, predicated on one of the parties being at fault. A divorce decree may be granted upon proof of any of the grounds or causes, provided both parties have not been at fault.

The Committee recommends that the statutes with respect to grounds be replaced by a provision authorizing the court to enter a decree dissolving a marriage upon satisfactory evidence that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved. The court will be authorized to consider all evidence presented, including, but not limited to, the commission of adultery; willful desertion without reasonable cause for a space of two years; conviction of a felony after the marriage; chronic alcoholism; inhuman treat-

ment affecting physical or mental well-being; incurable mental illness for a continuous period of three years immediately preceding the filing of the action, requiring confinement to an institution, home, or other facility and based upon the testimony of a qualified member of the medical profession that such spouse is incurably mentally ill; pregnancy of the wife at the time of the marriage, unknown by the husband, by a person other than the husband; when the husband and wife have voluntarily lived entirely separate for three years next preceding the commencement of the action; and the existence of an illegitimate child or children of one of the spouses, then living,

which is unknown to the other spouse at the time of the marriage.

No marriage dissolution decree granted due to the mental illness of one of the spouses shall relieve the other spouse of any obligation imposed by law as a result of the marriage for the support of the mentally ill spouse, and the court may make an order for such support.

The current grounds are thus included as evidence to be considered by the court. It should also be noted that the doctrine of recrimination is repealed by the proposed bill.

# Final Report of the Drainage Laws Study Committee

Senate Concurrent Resolution 41 of the Sixty-first General Assembly requested that the Legislative Research Committee conduct a study to determine what revisions were needed in Iowa's drainage laws in order to make them less cumbersome and more relevant to present-day conditions. The Legislative Research Committee was also requested to establish a study committee to conduct the study, and to include as advisory members of the Study Committee drainage attorneys and engineers, members of county boards of supervisors, farm landowners or tenants, and a representative of cities and towns.

Accordingly, the Drainage Laws Study Committee was established in October, 1965, and Representative Elroy Maule of Onawa was designated as Chairman. Senator Lucas J. De Koster of Hull was elected Vice Chairman at the Study Committee's organizational meeting. Other legislators serving on the 1965-67 Drainage Laws Study Committee were Senators Robert R. Dodds of Danville, Delbert W. Floy of Thornton, Seeley G. Lodwick of Wever, and Donald W. Murray of Bancroft, and Representatives Henry W. Busch of Waverly, Dale M. Cochran of Eagle Grove, Marvin S. Shirley of Minburn, and William P. Winkelman of Lohrville. In the summer of 1966, upon the resignation from the Legislature of Representative Maule, the Legislative Research Committee designated Senator George E. O'Malley of Des Moines to act as Study Committee Chairman for the balance of the 1965-67 interim.

Advisory members of the Study Committee were Mr. Sewell Allen, Onawa, attorney; Mr. C. Arthur Elliott, Jefferson, Greene County Engineer; Mr. E. A. Fredericks, Hansell, Franklin County Supervisor; Mr. Edwin A. Hicklin, Wapello, attorney; Mr. Marvin O. Kruse, Spencer, engineer; Mr. A. R. Rehnstrom, Linn Grove, Buena Vista County Supervisor; Mr. H. Andrew Schill, Fort Dodge, attorney; Mr. Ralph H. Wallace, Mason City, engineer; and Mr. B. L. Willis, Lake City, attorney. Mr. Fredericks and Mr. Rehnstrom were considered qualified to represent the views of farm landowners as well as those of county boards of supervisors (several of the legis-

lators on the Study Committee are also farmers). Mr. Willis was requested by the League of Iowa Municipalities to represent cities and towns on the Study Committee. Each of the attorneys and engineers who served on the Study Committee has had considerable experience in drainage matters.

By early 1966, it was already becoming apparent that more than one interim would be required to complete a thorough study of the problems, some rather technical and complex, relating to Iowa's drainage laws. Senate Concurrent Resolution 61 of the Sixty-second General Assembly directed that the study be continued during the 1967-69 interim. Representative Cochran was designated Chairman of the 1967-69 Drainage Laws Study Committee. Senator De Koster continued as a member of the Study Committee, but requested that he not be reelected Vice Chairman. He was succeeded in that position by Senator Arthur A. Neu of Carroll, who was named to the 1967-69 Study Committee together with Senators Stanley M. Heaberlin of Pleasantville, Franklin S. Main of Lamoni, and James F. Schaben of Dunlap. Representatives Busch and Winkelman continued as members of the Study Committee, and Representatives Milton Distelhorst and Edwin A. Hicklin (who had been elected to the House of Representatives while serving as an advisory member of the Study Committee) were appointed to the 1967-69 Study Committee. Representative Busch subsequently found it necessary to resign from the Study Committee, and was succeeded by Representative Dale L. Tieden of Garnavillo. All advisory members, other than Representative Hicklin, who had previously served were reappointed for the 1967-69 interim. However, Mr. Fredericks was unable to continue on the Study Committee.

## STUDY PROCEDURE

The Drainage Laws Study Committee's initial meeting was held on October 12, 1965. It was decided to begin the study of Iowa drainage laws by holding a number of regional hearings, at which county officials, engineers, attorneys, landowners, soil conservation and natural re-

sources officials and employees, drainage and levee district officers, and any other interested parties were invited to appear. Persons attending the hearings were invited to discuss problems they believed should be considered by the Study Committee, and present suggestions for specific changes which should be made in Iowa's drainage laws.

Regional hearings were held simultaneously at five points, Atlantic, Cherokee, Fort Dodge, Ottumwa, and Waterloo, on November 3, 1965, with one or more members of the Study Committee in attendance at each hearing. A list of the problems identified and suggestions presented at the five hearings was compiled, and became the basis for much of the Committee's subsequent work.

Beginning in December, 1965, and continuing through much of 1966, the Study Committee held a series of meetings at which the problems identified and suggestions presented at the regional hearings were reviewed and considered. Representatives of various state and federal agencies having responsibilities relevant to drainage appeared before the Committee, as well as individual attorneys and engineers with experience in drainage work, and professors of law and engineering from both Iowa State University in Ames and The University of Iowa in Iowa City.

Gradually, the Study Committee members began to view the numerous suggestions and problems as falling into two basic categories:

1. Amendments to various existing statutes governing or relating to drainage and levee districts, to clarify and update these statutes.
2. New legislation to overcome the troublesome problems associated with drainage districts which are common outlets (see explanation on page 35 of this report), and to develop a coordinated approach to such related matters as drainage, flood control, and soil erosion control within the entire area drained by a single stream or a major stream and its tributaries. This coordinated approach to control and disposition of water in a stream or interconnected group of streams is referred to in this report as the "watershed concept."

Upon resumption of the Drainage Laws Study in the fall of 1967, the Study Committee arranged to visit and inspect the Little Sioux Intercounty Drainage District, in western Monona and extreme northwestern Harrison Counties, believed to be the only example in Iowa of a coordinated regional approach to drainage, flood control, and soil erosion control. Detailed explanations of the project were received from the U.S. Army Corps of Engineers, the Soil Conservation Service, and officers and employees of the District, and Study Committee members made both an aerial inspection of the District and a surface tour of the improvements along the Little Sioux River.

The Study Committee decided to conduct its work during the balance of the 1967-69 interim by assigning first priority to consideration of amendments to existing drainage and related statutes. It was agreed that as soon as recommendations to the 1969 Legislature for amendments to existing statutes could be formulated and made final, the Study Committee would turn its attention to the watershed concept during the balance of the interim.

#### **Technical Subcommittee**

In order to draw upon the considerable experience in drainage and related matters possessed by advisory members of the Study Committee, a six-member Technical Subcommittee was appointed by Study Committee Chairman Cochran to undertake the actual drafting of legislative proposals. Representative Cochran also acted as Chairman of the Subcommittee, and appointed as its members Representative Hicklin, Mr. Allen, and Mr. Schill, attorneys, and Mr. Kruse and Mr. Wallace, engineers. Bills drafted by members of the Technical Subcommittee were, of course, reviewed, criticized, and in some cases revised by the full Study Committee, before being recommended to the Legislative Research Committee and the Sixty-third General Assembly.

#### **RECOMMENDED AMENDMENTS TO EXISTING DRAINAGE STATUTES**

In preparing to draft the amendments to existing drainage statutes, the compiled list of problems identified and suggestions presented at the 1965 regional hearings was again reviewed, and those problems and suggestions which dupli-

cated or were closely related to each other were combined into what were referred to as "problem groups." Those matters which related to the difficulties associated with common outlets were deferred for later consideration in connection with the watershed concept. The full Study Committee determined which of the other problems, suggestions, or problem groups were to be referred to the Technical Subcommittee.

The Technical Subcommittee held three separate meetings covering a total of seven days in December, 1967 and January, 1968, to consider the matters referred to it and draft legislative proposals. These proposals were submitted to the full Committee, and were reviewed, discussed extensively, and in some cases revised before a final vote was taken on each. A few of the Subcommittee's proposals were rejected by the full Study Committee, but most were adopted, either as reported or with revisions, and are found in House File 16, entitled "A Bill For An Act relating to drainage and levee districts."

The Study Committee recommends the enactment of House File 16 by the Sixty-third General Assembly. The bill consists of sixty-eight sections which are organized in chronological order of the section or chapter of the Code to be amended, and the various parts of the bill will be discussed in that general order. However, where two or more amendments are closely related, they are discussed jointly rather than in strict chronological order.

#### **Drainage and Levee District Assessments and Obligations**

House File 16 includes a number of sections relating in various ways to fixing and collection of assessments, and the sale of financial obligations of drainage and levee districts.

Sections 1, 15, 17, 24, and 25 of House File 16 are intended to improve the negotiability of interest bearing obligations of drainage and levee districts, and to facilitate the financing of improvements by drainage and levee districts. The basic change made by these sections is to increase the permissible rates of interest on drainage and levee district warrants from four to five percent per year.

Improvements and repairs in drainage and levee districts are financed by assessments

against benefited land. Because such assessments are collected in the same manner as property taxes, they are usually not paid for several months after being placed against the benefited land, and in some cases may be paid in installments over a number of years. Therefore it is a common procedure for contractors who have constructed improvements or repairs in drainage and levee districts to receive warrants which are stamped by the county treasurer to indicate that they have not been paid, for lack of funds. Unless the contractor wishes to be in the position of lending his own funds to the drainage or levee district, he must sell the stamped warrants to a bank or other investor.

Stamped warrants of drainage districts are presently being sold at a discount from face value, in some instances, due to their relatively low maximum interest rate of four percent. As a result, drainage and levee districts often receive higher bids on improvements and repairs than would otherwise be submitted, because contractors wish to protect themselves against the difficulty they expect to experience in selling the districts' stamped warrants. In view of the prevailing high interest rates, it is believed that the permissible rate of interest on drainage and levee district warrants should be increased to five percent.

Since counties, cities, and school districts do not rely on issuance of stamped warrants to finance their operations to so great an extent, or for such long periods of time, as do drainage and levee districts, the Study Committee does not propose an increase in the maximum rate of interest which may be paid on the stamped warrants of all political subdivisions of the state. Instead, it is proposed to remove the direct reference to drainage warrants in section 74.2, *Code of Iowa* (1966), and to substitute for that reference a new section to be added to chapter 455 of the Code, making chapter 74 of the Code applicable in all respects, other than permissible rate of interest, to all warrants legally drawn on drainage and levee district funds. These amendments are effected by sections 1 and 25, respectively, of House File 16.

Sections 15, 17, and 24 permit drainage and levee districts to provide for payment of assessments on benefited land in up to twenty equal installments, with interest at not to exceed five percent per year, and to issue warrants, bearing interest at the same rate, which show a specified

maturity date in lieu of being stamped to indicate nonpayment for lack of funds. This additional authority will give drainage and levee districts added flexibility in financing their improvements.

Sections 455.64, 455.81, and 455.91, *Code of Iowa* (1966), provide that under certain circumstances any landowner, against whom drainage or levee district assessments in excess of twenty dollars have been made, may elect or be permitted by the district to pay the assessment in installments. Since it is believed that the twenty dollar figure has become unrealistically low, sections 16, 18, and 19 of House File 16 amend sections 455.64, 455.81, and 455.91, respectively, to increase the twenty dollar minimum for installment payments to one hundred dollars.

Sections 61, 62, and 63 of House File 16 amend sections 466.4, 466.5, and 466.7, respectively, *Code of Iowa* (1966), which relate to certain assessments that may be levied by drainage districts established in connection with construction and maintenance of United States levees along Iowa's border rivers. The purpose of the three amendments is to make clear that the valuations on which such assessments are based include both the land and improvements. The amendments also increase the time for collecting such drainage assessments to a maximum of twenty years, and permit a levy in excess of the present maximum of twelve and one-half mills for certain purposes.

#### **Administration of Drainage Districts**

Sections 2 and 3, 37 through 60, inclusive, and 64 through 68, inclusive, of House File 16 relate to the administration of drainage districts: Under present law, the governing body of any drainage or levee district is the county board of supervisors (or, in the case of districts extending into more than one county, the joint boards of supervisors) unless the drainage or levee district takes action to establish its own board of trustees under chapter 462 of the Code. Many levee districts and some drainage districts are governed by boards of trustees, but a great many of the state's drainage districts are too small to make it practicable for them to have their own boards of trustees. Although members of the Study Committee are not unanimous in their thinking on this point, the majority of its members believe that state law should offer to all drainage dis-

tricts a practicable alternative to administration by county boards of supervisors.

There is certainly no intent to criticize any board or boards of supervisors for their past or present management of drainage districts. One of the concerns of some Study Committee members is that the United States Supreme Court's decision in *Avery v. Midland County, Texas*, apparently will require election of governing boards of political subdivisions, such as county boards of supervisors, on a strict population basis. This may well lead to election, in some counties, of boards of supervisors which are composed largely or entirely of urban residents who may not be well informed about nor greatly concerned with matters such as drainage of agricultural lands. Under such circumstances, the board of supervisors might welcome the opportunity to assign responsibility for administration of drainage districts in the county to an appointive board of three county drainage administrators, which could be established under sections 64 through 68, inclusive, of House File 16.

It should also be recognized that present law may operate to place a county board of supervisors in a position where they must try to represent two somewhat conflicting interests simultaneously. For example, when construction or improvement of a drainage district is proposed, the county board of supervisors in its role as governing body of the drainage district must approve assessments against secondary roads and other county-owned land presumed to be benefited by the construction or improvement of the drainage district. It is in the interest of the landowners of the drainage district that county-owned lands receive an assessment fully reflecting all benefit these lands can fairly be deemed to receive, since the greater the proportion of the cost of the project borne by the county, the less will have to be borne directly by the landowners. However, in their role as governing body of the county generally, the supervisors have a duty to insure that county-owned lands do not bear an undue proportion of the cost of construction or improvement of a drainage district. Thus, the interests of landowners in the drainage district and those of county taxpayers generally conflict to some degree, and the board of supervisors, theoretically, must represent the interests of both groups.

Under sections 64 through 68 of House File 16, any county board of supervisors which elects

to establish a board of county drainage administrators must first "divide the county, along township lines, into three drainage administrator areas of approximately equal territory." The board of county drainage administrators, which would be appointed by the county board of supervisors and thus not subject to the one-man, one-vote rule, would consist of one resident freeholder from each drainage administrator area, and at least two of the appointees must be agricultural landowners. The terms of the drainage administrators would be staggered, one member being appointed each year for a three-year term.

Each member of the board of drainage administrators would be entitled to receive \$17.50 per day, plus actual and necessary expenses, for each day devoted to the duties of his office. (House File 16 also includes an amendment to raise the pay of drainage and levee district trustees to the same figure.) The drainage administrators' per diem pay and expenses for any particular day must be paid from the funds of the drainage district on whose business the administrators were engaged on that day. If the administrators handle business of more than one district on the same day they must prorate their claims, but in no case may any administrator receive more than a total of \$17.50 per day plus actual and necessary expenses.

When a board of drainage administrators is established in a particular county, it succeeds to all powers, duties, and responsibilities conferred on the board of supervisors of that county by chapters 455 through 467, inclusive (except chapter 455A, relating to the Iowa Natural Resources Council). Establishment of a board of county drainage administrators does not preclude any individual drainage or levee district in the county from establishing or continuing to have its own district board of trustees under chapter 462 of the Code.

**Individual Drainage Rights**—Sections 37 through 60, inclusive, of House File 16 are a series of amendments to chapter 465, *Code of Iowa* (1966), which transfer to county boards of supervisors and county auditors the present administrative responsibilities and duties of township trustees and township clerks with respect to individual drainage rights. These duties and responsibilities will in turn pass from the county board of supervisors to the board of county drainage administrators in any county where the latter board is established.

In most cases townships are no longer of great importance as political subdivisions of the state, and it is believed that in some instances the offices of township trustee and township clerk are vacant. Statements made at the regional hearings in 1965 indicated some dissatisfaction with the extent and accuracy of records kept by township officers with respect to privately installed tile and other individual drainage matters. Since county officers already have some responsibilities in connection with individual drainage rights, under sections 465.24 through 465.31, inclusive, *Code of Iowa* (1966), it is the Study Committee's recommendation that all responsibilities and duties of township officers which relate to individual drainage rights be transferred to county officers, as a part of the updating of Iowa's drainage laws proposed by this report.

#### **Drainage Districts Within Cities or Towns**

Changes which the Study Committee believes are needed in the present statutes governing relationships between drainage districts and cities and towns are made by sections 4, 6, 7, 11, 12, subsection 1 of section 13, and sections 31 through 34, inclusive, of House File 16.

The sections referred to are intended to correct two basic problems. One is the red tape and expense presently involved in the spreading of drainage assessments within the corporate limits of cities and towns. The other is the utilization of drainage districts by cities and towns for purposes other than that for which the districts were originally established.

Under present law, when land within the corporate limits of a city or town is included in the territory benefited by construction of a drainage district or improvements or repairs in an existing drainage district, each individual lot within the city or town must be treated in the same manner as a farm or tract of land in unincorporated areas outside the city or town. Notice must be given to the owner of each lot, the benefit to be derived by each individual lot from construction or improvement of the drainage district must be determined, and an assessment made against each individual lot in accordance with the benefit to be derived by that lot. It was pointed out during the 1965 regional hearings that individual assessments against lots within a city or town frequently amount to no more than a few cents, and the amount of the actual assessment in such cases

is exceeded by the cost of giving notice, determining benefits, and making the assessments against individual lots.

The amendments made by sections 6, 7, 11, 12, and subsection 1 of section 13 of House File 16 provide for notice of the proposed establishment of a drainage district to be given to, and benefits to be determined and assessed against, the city or town as such rather than against individual lots within the city or town. Section 4 of the bill amends section 404.13 of the Code to permit cities and towns to pay assessments for establishment, maintenance, improvement, or repair of drainage districts lying partially within their corporate limits, from the debt service fund, and to adjust the levy for such fund accordingly. Providing for payment of drainage assessments against cities and towns out of the debt service fund avoids further burdening the maximum 30 mill levy which cities and towns are permitted to make for general operating purposes.

Section 31 of House File 16 makes a minor conforming amendment to section 459.6, *Code of Iowa* (1966), also relating to assessment of property within cities and towns by drainage districts.

**Control by Cities and Towns**—Sections 32, 33, and 34 of House File 16 repeal sections 459.8, 459.9, and 459.10, *Code of Iowa* (1966), and substitute new sections which, in effect, reverse the present law with respect to assumption of control of a drainage district by a city or town.

Present sections 459.8, 459.9, and 459.10 authorize city and town councils to determine whether and when it is in the best interest of the city or town to assume control of any drainage district, twenty-five percent or more of which lies within the corporate limits of the city or town. If the council determines that the city or town should assume control of such a drainage district, and passes a resolution so informing the county board of supervisors, the board of supervisors has no choice but to relinquish control of the drainage district to the city or town, and transfer to the city or town all funds of the drainage district held by the county treasurer. It is thereafter the responsibility of the city or town to maintain the drainage district.

It was pointed out during the 1965 regional hearings that there are instances in Iowa of smaller communities, particularly, making use of

drainage district watercourses as outlets for both storm and sanitary sewers. While present section 459.8 specifically permits assumption of control of the drainage district by the city or town under such circumstances, if twenty-five percent or more of the drainage district lies within the city or town, the discretion to initiate such assumption of control lies entirely with the city or town. Often the city or town does not choose to assume responsibility for maintenance of the drainage district, even though such city or town receives the greater benefit from the facilities of the district and places the greater burden on such facilities.

The Study Committee therefore recommends that discretion to initiate transfer of control of a drainage district to a city or town be vested with the county board of supervisors, and that when the board elects to initiate such a transfer the city or town be required to accept control and responsibility for subsequent maintenance of the drainage district, if twenty-five percent or more of the district lies within the corporate limits of the city or town, the district's drains are wholly or partially constructed of sewer tile, and are needed or being used by the city or town for sewer or drainage purposes. Sections 32, 33, and 34 of House File 16 implement this recommendation.

#### **Definition of "Engineer"**

Section 5 of House File 16 strikes the present, somewhat outdated, definition of the terms "engineer" and "civil engineer" from section 455.4, *Code of Iowa* (1966), and substitutes the following new definition:

"The term 'engineer' and the term 'civil engineer,' within the meaning of this chapter and chapters 457, 460, 461, 465, and 466, shall mean a person registered as a professional engineer under the provisions of chapter 114."

It is believed by the Study Committee that all qualified engineers now are registered, or can become registered with a minimum of difficulty.

#### **Acquisition of Land for Certain Purposes**

Sections 8 and 22 of House File 16 relate to acquisition of land by drainage or levee districts for certain specified purposes, and to the manner in which land may be acquired for these purposes.

Section 455.29, *Code of Iowa* (1966), presently authorizes purchase or lease, in lieu of condemnation, of land needed for settling basins which are to become part of a drainage improvement. Section 8 of the bill broadens section 455.29 to also authorize purchase, rather than condemnation, of land required for right-of-way for open ditches or other drainage improvements.

Section 455.137, *Code of Iowa* (1966), permits drainage and levee districts, either independently or jointly, to construct water impoundments, either within or outside of the territory of the district, to protect land and drainage structures within the district "at such times as outletting is retarded." In order to better enable drainage and levee districts to protect their lands and structures from siltation and damage due to rapid runoff from higher land, section 22 of House File 16 expands the present authority granted by section 455.137 to include "other flood and erosion control devices" as well as impoundment areas. Section 22 also removes from section 455.137 the restrictive phrase "at such times as outletting is retarded," and adds specific authority for acquisition of necessary lands or easements by eminent domain as well as by purchase, lease, or other agreement, as presently authorized.

#### **Reclassification Before Improvement or Repair**

Section 9, subsection 2 of section 13, and section 14 of House File 16 make changes in present procedures prescribed for assessment of benefits for drainage district improvements and repairs, and for giving notice of these assessments. The cost of such improvements and repairs is paid by assessment of the land in the drainage or levee district. The amount to be assessed against each tract of land in the district is determined on the basis of the benefit to be derived by the land from the drainage district improvement or repair, as fixed by three commissioners appointed by the governing board of the district pursuant to section 455.45, *Code of Iowa* (1966).

The process of determining the relative benefits derived from drainage district improvements or repairs by various tracts of land in the district is known as classification. Sections 455.9 and 455.19 of the Code have for the past several years provided a means for having a classification of land in a proposed drainage or levee district made before the district is actually established, so that the final decision on establishment of the district

may be made with full knowledge of the probable cost each landowner will incur if the district is established. However, it was pointed out during the 1965 regional hearings that, where a district has previously been established, the letting of a contract for construction of an improvement or repair is required before a reclassification of the land in the district, or the portion of the district involved, is made. Section 9 of House File 16 will remove from section 455.45 the requirement that a contract be let before a reclassification can be made.

Subsection 2 of section 13 and section 14 of House File 16 amend sections 455.51 and 455.52, respectively, of the Code to bring them into conformity with section 455.45 as amended by section 9 of the bill. The effect of the amendments made by subsection 2 of section 13 and section 14 is to permit reference to estimated cost and assessments for improvements or repairs in drainage or levee districts, where a classification has been made prior to actual letting of the contract for the work proposed to be done.

In addition, section 14 will permit a substantial saving in the cost of preparing and giving the notice required by section 455.52, by permitting the notice to state simply that there is available, in the office of the county auditor, the full report of the actual or estimated costs of, and assessments for construction of, improvements or repairs in the drainage district. It is presently necessary to set forth the costs and assessment in full in the notice to landowners, thus requiring a lengthy and detailed notice which is bulky to mail and expensive to publish.

#### **Clarifying Amendment**

Section 10 of House File 16 also amends rather extensively a section relating to reclassification, section 455.48, *Code of Iowa* (1966), entitled "Assessment for lateral ditches—reclassification of benefited lands." However, this amendment is entirely for purposes of clarification and does not change the substantive provisions of section 455.48.

#### **Drains or Levees Crossing Highways**

Section 455.118 of the Code at one time required county boards of supervisors to move, build, or rebuild bridges, ditches, or drains upon or across secondary roads, when made necessary

by construction or improvement of a drainage district. In 1937 language giving boards of supervisors discretion to perform such work or not, as they see fit, was inserted in this section. The Study Committee recommends that the 1937 amendment be deleted, and that the section be broadened to impose the same requirement upon the Highway Commission with respect to primary or interstate roads. Section 20 of House File 16 implements these recommendations.

#### Revision of Section 455.135

Section 455.135, *Code of Iowa* (1966), relating to repairs and improvements in drainage and levee districts, is a key part of Iowa's basic drainage law. It is also a very lengthy section, containing 208 lines in the 1966 Code. It has been amended and expanded over the years since its original enactment, and the section as a whole is now somewhat poorly organized.

Section 21 of House File 16 makes a number of changes in section 455.135, primarily for the purpose of clarifying the intent of the section and improving its organization, although some substantive revisions are made. The substantive revisions include:

1. Raising the maximum cost of a repair which may be made by the governing board of the drainage district without a prior hearing, from fifty to seventy-five percent of the original total cost of constructing the district's drains or levees plus the cost of any subsequent improvements in these structures.
2. Raising from \$500 to \$1,000 the maximum cost of "minor repairs" which may be made by use of county secondary road or weed control equipment, with reimbursement to the secondary road fund or weed fund from the fund of the drainage or levee district for which the work was performed.
3. Making the appointment of an engineer to make appropriate surveys and file a report, prior to final action on any improvements in the drainage or levee district, mandatory rather than permissive.
4. Removing from subsection 4 the specific list of types of work which constitute improvements. (Since the list apparently was

not intended to be exclusive, it is believed that it is potentially confusing and adds little or nothing to the meaning of the statute.)

5. Changing the description of an individual who may be hired by the governing board of a drainage or levee district to survey the land in the district for the purpose of determining the precise boundaries of the district's right-of-way, from "an engineer" to the more appropriate term "a land surveyor."

In rearranging section 455.135 for greater clarity, the substance of subsection 7 has been incorporated into subsections 1 and 4, largely in the same phraseology as presently appears in the Code. The last two sentences of subsection 6, as it appears in the 1966 Code, are made a separate subsection numbered as subsection 7.

Much of the language of subsection 8, as it appears in the 1966 Code, is moved to subsection 6 in order to place relevant material in one subsection. The present subsection 9, as amended, is renumbered as subsection 8.

#### Alternative Method of Assessment

Section 23 of House File 16 would add an entirely new section to the drainage law, which it is proposed to insert in the Code as section 455.197. The purpose of the proposed new section is to provide an alternative method of assessment for use by levee districts, or drainage districts in some cases, under which assessments against each tract of land in the district would be based upon general property tax assessment procedures and valuations, rather than being fixed according to benefits derived by each tract of land as determined by benefit commissioners.

Most of the legislative proposal which appears as section 23 of House File 16 was presented to the Study Committee at the Ottumwa regional hearing in 1965 by Mr. Harvey G. Allbee, Sr., a Muscatine attorney who drafted it together with several other southeastern Iowa attorneys. The draft was eventually referred to the Technical Subcommittee which, after careful consideration, reported it back to the full Study Committee with minor revisions and a favorable recommendation.

Subsections 1 through 6 of section 23 make use of general property assessments in the assessment of benefits for levee district purposes. Subsection 6 provides that in lieu of calling a hearing, as specified in subsections 1 through 5, the governing board of the levee district may call an election and propose the question of providing for the alternative method of classification.

Subsection 7 provides still another alternative method of fixing assessments in levee districts, for use only after the district has been established and its facilities constructed. The levee district may then reclassify upon a flat dollars-per-acre valuation arrived at by dividing the total number of acres in the district into the total amount assessed.

As reported to the full Study Committee by the Technical Subcommittee, the Allbee draft did not apply to drainage districts and did not include the subsection which appears as subsection 8 of section 23 of House File 16. After much consideration and discussion by the full Study Committee, it was decided to insert subsection 8, which permits drainage districts to "adopt methods of assessment for maintenance, repair, and operation of said district uniform as to all land in the district in the same manner and by the same procedures as prescribed in subsections 1 through 7" of section 23. It will be noted that subsection 8 also limits assessments for maintenance, repair, and operation of particular mains and laterals to the lands drained by such mains and laterals, and prohibits the use of assessments based on general property tax valuations for financing of improvements in the drainage system.

#### **Installation of Utility Structures On or Across Drainage Facilities**

Section 26 of House File 16 also adds to the present drainage laws an entirely new provision, relating to construction of pipelines, electrical or communication lines, or other utility installations, except railroads, across drainage and levee district facilities. This legislation was drafted by the Technical Subcommittee during the summer of 1968, after it had been brought to the Study Committee's attention that a number of pipelines were then under construction or definitely planned for construction in the near future in Iowa, and that there appeared to be a need for more definite statutory authority for drainage and levee districts to control the construction of utility installations across the districts' facilities.

Subsection 1 of section 26 requires that any person or firm which proposes to construct a utility installation across the facilities of a drainage or levee district must first obtain from the district an easement to cross the district's right-of-way. This requirement gives drainage and levee districts the opportunity to grant the easement on such conditions as they believe necessary to adequately protect their facilities. Subsection 1 also specifies that the party constructing the utility installation shall pay all costs of reconstruction, relocation, modification, or reinstallation of the drainage or levee district's facilities which may be necessary as a result of the utility installation.

Subsection 2 states that, after the utility installation across the drainage or levee district's facility has been completed, the utility installation shall be maintained by the party which constructed it or the successors in interest, and the drainage or levee district facility shall be maintained by the district. If it is subsequently necessary to modify, relocate, or reconstruct the utility installation due to maintenance, improvement, or reconstruction of the drainage or levee district's facility, the expense of the modification, relocation, or reconstruction of the utility installation must be borne by the party which made the installation or its successors in interest.

Railroads are specifically exempted from the provisions of section 26 of House File 16, because procedure at points where railroads cross drainage and levee district facilities is prescribed by sections 455.119 through 455.123, inclusive, *Code of Iowa* (1966).

#### **Legalizing Act**

Another new section is added to chapter 455 of the Code by section 27 of House File 16. This is a blanket legalizing act for all proceedings taken prior to July 1, 1968, to establish or reestablish a drainage or levee district, change or enlarge the boundaries of any such district, or make any assessment in any such district, which have not previously been declared invalid by any court and which are not presently the subject of any pending litigation. It is believed this legalizing act will confirm the permanent status of drainage and levee districts and may thereby aid in improving the marketability of the districts' warrants, or other evidence of indebtedness.

### Alternative Procedure to Enlarge Districts

The need for a more direct and less burdensome method of adding land to existing drainage or levee districts in cases where all parties involved are in agreement on the proposed expansion, as an alternative to the methods presently prescribed in sections 455.128, 455.129, and 455.130, *Code of Iowa* (1966), was called to the Study Committee's attention during the 1965 regional hearings. Section 28 of House File 16 is intended to add to chapter 455 such an alternative procedure for inclusion of additional land in existing districts.

Section 28 permits the governing boards of drainage and levee districts to enter into written agreements with the owners of land lying outside of the districts, to provide levee or drainage services to such lands on certain conditions specified in the three subsections of section 28, and such additional conditions as the governing board deems necessary. In this manner, it is possible to avoid the necessity of holding formal hearings upon what is in effect an annexation to which all parties agree, and it is also possible to avoid the necessity of immediately placing assessments against the land being added to the district, as is now required by section 455.130, in cases where the governing board of the district involved concludes that the making of such assessments would be inequitable.

### Official Records of Intercounty Districts

Section 30 of House File 16 adds two new sections to chapter 457, *Code of Iowa* (1966), relating to intercounty drainage or levee districts. The first of the new sections provides that, although the auditor of each county in which any part of the intercounty drainage or levee district lies shall continue to maintain records of all proceedings of the district, the records in the office of the auditor of the county in which the largest proportion of the district's acreage lies shall be the district's official records. The other new section makes the treasurer of the county in which the largest proportion of the district's acreage lies responsible for the safekeeping, recording, and disbursement of the district's funds.

### Miscellaneous Amendments

In addition to the amendments to existing drainage statutes previously discussed, House

File 16 makes the following miscellaneous amendments:

1. Section 457.2, *Code of Iowa* (1966), provides that when establishment of an intercounty drainage or levee district is proposed the boards of supervisors of the counties involved shall each appoint one benefit commissioner, and these benefit commissioners shall jointly select a competent engineer who shall also act as a commissioner. In order to expedite the procedure for establishment of intercounty districts, section 29 of House File 16 changes the present procedure slightly, to provide that the joint boards of supervisors shall select the engineer to serve as the additional benefit commissioner.
2. Section 462.12, *Code of Iowa* (1966), requires that, where the weight of a landowner's vote for trustees of a levee or drainage district is determined in proportion to the assessment placed against such owner's land for benefits derived by the land from the district, each owner "shall be entitled to one vote for each ten dollars or fraction thereof of the original assessment *for benefits.*" Section 35 of House File 16 strikes the italicized words and inserts in lieu thereof the words "under the current classification." It is believed this change is equitable since a reclassification, made subsequent to establishment of proportionate voting procedure in a district, may substantially alter the proportion of one landowner's assessment as compared to that of another landowner.
3. Section 36 of House File 16 raises the per diem pay received by trustees of levee and drainage districts, and by the trustees' clerk, from \$7.00 to \$17.50, and continues the present authorization for reimbursement for any necessary expenses.

Also, references in a number of places in the drainage statutes to the secondary road maintenance fund and the secondary road construction fund have been changed to refer simply to the secondary road fund, in accordance with section 309.12, *Code of Iowa* (1966).

### CONSERVANCY DISTRICT BILL

In addition to the amendments to existing drainage statutes discussed in the preceding par-

agraphs of this report, the Drainage Laws Study Committee presents for the consideration of the Sixty-third General Assembly House File 17, entitled "A Bill For An Act providing for establishment and administration of conservancy districts." The proposed conservancy districts, six in number, will encompass the entire state of Iowa and are drawn along the natural dividing lines between the watershed areas of Iowa's major river systems, or groups of rivers. (See map on page 36.)

The objectives of House File 17 and the philosophy on which it is based are set forth in section 1, which is a statement of policy. Some explanation of the reasons the Study Committee decided to proceed with the drafting of this bill may be helpful in evaluating it.

NOTE: Preceding paragraphs of the Drainage Laws Study Committee's report contain a number of specific references to levee districts, as well as joint references to drainage and levee districts. In succeeding paragraphs, however, all references to drainage districts apply equally to levee districts unless otherwise specified.

#### Background of the Bill

From the beginning of the Drainage Laws Study, it has been pointed out by various individuals and groups, on different occasions, that:

1. Drainage improvements in one portion of the watershed of a river or stream unavoidably affect other parts of the same watershed.
2. There is a close relationship between soil conservation measures in upland areas and drainage measures on adjacent lower-lying land, which is virtually unrecognized in present law.

The effort to give expression in statute to these realities led to the drafting of what became House File 17.

#### "Common Outlet" and Related Problems—

The term "common outlet" is given a rather specific meaning by section 455.142, *Code of Iowa* (1966). In general use, however, the term is often applied somewhat more broadly.

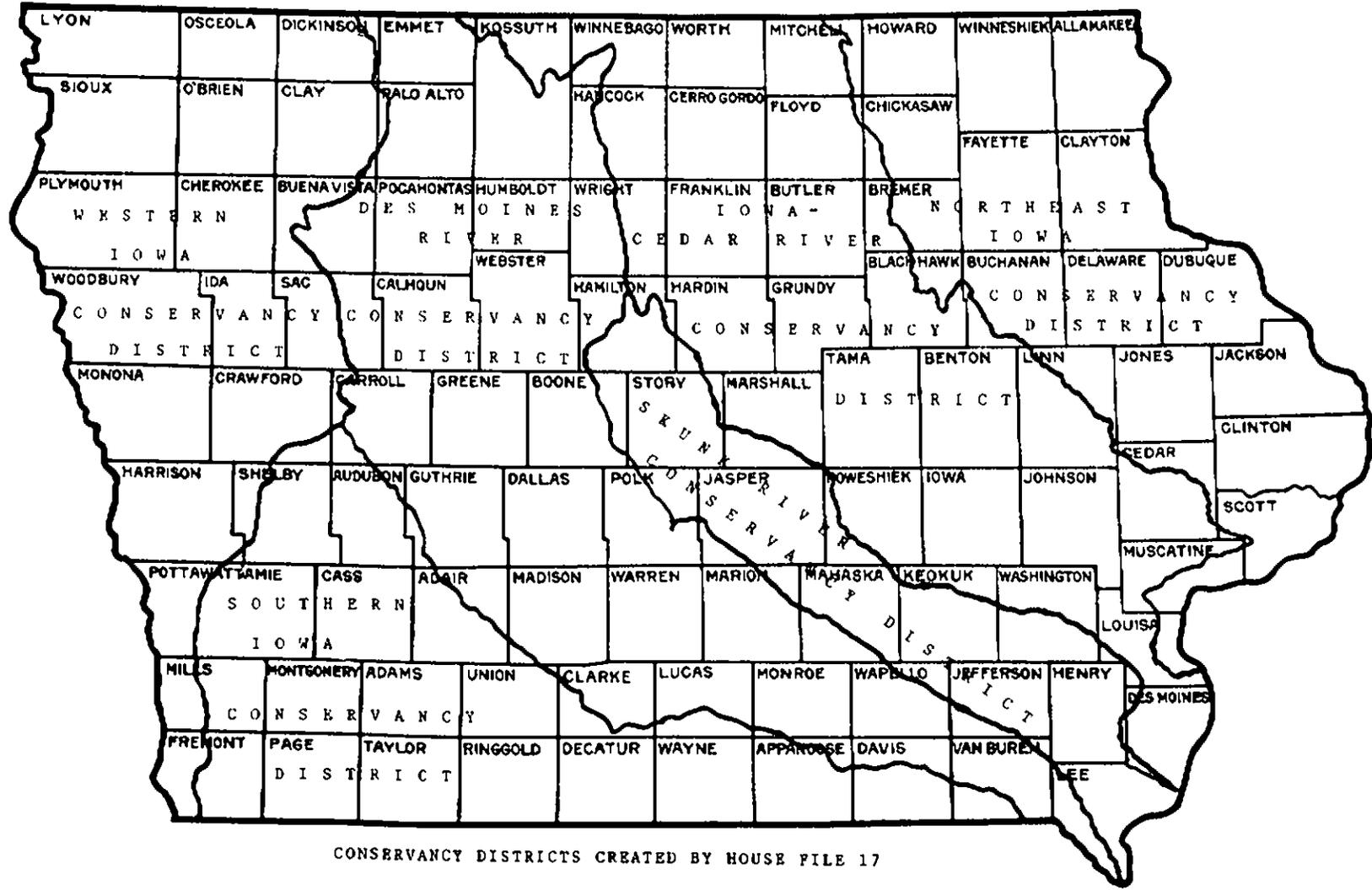
Present Iowa law places little restriction on either the minimum size of a drainage district, or the manner in which the boundaries of the district are drawn with respect to location or confluence of streams to which water drained from the district must eventually flow. The boundaries of many existing drainage districts were determined more by the need perceived by landowners for artificial drainage of a particular area at a particular time than by consideration of how best to fit the district into the topography of the area.

Thus it may happen, for example, that Drainage District A includes in its territory the point where a smaller stream, or an artificial watercourse constructed by the district, flows into a larger stream. Drainage District B lies slightly higher in the same watershed, directly adjacent to District A, and District B's runoff must pass through the smaller stream or artificial watercourse in District A in order to reach the larger stream draining the watershed in which both districts lie. Drainage District C lies still higher in the watershed, and its runoff must pass through both District A and District B to reach the larger stream.

Under present law, District A is a common outlet only with respect to District B. In fact, and in accordance with the more general use of the term "common outlet," the mouth of the small stream or artificial watercourse located in District A is also the outlet to the larger stream for water drained from District C, as well as from any other drainage district which may lie above or at the same level as District C, from which water must flow through District B and into District A to reach the larger stream.

It may also be noted that, under present law, District B is not a common outlet at all, although it must in fact take into account the volume of water which will be passing through it from District C and any other drainage districts which may lie upstream. The more drainage improvements which have been constructed in District C and elsewhere upstream, the greater the volume of water flowing downstream from those districts immediately after a rain or when snow is melting, other things being equal.

Iowa law for many years provided for downstream drainage districts to assess upstream districts for a portion of the cost of maintaining or improving the ditch or drain carrying waters re-



CONSERVANCY DISTRICTS CREATED BY HOUSE FILE 17

ceived from the upstream districts. This law gave rise to considerable litigation, much of it centering on the lack of a generally accepted formula for determining the proportion of the cost of maintaining the common outlet which the respective upstream districts should pay.

In 1965, the Sixty-first General Assembly amended section 455.142 to define a common outlet as one "where two adjacent districts have an outlet common to both of said districts and which districts are also contiguous one to the other." The 1965 amendment, which in effect prevents a drainage district from spreading assessments for maintenance or improvement of the common outlet to any drainage district other than one immediately upstream from the assessing district, was the subject of considerable comment during the 1965 regional hearings by the Drainage Laws Study Committee. The following excerpts from testimony at two of the hearings illustrate the differing points of view of the downstream and upstream drainage districts.

"... (The 1965 amendment to section 455.142) means, and without specifically attacking this district, that the Farmer's Drainage District in Woodbury County which focuses all its water into one drain, a very improved drain and thence into Monona County and the Monona-Harrison, does not have to contribute one dime to the maintenance of the common outlet. It means that the Little Sioux Inter-county Drainage District which up to date has cost the local taxpayers \$1,600,000 or more cannot properly collect from upper districts for the waters they are now draining into the River which is a common outlet.

\* \* \*

The Legislature should recognize that if upstream lands are going to straighten out, and collect, and concentrate their waters faster and in greater quantities, rather than letting them follow the old curved channels, and if they tile the slopes that used to have trees and grasses on them, then they should bear the cost of carrying that water all the way to the main stream of the Missouri River." (Testimony of Patrick J. Morrow, Onawa attorney, at Atlantic regional hearing, November 3, 1965.)

The following excerpt apparently refers to matters arising prior to the effective date of the 1965 amendment to section 455.142.

"For a number of years the Board of Supervisors of Harrison County, acting as Drainage Board for the various districts and sub-districts located within Harrison County, have undertaken certain repair work and improvements to districts and sub-districts located within Harrison County, after which they have attempted to apportion and spread the cost of the repair work and improvements done within their county to the districts and sub-districts located within Crawford County and in some instances, to districts located within Sac County.

\* \* \*

These proposed apportionments and spread of the costs of repair and improvements to the districts located above Harrison County, within Crawford County and Sac County, have been strenuously opposed by both Sac and Crawford County in the past and litigation has resulted in both the District Court and Supreme Court level. This, naturally, has added to the costs which have had to be borne by the land owners within the drainage districts and sub-districts in Crawford County and Sac County.

\* \* \*

In addition . . . there are at least four other and separate objections on file with the Drainage Board of Harrison County to proposed work or work now being done within their district which they have notified the Board of Supervisors of Crawford County and Sac County that they intend to apportion and spread to districts within Crawford and Sac County.

\* \* \*

It is (our) contention . . . that the Districts within Crawford County will receive no benefit by reason of the improvements and repairs made and constructed in the Harrison County Drainage Districts which lie below the Crawford County Districts on the Boyer River and on the Soldier River; that these particular districts located within Harrison County which are on the Boyer River and which do not actually outlet themselves into the Missouri River, are not 'outlet districts;' and that the method or formula employed by the Harrison County Board of Supervisors in determining the apportionment is unfair, unjust and inequitable." (Testimony presented on behalf of Crawford County Board of Supervisors, at Cherokee regional hearing, November 3, 1965.)

While the present situation, with respect to maintenance of common outlets under section 455.142 as amended in 1965, does not seem wholly equitable, the Study Committee concluded that there would be little point in simply repealing the 1965 amendment unless an acceptable formula for apportionment of common outlet maintenance costs could be found. The Study Committee was informed that hydraulic engineers have or can develop a formula which is scientifically sound, but the political acceptability of such a formula may be questionable. It seemed preferable to establish a single legal entity, having jurisdiction of and supported directly by, the entire watershed of one or more major streams, which could assume responsibility for maintenance of the stream or streams to the extent necessary to maintain a proper outlet for the runoff from all parts of the watershed. This is one of the major roles of the conservancy districts under House File 17.

**Soil Conservation and Drainage—**Drainage districts in Iowa are for the most part located either on generally flat land, such as is found in much of north central Iowa where natural runoff of water is slow and land not artificially drained tends to be marshy, or else on bottom land along rivers and streams. Assessments for drainage are made on a benefit basis, and it has generally been considered that upland areas receive no benefit from artificial drainage because water would, in any case, run off from the upland areas to lower lands.

Soil conservation and erosion control practices on upland areas are nevertheless important to drainage districts, for two reasons. First, erosion control practices by their nature tend to slow the runoff of water, and therefore help to lessen the burden on drainage facilities of lower-lying lands during periods of heavy rainfall or rapid melting of snow. Second, the more rapid the runoff from upland areas, the more silt is apt to be carried down and deposited at lower levels. Aside from the undesirable aspects of loss of topsoil, deposits of silt require more frequent cleanouts of drainage ditches, raise the levels of riverbeds and thereby force the raising of levees to cope with higher flood stages, and create serious problems in many of Iowa's natural and artificial lakes. (Windblown silt may also create or contribute to the foregoing difficulties.)

The second major reason for proposing creation of conservancy districts having jurisdiction

over entire watersheds is to coordinate efforts to conserve and control water from the time it reaches the ground as rain or snow, until it reaches either the mouth of one of the tributaries to Iowa's border rivers or the state line. Therefore, it will be necessary for the conservancy districts to take into consideration in some degree wildlife and fish conservation, water recreation, maintenance of water quality, and related matters. The conservancy districts major concerns, however, will be drainage and soil conservation.

#### **Development of House File 17**

There was some discussion of the general desirability of some type of regional entity to coordinate drainage and related problems over all or large portions of the watersheds of major streams by persons appearing at the 1965 regional hearings, and at succeeding meetings of the Drainage Laws Study Committee in 1966. Upon resumption of the Study in September of 1967, members of the Study Committee expressed continued interest in the watershed concept and explored the subject at meetings with representatives of Iowa State University College of Engineering and of the Iowa Natural Resources Council, as well as by visiting the Little Sioux Inter-county Drainage District in Monona and Harrison Counties.

After completing work on amendments to existing drainage statutes in March, 1968, the Study Committee turned its full attention to the watershed concept. Hearings were held in Des Moines on April 17-18, at which testimony on the watershed concept was received from the Iowa Geological Survey, Iowa Natural Resources Council, State Conservation Commission, State Soil Conservation Committee, U.S. Soil Conservation Service, and the Water Pollution Control Commission. The Study Committee, after consideration of the information presented at the hearings, referred the watershed concept to the Technical Subcommittee, which drafted House File 17 and submitted it to the full Study Committee on September 24, 1968.

The final decision by the Study Committee to present House File 17 to the Legislative Research Committee was made at a meeting held on October 17, 1968. Only six of the legislators serving on the Study Committee—a bare quorum—were able to attend and therefore, under the Study Committee's rules, the negative vote of a single

legislator would have rejected the bill. Although some members of the Study Committee expressed reservations about some of the provisions of House File 17, all legislators present at the October 17 meeting voted to submit it to the Legislative Research Committee and the Sixty-third General Assembly for their consideration, rather than discard the work and thought which had gone into preparation of the bill.

#### **Purpose of the Conservancy Districts**

The conservancy districts created by House File 17 are regional, intermediate level agencies with an active role in carrying into effect the state water resources plan, which section 455A.17, *Code of Iowa* (1966), directs the Iowa Natural Resources Council to prepare. Accordingly, the Natural Resources Council has some control over the policies and actions of the conservancy districts.

The relationship of the conservancy districts to drainage and soil conservation districts, and other political subdivisions is primarily advisory and coordinating, although drainage and soil conservation districts are required to "take notice of" the conservancy districts' plans (see following paragraph) and conform to any rules and regulations duly adopted by the conservancy districts. The boards of directors of the conservancy districts are directed to "encourage, foster, and promote establishment, enlargement, or consolidation of drainage, levee, soil conservation, flood control, and sanitation districts where desirable," but House File 17 does not change in any way the legal procedures which must be followed in establishing such districts.

The first major duty of each of the conservancy district boards of directors, after establishment of the respective districts, is to prepare a district plan in consultation with the Natural Resources Council. Section 19 of House File 17 requires the plan to establish priorities for carrying out projects necessary to achieve the objectives of the bill in the district, to be compatible with the Natural Resources Council's state water resources plan, and to be prepared in accordance with the following policies:

"1. First consideration shall be given to work needed at or near the source of the principal

stream or streams in the district, and on or along the tributaries thereto, to the greatest extent practicable.

2. Conservancy district funds shall not be expended for functions or improvements which are:

a. The responsibility of other political subdivisions and are within their abilities, reasonable consideration being given to their other duties and obligations.

b. Constructed or implemented, or planned for construction or implementation, on one or more tracts of privately owned land and primarily benefit those lands rather than other lands in the conservancy district."

After the district plan is approved by the Natural Resources Council, it is the responsibility of the conservancy district directors to carry out the plan "as expeditiously as possible, within the limitations of available financial resources." (Financing of the conservancy districts is discussed later in this report.) The district plan is subject to periodic review, in the light of experience gained or changed conditions, or both.

Section 35 of House File 17 prohibits any conservancy district board of directors from letting a contract for any "internal improvement" (see definition, section 2 of House File 17):

"unless its engineer and the state soil conservation committee shall recommend, and the board shall find, that the proposed internal improvement would be adequately protected against siltation by soil conservation practices existing within the watershed of the internal improvement, or which would be developed as a part of the internal improvement, or that the nature of the internal improvement precludes the probability of damage due to siltation."

When a project called for by the district plan cannot be undertaken because of inadequate soil conservation practices, the board of directors must work with and through the soil conservation district commissioners to try to correct the situation. After adequate soil conservation practices are established and a finding to that effect permits the conservancy district to proceed with an internal improvement, failure to maintain the

necessary soil conservation practices, which results in damage to the internal improvement by siltation, is declared a nuisance and may be abated as such.

In order to attempt to encourage soil conservation practices needed to permit the conservancy district boards of directors to proceed with an internal improvement, the boards of directors are given the same authority as landowners in any soil conservation district to petition for the organization of a subdistrict of the soil conservation district. The petition presented by the conservancy district directors is processed in the same manner as if initiated by the landowners. The only other change in the soil conservation subdistricts law is that "benefits to be derived by the subdistrict from construction of internal improvements contemplated by the plan of the conservancy district in which the subdistrict lies, which . . . cannot be constructed until certification that they would be adequately protected against siltation" may be considered in measuring benefits against costs to the subdistrict, for the purposes of section 467A.22, *Code of Iowa* (1966).

The conservancy districts will not replace or assume control of the present drainage and soil conservation districts or other existing political subdivisions, but will be superimposed on them. The conservancy districts will be in a position to maintain principal streams which carry water from a number of drainage districts, to the extent necessary to insure that necessary outlet capacity is available and that adjacent land is adequately protected, without the necessity of apportioning the cost directly to the respective drainage districts. The conservancy districts will also be able to assist drainage and soil conservation districts to more fully coordinate their efforts to their mutual benefit.

#### **Composition, Administration of Conservancy Districts**

The geographic composition of each of the six conservancy districts is described by section 3 of House File 17. It is believed that a precise legal description of the boundaries of each district would be preferable, and this description is being prepared by the Natural Resources Council. If possible, the legal description of the boundaries will be substituted for the present sections 3 and 4 before the time for introduction of House File

17 in the General Assembly, otherwise the descriptions will be presented as amendments replacing sections 3 and 4 after introduction of the bill.

Each conservancy district will be administered by a board of five directors, appointed by the governor with consent of the senate for staggered five-year terms. Directors must be electors and freeholders of the district, residents of different geographical parts of the district, and must be appointed on the basis of qualifications without regard to political affiliation. They will receive thirty dollars per day, up to a maximum of \$1200 per year, and reimbursement for actual and necessary expenses.

Careful consideration was given by the Study Committee to the possibility of electing the directors of each of the conservancy districts. However, it was deemed preferable to have the directors appointed by the governor for two reasons. First, the procedure for holding elections in the conservancy districts, whose boundaries follow topographic features rather than the limits of any other political subdivision, would be cumbersome and expensive. Second, and more important, it is likely that the ruling of the United States Supreme Court in *Avery v. Midland County, Texas* would require the structuring of elected conservancy district boards of directors in such a manner that one or a few of the larger cities in each district could always control the board of directors.

The office of the board of directors must be located in a county seat city or town in the conservancy district, but may be moved from one such city or town to another. Meetings of the board must be held at least quarterly, including an annual meeting in July. Any two directors may require that a meeting be called, on not less than five days notice.

At the initial meeting of a board of directors, a chairman, a vice-chairman, a secretary, and a treasurer are to be elected from among the directors, with one director holding the offices of vice-chairman and treasurer if so desired. Later, when funds from the conservancy district's first tax levy are available, the board must employ a qualified person other than a director as secretary, and may fill the office of treasurer in the same manner if deemed advisable.

### Financing of Conservancy Districts

The sources of revenue available to conservancy districts under House File 17 are:

1. Federal funds available to the district, as authorized by state law.
2. Any state funds which the general assembly may appropriate to the districts. (The Study Committee does not contemplate any state appropriation to conservancy districts at present.)
3. Donations and gifts.
4. The proceeds of a uniform levy, on all taxable real and tangible personal property, in the conservancy district, which may not exceed 1/10 mill for administration, nor a total of 1 mill for all purposes, including debt retirement.

The board of directors of each conservancy district is required to annually prepare and publish a budget for the following year. The Natural Resources Council must review, and may require changes in, the budget. The board of directors must hold a hearing on the budget and may reduce the budget after publication, but may not increase it unless the higher budget is republished.

When the conservancy district budget has been adopted by the directors, it is transmitted to the auditors of each county in the conservancy district. The auditor of the county in which the conservancy district office is located must assemble the valuations from the other counties and compute a uniform millage levy over the entire district.

Section 18 of House File 17 makes it a misdemeanor for the officers of any conservancy district to expend, in any year, a greater amount than was budgeted for that year (except as funds budgeted and encumbered in a previous year may be expended upon completion of the project for which the funds were encumbered). Also, no conservancy district may lawfully expend funds, except for per diem and expenses of directors and necessary administrative expenses, until the calendar year after the district's first budget is certified and a levy made for the district. Provision is made for issuance of stamped warrants

for essential expenditures incurred before conservancy districts' first tax receipts are available.

A specific bonding procedure for conservancy districts is established by sections 24 through 33, inclusive, of House File 17. This procedure is quite similar to that prescribed in chapters 75 and 76, *Code of Iowa* (1966), except that a vote of the people is not required and any bonds issued must be retired by funds received from the conservancy districts' single levy, which may not exceed 1 mill for all purposes.

The Study Committee considered the possibility of requiring that each proposed bond issue of a conservancy district be approved by the voters of the district, but decided against this procedure due to the difficulty of arranging district-wide elections which is created by the irregular boundaries of the districts. The 9/10 mill limit on levies by conservancy districts for all purposes other than administration, including the payment of principal and interest on bonded indebtedness, is believed a significant restriction on the districts' bonding authority.

### Mandatory Soil Conservation Practices

Section 43 of House File 17 adds to chapter 467A of the Code thirteen new sections, giving soil conservation district commissioners permissive authority to establish and enforce mandatory soil conservation practices. While the need to conserve topsoil for future generations might be considered to justify such authority in any case, the immediate reason for including the authority in this bill is the need to control siltation of Iowa's lakes and streams.

Under section 43, soil conservation district commissioners may classify lands in their districts on the basis of tendency to erosion, and require specified soil conservation practices on particular classes of land. (The term "soil conservation practices" is defined in section 2 of House File 17.) In the alternative, the soil conservation district commissioners may simply require that loss of topsoil from particular classes of lands be held within specified limits, and leave the means of erosion control to the judgment of the landowner or operator.

Regulations requiring and governing soil conservation practices, proposed for adoption by

commissioners of any district, must be approved by the State Soil Conservation Committee and published in a newspaper in the district. The regulations may not be put into effect until after a hearing, the date of which must be at least thirty days after publication of the proposed regulations.

When a complaint that soil erosion is occurring in violation of any soil conservation district's regulations is received and verified, the commissioners may order the landowner or operator to establish the required soil conservation practices. If the landowner or operator fails or refuses to comply with the order within one year, without good reason, the commissioners may have the necessary work performed and the cost assessed to the landowner in the same manner as property taxes.

In cases where failure of the commissioners of a soil conservation district to obtain establishment of needed soil conservation practices is

preventing construction of an internal improvement by a conservancy district (because adequate protection against siltation damage cannot be certified, as required by section 35 of House File 17) the conservancy district directors may exercise the same authority as soil conservation district commissioners in bringing such erosion under control.

#### **Review by U. S. Department of Agriculture**

State Conservationist Wilson T. Moon, Iowa administrator for the U. S. Soil Conservation Service, which was consulted in the planning, drafting, and review of House File 17, submitted the completed draft of the bill to officials of the U. S. Department of Agriculture in Washington, D. C. The Department has informed Mr. Moon that House File 17 presents no conflicts with statutes and regulations relating to Federal soil conservation programs, and is compatible with the objectives of these programs.

# Final Report of the Interstate Truck Rate Reciprocity Procedures Study Committee

House Joint Resolution 23, Sixty-second Iowa General Assembly, directed that the Legislative Research Committee conduct a Study during the 1967-1969 biennium of "the interstate truck reciprocity problem in Iowa, the laws relating thereto, and the need for legislation to correct the problem." The Resolution established a nine-member Study Committee to be composed of three members of the Senate appointed by the President of the Senate, three members of the House of Representatives appointed by the Speaker of the House, and three legislative members appointed by the Legislative Research Committee. It was further provided that one of the legislators appointed by the Research Committee would act as Chairman of the Study Committee. The Research Committee was granted authority to appoint nonlegislative members to the Study Committee, if deemed advisable.

The following legislators were appointed to serve on the Study Committee in accordance with House Joint Resolution 23:

**President of the Senate appointees:**

Senator Robert J. Burns, Iowa City  
Senator William F. Denman, Des Moines  
Senator Clifton C. Lamborn, Maquoketa

**Speaker of the House of Representatives appointees:**

Representative Vernon N. Bennett, Des Moines  
Representative C. Raymond Fisher, Grand Junction  
Representative Edgar H. Holden, Davenport

**Legislative Research Committee appointees:**

Representative William J. Gannon, Mingo  
Representative Leroy S. Miller, Shenandoah  
Senator Howard C. Reppert, Jr., Des Moines

Representative Leroy S. Miller was designated by the Research Committee as Study Committee Chairman. The organizational meeting of

the Study Committee was held August 22, 1967 at which time Senator Howard C. Reppert, Jr. was appointed Committee Vice Chairman. Following an initial review of the subject matter which indicated the complexity of the issues involved in the Study, the Committee believed the appointment of advisory members to be essential to the conduct of the Study. At the request of the Committee, the following advisory members, representing a variety of interests, were appointed by the Legislative Research Committee to serve in an advisory capacity on the Study Committee:

- Mr. Harold E. Baker, Vice President  
Ruan Transport Corporation
- Mr. Robert C. Barry, Member  
Iowa State Highway Commission and  
Chairman, Iowa Reciprocity Board
- Mr. L. E. Crowley, Executive Secretary  
Iowa Motor Truck Association, Inc.
- Mrs. Joy B. Fitzgerald, Executive Secretary  
Iowa Reciprocity Board
- Mr. Paul Fletcher, President  
Iowa Better Trucking Bureau
- Mr. Richard G. Hileman, Executive Secretary  
Iowa Good Roads Association, Inc.
- Mr. Richard Petska, Board member  
Iowa Industrial Traffic League, and  
Assistant Secretary, Cedar Rapids Chamber of Commerce
- Mr. William F. Sueppel  
Attorney at Law
- Mr. Dick A. Witt, Commissioner  
Iowa State Commerce Commission and  
Member, Iowa Reciprocity Board

Interstate vehicle reciprocity-proration is a complex and highly technical subject, and portions of the Committee's time were devoted to developing a working knowledge of the subject matter and issues involved. The Committee relied

heavily on the advisory membership of the Committee, particularly Mrs. Fitzgerald, for information on present laws and procedures. Persons representing both large and small motor carriers, administrators from other states, and interested persons attended Committee meetings to present their views on present Iowa reciprocity-proration laws and procedures.

To more effectively utilize the knowledge and experience of the advisory membership on the Committee, Chairman Miller established an Advisory Subcommittee composed of the advisory membership of the Committee. Mr. Harold E. Baker was designated Subcommittee Chairman. The Subcommittee periodically presented factual information to assist the Committee in both familiarization with the subject matter and possible areas where revision in Iowa laws and procedures was considered necessary. The Subcommittee presented for Committee consideration a comprehensive report of its recommendations for revisions in present Iowa reciprocity-proration laws and procedures. The report was accompanied by legislation to implement the Subcommittee's proposed revisions in present laws and procedures.

This report is divided into two major sections. The first section relates to present reciprocity-proration laws and procedures, while the second major section contains the Committee's recommendations regarding the study. Although this report is not limited to the material contained in the Subcommittee's report, the organizational scheme and the bulk of the Subcommittee's report have been incorporated into this report.

## **I. PRESENT RECIPROCITY-PRORATION LAWS AND PROCEDURES**

### **A. Reciprocity**

Two basic approaches have been taken by the states in the imposition of registration and other fixed fees upon vehicles engaged in interstate commerce; namely, reciprocity and proration. The traditional concept of reciprocity involves the free movement of motor vehicles in interstate commerce so long as the vehicle is properly registered in the state of the owners' residence. This concept is identified as "residency reciprocity". A second concept of reciprocity is known as "basing point" reciprocity, recognition

being given to the license status of the vehicle registered in the state where the vehicle is based regardless of the residence status of the owner of the vehicle.

### **B. Problems of Reciprocity**

Various complicating factors have become evident which have disrupted the traditional concept of reciprocity. The following material briefly discusses some of the concepts of proration and reciprocity and the disrupting problems which have contributed to a breakdown of these concepts.

**1. Unequal Mileage.** Inherent in straight reciprocity is the concept that interstate vehicles licensed in one state will travel approximately the same number of miles in the other state as the interstate vehicles registered in the other state travel in the first state. In practice, however, some states (including Iowa) have become known as "bridge states" with the flow of interstate traffic into and through the state exceeding the flow of traffic from the state.

**2. Determination of the State of Residence.** Although it is essential to the concept of residency reciprocity that the vehicle be registered in the proper state, determination of residency is frequently difficult. This is particularly true where the owner of the vehicle is a partnership, corporation, or other business entity. For example, a motor carrier may be incorporated under the laws of one state, maintain its principal place of business in another state, and dispatch vehicles from terminals located in still other states. Some states consider the corporation a resident of the state of incorporation; other states consider a corporation to be a resident of the state where the principal place of business is located; and still other states look to the basing point of the vehicles as the measurement of residency determination.

**3. Determination of Basing Point.** Reciprocity granted on the basing point theory is often difficult to administer because, during the registration year, the base of the individual vehicle frequently changes.

**4. Motor Vehicle Tax Structures.** The first registration fees imposed on motor vehicles were of a regulatory rather than revenue producing nature. Registration fees soon became an impor-

tant source of revenue for the construction and maintenance of the highway systems of each state. The revenue needs varied from state to state, since the cost of construction and maintaining of highways is not the same in each state. Factors contributing to these differences are labor costs, climatic conditions, expenditures for right-of-ways, geographical hazards, and similar items. Variation in registration fees from state to state also resulted from the variety of methods used to raise the necessary revenue for the highway programs. Certain elements of the trucking industry found it convenient to "shop around" and buy their license plates where they were the least expensive and then travel under straight reciprocity in states having higher registration fees.

Another important factor in the development of motor vehicle tax structures has been the imposition of highway use or "third structure taxes". The first two tax structures that are applied to commercial and private motor vehicles are the gasoline tax and the registration fee. Any tax imposed in addition to these first two taxes is commonly known as a third structure tax. A third structure tax most often takes the form of a ton mile or axle mile tax. The imposition of third structure taxes tends to destroy the traditional concept of reciprocity between states, because such taxes do not recognize the concept of free travel between states. States having such taxes, generally speaking, will not, or by statute cannot, grant reciprocity on the third structure taxes. Retaliation is often taken against third structure tax states, leading to a complete breakdown in reciprocity.

### C. Development of Proration

Under the concept of proration or proportional registration, registration fees on interstate vehicles are apportioned among the states on the basis of miles traveled by the interstate vehicle in each state. Proration thus overcomes, in theory at least, the problem of unequal travel among states and the difficulty of determining residency since each state receives a share of registration fees based on miles traveled in the state.

Although some states have negotiated separate bilateral proration agreements, most states which prorate registration fees have become parties to the Uniform Vehicle Registration Proration and Reciprocity Agreement. The sixteen

states which are presently parties to the Uniform Agreement are:

Arizona	Kansas	New Mexico
California	Missouri	North Dakota
Colorado	Montana	Oregon
Idaho	Nebraska	South Dakota
Illinois	Nevada	Washington
Iowa		

In addition, the Canadian province of British Columbia is a member of the Agreement.

The Uniform Agreement provides for proration of annual registration fees on fleets of commercial vehicles operating in interstate commerce, among the states, on the basis of mileage traveled in each state. "Commercial vehicles" means vehicles with gross weights exceeding 6,000 lbs. which are used to carry passengers or property for profit. A fleet of commercial vehicles is defined as three or more vehicles at least two of which are motor vehicles.

Each state preserves its own tax structure under proration. What the carrier pays to each of the states with whom he registers his vehicles on a prorate basis is computed according to the tax structure of each individual state. The interstate fleet operator files an application with each of the states in which he intends to prorate registration fees; and each state determines on the basis of its own statutes the amount of registration fees payable for proportional registration of the fleet. The state in which the vehicle is based issues the license plate and registration credentials and all other states with which the fleet is registered on prorate issue decals or cab cards indicating the vehicle is proportionally registered with the state.

### D. Major Proration Problems

The two major problems encountered under proration, both of which are closely related, are that only sixteen states have thus far joined the Uniform Agreement and there is a lack of uniformity of procedures among the sixteen states which are parties to the Uniform Agreement.

**1. States Currently Parties to the Uniform Agreement.** Proration of registration fees under the Uniform Agreement, originally the "Western States Agreement", began in 1956 with nine states becoming parties to the Agreement. Seven

states and the Canadian province of British Columbia have since joined the Agreement, and Arizona in 1963 has been the last state to become a party to the Agreement.

It is difficult to explain fully why the concept of proration of annual registration fees has not been adopted by all states. One factor is that most states have no statutory authority to prorate registration fees, but it would seem that legislation to authorize proration would be adopted in other states if such apportionment were considered desirable. The six states not currently parties to the Uniform Agreement which have authority to prorate are Michigan, Kentucky, Wisconsin, Utah, Oklahoma, and Texas. Oklahoma, Texas, and Utah prorate registration fees with most Uniform Agreement states. Wisconsin has bilateral proration agreements with Illinois and Missouri, while Michigan and Kentucky have thus far elected not to prorate registration fees.

There is no doubt opposition to proration in some states, particularly among states which are parties to another agreement, the Multi-state Agreement, under which reciprocity is extended on the basing point principle. States which are parties to this Agreement are Michigan, Indiana, Kentucky, West Virginia, Virginia, North Carolina, South Carolina, Florida, Georgia, Alabama, Mississippi, Louisiana, Tennessee, and Missouri which is also a member of the Uniform Agreement. These states apparently believe that insuring that interstate vehicles are base plated where most frequently dispatched, or otherwise controlled, is a better approach to the problem of interstate vehicle taxation than proration.

Proration is most advantageous in revenue terms to a bridge state, and states with little nonresident interstate truck traffic might therefore obtain more revenue under reciprocity than under proration. The states with third structure taxes may rely on such sources of revenue rather than registration fees, and these states may therefore have little interest in proration of registration fees.

**2. Lack of Uniformity Among Uniform Agreement States.** Another factor advanced in regard to why additional states are reluctant to become parties to the Uniform Agreement is the lack of uniformity of procedures among the Uniform Agreement states. The most important procedural differences among Uniform Agreement states are summarized below.

As indicated previously the Uniform Agreement specifies that the annual registration fee of each state is to be applied to the percentage obtained by dividing total fleet mileage into instate mileage traveled during the previous year. Although this formula is specified in the Uniform Agreement, a survey of the apportionment procedures utilized in the sixteen Uniform Agreement states reveals that seven different apportionment formulas are currently utilized. The use of apportionment formulas other than the total fleet mile formula is primarily attributable to the fact that only sixteen states have become parties to the Uniform Agreement.

The primary difference between the total fleet mile formula specified in the Uniform Agreement and the other major formula, compact miles, is the allocation of mileage in states which are not parties to the Uniform Agreement. Under the total fleet mile formula, the prorate percentage is based upon instate mileage as a percentage of total fleet mileage regardless of whether some of the mileage is traveled in states not prorating registration fees, i.e., reciprocity states. Under the compact mile formula, instate mileage is expressed as a percentage of only those miles traveled in states which are parties to the Uniform Agreement (Compact). The difference between the two formulas would obviously be eliminated if all states became parties to the Uniform Agreement.

An example using an interstate fleet subject to proration which travels 20,000 miles in one Uniform Agreement state, 20,000 miles in another Uniform Agreement state, and 20,000 miles in reciprocity states illustrates the difference between the two formulas. Total fleet mileage equals 60,000 miles, while total compact miles is 40,000 miles.

Total Fleet Mile Formula			Compact Mile Formula		
INSTATE MILEAGE	TOTAL FLEET MILEAGE	PRORATE %	INSTATE MILEAGE	TOTAL COMPACT MILEAGE	PRORATE %
20,000	60,000	33 1/3%	20,000	40,000	50%

Assuming, for example, an annual registration fee of \$1,000, the above state would receive under the total fleet mile formula 33 1/3% of \$1,000 or \$333.33 compared to 50% of \$1,000 or \$500 under the compact mile formula for each vehicle subject to proportional registration. The difference between the two formulas depends entirely upon the amount of reciprocity state mileage, and interstate carriers base plated in states in

proximity to reciprocity states will probably travel a greater number of miles in reciprocity states compared with carriers based in states located greater distances from reciprocity states.

The second major complicating factor involved in apportionment of mileage under proration is that interstate carriers traveling in both Uniform Agreement and reciprocity states under the total fleet mile formula, or the compact mile formula unless all states would apportion on the compact basis, are not required to apportion all fleet mileage since part of this mileage is traveled in reciprocity states. This problem is also directly attributable to lack of participation by all states in the Uniform Agreement. Interstate vehicles operating in states not prorating registration fees travel in such states by virtue of the reciprocity agreement negotiated between the carrier's base state and the reciprocity state. It is therefore contended that the base state should claim as instate mileage all mileage traveled in reciprocity states by its own based carriers to insure payment of registration fees on the basis of all fleet mileage.

In the example under the total fleet mile formula used above, the base state under the 100% apportionment formula would claim the 20,000 miles traveled in reciprocity states as instate mileage and the prorate percentage would be computed on the basis of 40,000 instate miles divided by 60,000 total fleet mileage for a prorate percentage of 66 2/3%. This procedure, known as the "Gulick Gimmick", was developed by a Kansas administrator named Fred Gulick. The calculation of the base state percentage under the compact mile formula to insure 100% apportionment is dependent on the apportionment formula used by other states, but the base state would claim the difference in the actual prorate percentage and 100%.

Eleven of the sixteen Uniform Agreement states utilize the total fleet mile formula specified in the Uniform Agreement, while two states utilize the compact mile formula. The three remaining states utilize different formulas, the major features of which are outlined below. Four states require 100% apportionment of the fleet mileage of vehicles based in their respective states. The State of Washington utilizes a total fleet mile formula, but a percentage of reciprocity state mileage is also claimed as instate mileage for both resident and nonresident carriers.

In the above example, Washington would claim 33 1/3% of total fleet mileage plus an identical percentage of reciprocity state mileage.

Fourteen of the sixteen Uniform Agreement states utilize "dollar proration" under which the prorate percentage is multiplied by the annual registration fee imposed on the vehicle. Application of the prorate percentage in the above total fleet mile example, 33 1/3%, to the present Iowa annual registration fee for a 72,000 lb. tractor-semi-trailer of \$895, for example, results in the fee payable to Iowa for proportional registration of the vehicle of \$298.30. Illinois, however, utilizes a procedure known as "vehicle" apportionment under which the number of base plates issued is limited to the number which could be purchased at the full registration fee with prorate fees actually paid. Under the above example, Illinois would require payment of the full \$895 fee if the owner of the vehicle wished to display an Illinois base plate, even though only \$298.30 would be payable in accordance with the total fleet mile formula. New Mexico utilizes a procedure somewhat similar to Illinois under which the minimum total dollar fee for proration of the fleet must be at least equivalent to one full registration fee for each application to prorate registration fees with the State.

The apportionment formulas and states which presently utilize each formula in the proration of registration fees are as follows:

**Total Fleet Miles With No 100% Apportionment (8 states)**

Arizona	Montana
California	Nevada
Colorado	North Dakota
Idaho	Oregon

**Total Fleet Miles with 100% Apportionment (3 states)**

Kansas  
Missouri  
Nebraska

**Compact Miles With No 100% Apportionment (1 state)**

South Dakota

**Compact Miles With 100% Apportionment (1 state)**

Iowa

**Total Fleet Miles But Vehicle Apportionment (2 states)**

Illinois  
New Mexico

**Total Fleet Miles Plus A Percentage of Reciprocity State Mileage (1 state)**

Washington

**3. Uniform Forms.** Uniform application forms have been developed for use by interstate carriers in supplying the information needed by each state to compute the proportional registration fees due in accordance with the Uniform Agreement. Several states, however, require the use of forms other than those provided under the Uniform Agreement, which frequently results in considerable confusion among the carriers in reporting information to each state. Use of different forms is attributable in part to the wide variety of apportionment formulas and other requirements of each state, and use of the uniform forms in some states is probably not practical in view of statutory requirements or the procedural differences among Uniform Agreement states.

**4. Interstate Vehicles Subject to Proration.** Under the Uniform Agreement a commercial vehicle is essentially a vehicle with a gross weight in excess of 6,000 lbs. used for commercial purposes. A fleet is defined as three commercial vehicles, two of which are motor vehicles. Many states utilize definitions of commercial vehicles and fleets in conflict with the terms of the Uniform Agreement. Some states require proration only of vehicles having a laden gross weight in excess of 12,000 lbs. Illinois requires proration only of fleets composed of three or more power units.

**5. Types of Operation Permitted.** The Uniform Agreement specifies that vehicles subject to proration, are considered fully registered for operation in interstate commerce, and intrastate commerce incidental to the interstate operation. All states require that any vehicle engaged strictly in intrastate commerce be fully registered in that state, but the types of intrastate movements in conjunction with interstate movements permitted vary among the Uniform Agreement states. Illinois, for example, permits no intrastate operation unless the vehicle displays an Illinois base plate, and under the "vehicle" apportionment formula utilized by Illinois, carriers with

intrastate operations may be required to pay additional registration fees to obtain a sufficient number of Illinois base plates.

**E. Present Iowa Reciprocity-Proration Laws and Procedures**

**1. Iowa Reciprocity Board.** The three-member Iowa Reciprocity Board was established by the 1959 Legislature and is composed of a member of the Iowa Highway Commission, a member of the Iowa Commerce Commission, and the Commissioner of Public Safety. The Board is required to appoint a full-time executive secretary to perform the administrative functions of the Board. The present staff is composed of ten full-time employees, plus additional part-time employees during peak periods of the registration year. The Board is authorized to negotiate reciprocity and proration agreements with other jurisdictions.

**2. Reciprocity Agreements.** Iowa has either formal written agreements or understandings providing for reciprocity on registration fees with all states except Arizona. Arizona grants no reciprocity on registration fees to any state. All Iowa reciprocity agreements are negotiated on the basis of the residency of the vehicle owner. Iowa does, however, recognize vehicles licensed under basing point reciprocity in accordance with the Multi-state Agreement, if the vehicles are based in a state that has a residency reciprocity agreement with Iowa and the owner's state of residency certifies to the Iowa Reciprocity Board that the vehicle is properly registered under the Multi-state Agreement. Motor vehicles traveling on Iowa highways under reciprocity must purchase a reciprocity permit at a fee of \$1.00.

**3. Proration Agreements.** The Iowa Reciprocity Board is further authorized to negotiate proration agreements under which resident or nonresident owners of fleets of two or more commercial vehicles engaged in interstate commerce may apportion registration fees among Iowa and other states. Iowa law, as amended in 1965, provides for apportionment of registration fees on a compact mile basis, with provision for redetermination of the registration fees due Iowa on vehicles base plated in this State to insure 100% apportionment of mileage. Vehicles subject to proportional registration and base plated in Iowa are considered to be fully registered for both interstate commerce and intrastate commerce in Iowa.

Prorate fleets of nonresidents, not base plated in Iowa, may simultaneously engage in both interstate and intrastate commerce, but no other intrastate operation is permitted without the displaying of an Iowa base plate.

**4. Court Decisions Involving Iowa Procedures.** Iowa became a party to the Uniform Vehicle Registration Proration and Reciprocity Agreement in 1959 following adoption of legislation authorizing proration of registration fees. The Board, in determining Iowa procedures, interpreted the legislation to require that all mileage of the carrier subject to proration be apportioned to either Iowa or states agreeing to apportion registration fees. The Board therefore required apportionment on the basis of miles traveled in the Compact states only, and instituted a rebilling procedure under which the difference between actual mileage apportioned and 100% of mileage was claimed by Iowa on all vehicles displaying Iowa base plates.

The Iowa method of apportionment was challenged by a nonresident carrier, Consolidated Freightways Corporation, and the Polk County District Court ruled in 1964 that Iowa law in fact required apportionment of registration fees on a total fleet mile basis, with no provision for rebilling Iowa based vehicles to insure 100% apportionment of mileage. The lower court ruling was affirmed by the Iowa Supreme Court in October, 1965, but prior to the Supreme Court decision the 1965 Iowa Legislature revised Iowa law to implement the compact mile formula with 100% apportionment of mileage required for Iowa based vehicles. As a result of the Court decision, Iowa was required to refund the difference between fees collected on the basis of Iowa procedures and fees due under the total fleet mile formula with no 100% apportionment of mileage.

The 1965 amendment to implement the compact mile formula with 100% apportionment of mileage was also challenged on the basis that the 1965 amendment was in conflict with the Uniform Agreement previously ratified by Iowa, and therefore was an impairment of the obligation of contract. The Iowa Reciprocity Board on September 13, 1965 was enjoined by the Polk County District Court from collecting proportional registration fees on the basis of the 1965 Act for those carriers parties to the action, pending disposition of the case. The case remained pending until April, 1968 at which time the Polk County Dis-

trict Court ruled that the 1965 law conflicts with, and therefore cannot be applied to, the prior obligation of Iowa to apportion registration fees in accordance with the formula prescribed in the Uniform Agreement. Provision is made in the Uniform Agreement for states, provided the consent of the other states is obtained, to specify procedures different than those required under the Uniform Agreement in the appendix to the Agreement, but the Court pointed out that Iowa made no attempt to amend its appendix to implement the compact mile formula and 100% apportionment of mileage.

The effect of the 1968 decision is that Iowa, under the Uniform Agreement, is required to apportion registration fees on a total fleet mile basis; and if this decision is upheld by the Iowa Supreme Court, the State will again be required to refund the difference in prorate registration fees collected between the Iowa formula, and the total fleet mile formula, specified in the Uniform Agreement. The decision of the Polk County District Court is being appealed by the State to the Iowa Supreme Court.

The Committee has, from the date of establishment of the Study, considered the present Iowa apportionment formula to be compact miles with 100% apportionment of mileage, and it is believed the possibility that the courts would rule otherwise was not contemplated by the General Assembly in establishment of the Study. The Committee therefore believed it advisable to urge the Iowa Reciprocity Board to consider submitting a proposed amendment to the Iowa Appendix to the Uniform Agreement to implement the intent of the 1965 amendment until the General Assembly has an opportunity to review the apportionment formula. Following adoption of a resolution to the Iowa Reciprocity Board urging use of the present compact mile formula for the 1969 registration year, the Committee returned to its study of the possible need for revision in the statutory apportionment formula in accordance with the directions of House Joint Resolution 23.

The Iowa Reciprocity Board has submitted a proposed amendment to the appendix to the Uniform Agreement to implement the 1965 amendment for the 1969 registration year, and the sixteen jurisdictions concerned have indicated they will accept the amendment. Unanimity of all states parties to the Uniform Agreement is required to implement procedures different than specified under the Uniform Agreement.

## II. COMMITTEE RECOMMENDATIONS

The Committee has given careful consideration to present Iowa reciprocity-proration laws and procedures, laws and procedures of other states, and recommended revisions in Iowa laws and procedures presented to the Committee by various groups and individuals since the initial Committee meeting held August 22, 1967. In view of the extensive revisions in present Iowa statutes recommended in this Report, the Committee believes the best approach to presentation of the suggested statutory revisions is to recommend a new chapter which would replace present Chapter 326 of the Code. The Committee also is recommending revisions in the general statutes, chapter 321 of the Code, relating to motor vehicles. House File 1 repeals chapter 326 and enacts the Committee's substitute thereof, while House File 2 contains the Committee's recommendations for revisions in chapter 321.

Much of the present law is retained in edited form under the proposed legislation. The primary sources for the statutory language to implement other recommendations of the Committee have been the Uniform Vehicle Code, the Uniform Vehicle Registration Proration and Reciprocity Agreement, and suggested legislation submitted in the course of the Study by Mrs. Joy Fitzgerald. Recommendations appearing in the Report are cross-referenced with the legislation being introduced in the Sixty-third General Assembly convening in January of 1969 to assist in locating and evaluating each recommendation.

### A. Principle of Proration

It has been virtually the unanimous opinion of persons appearing before the Committee and both legislator and advisory Committee members that federal intervention is inevitable unless greater uniformity in the taxation and regulation of interstate vehicles among the states is developed. The Committee believes that interstate motor vehicle taxation and regulation should be retained at the state level. In the opinion of the Committee, the promotion of the principle of proration among the states of registration fees imposed on fleet vehicles engaged in interstate, or combined interstate and intrastate commerce, is the best hope of retaining present taxing and regulatory powers among the states.

It has also been continuously emphasized during the Committee's Study that uniformity of procedures among the Uniform Agreement states must be achieved if the principle of proration is to be extended to all states. Iowa obviously cannot unilaterally implement uniformity of procedures among the Uniform Agreement states. The Committee believes Iowa can, however, establish a precedent concerning the need for strengthening statutory provisions relating to interstate vehicles by the development of equitable proration procedures for both Iowa based carriers and nonresident carriers traveling on Iowa highways. The succeeding recommendations of the Committee are concerned primarily with revisions in Iowa procedures which it is believed will promote the principle of proration among all states.

### B. Apportionment of Registration Fees

The Committee recommends that Iowa law be revised to require apportionment of mileage under proration on a total fleet mile rather than compact mile basis. The ultimate solution to solving proration problems is adoption of the same method of proration by all states which would result in identical apportionment of mileage to Iowa under either the compact or total fleet mile method. The Committee believes, however, that Iowa should follow the great majority of Uniform Agreement states by apportioning registration fees on a total fleet mile basis. Adoption of total fleet miles by Iowa will promote greater uniformity among the Uniform Agreement states, which in turn the Committee believes will promote expansion of the principle of proration among all states. (House File 1, Secs. 3(8), 7, 8)

In conjunction with the Committee's recommendation that Iowa apportion on a total fleet mile basis, it is recommended that:

1. Iowa based carriers should be required to apportion 100% of their total fleet mileage including the mileage traveled in nonprorate states under reciprocity obtained by virtue of Iowa registration. The present procedure under which Iowa based carriers are rebilled for reciprocity state mileage should be eliminated, and Iowa carriers should be required to pay a percentage of the Iowa registration fee based on both mileage within Iowa and reciproc-

ity state mileage on the initial billing. This procedure, referred to as the "Gulick Gim-mick", is utilized in the three other states (Kansas, Missouri, and Nebraska) which presently require 100% apportionment of the fleet mileage of carriers base plated in the three respective states. Carriers would continue to be permitted to remit registra-tion fees semi-annually in accordance with present law. (House File 1, Secs. 3(9), 7, 8)

2. Iowa based carriers should be entitled to a refund or credit against registration fees payable the following year if the car-rier is required to apportion a total of more than 100% of his total fleet mileage among states with which Iowa has an ap-portionment agreement. The Committee considers this recommendation essential to assure Iowa carriers that they will not be required to apportion more than 100% of total fleet mileage. The burden of proof that more than 100% of mileage was ap-portioned will be on the carrier, and the carrier should be required to file a verifi-cation report or other evidence that more than 100% of total fleet mileage was ap-portioned. (House File 1, Sec. 16)
3. The present provision in chapter 326 pro-viding for redetermination of proportional registration fees due Iowa, if verification or other reports filed after the original application indicate the carrier did not in fact prorate in accordance with the origi-nal application, should be retained. This provision insures that Iowa will receive all proportional registration fees to which the state is by law entitled. (House File 1, Sec. 17)
4. The definition of the term "base state" appearing in the Uniform Agreement should be incorporated into Iowa law and express provision be made by statute to insure that all bona fide Iowa based ve-hicles will be base plated in Iowa. The Committee believes that the taxation of interstate vehicles can only be retained at the state level if each state insures that interstate vehicles are registered in the proper state. The practice followed by some bona fide Iowa carriers of base plat-ing vehicles in other states to avoid pay-

ment of Iowa registration fees otherwise required would be eliminated under the Committee's proposal. The Committee further recommends that no carrier should be permitted to base plate vehicles in Iowa unless the vehicles are in fact en-titled to such base plate privileges in ac-cordance with the proposed statutory definition. (House File 1, Secs. 3(6), 18)

#### **C. Procedural Changes to Promote Uniformity and Facilitate Administration**

The Committee recommends the following changes in Iowa procedures to simplify adminis-tration and promote greater uniformity between Iowa and the other Uniform Agreement states:

1. The uniform application forms for appor-tionment of registration fees which have been developed for use by the states which are parties to the Uniform Agree-ment should, whenever possible, be used by the Iowa Reciprocity Board. The Com-mittee is aware that the uniform forms cannot be utilized in all instances since Iowa by statute and administrative pro-cedure requires the reporting of certain information which is not included in the uniform forms. Other information re-quired to be reported on the uniform forms is not needed by the Iowa Recipro-city Board in processing prorate applica-tions. The Committee believes the proced-ural changes recommended in other parts of this report will facilitate use of the uniform forms by Iowa.
2. Vehicles other than automobiles regis-tered during the first quarter of the reg-istration year should be required to pay or prorate on the basis of the full annual registration fee. Iowa law permits regis-tration for the year beginning January first with no penalty up to February first, but the deadline for display of plates has historically been March fifteenth or later depending upon the workload of the coun-ty treasurers and Iowa Reciprocity Board. The possibility thus exists that a carrier may attempt to operate with registration plates for the previous registration year until the deadline date for display of new plates and then apply under the monthly

deduction of registration fee provisions for a prorated registration fee based on only the remaining months of the registration year. It is difficult and time consuming, particularly in processing non-resident claims, for the Board to determine whether the reduced fee request is legitimate or an attempt to evade payment of the full annual registration fee. The Committee's recommendation will eliminate any possibility of evasion of registration fees during the first quarter, in addition to simplifying administration of proportional registration. (House File 2, Sec. 2)

3. The Iowa Reciprocity Board should issue prorated registration plates rather than the Department of Public Safety. The Committee believes that this recommendation will result in greater administrative efficiency in addition to being more convenient for prorated carriers. It is further recommended that the statutory date before which carriers must file prorated information for the next registration year be changed from September first to November first. It is not possible for carriers to comply with the September first requirement, and the recommended revision will conform with present practices. (House File 1, Secs. 14, 15)
4. Iowa based carriers should continue to be allowed credit on deleted units toward registration fees payable on replacement units, but credit on deleted units of non-resident prorated carriers should only be allowed by Iowa if the carrier's base state also allows such credit. Iowa presently allows credit for all deleted units even though the carrier's base state may not allow such credit. (House File 1, Sec. 13)

#### **D. Declarations of the Extent of Reciprocity**

Some states have no legal authority to enter into written reciprocal agreements, and the Iowa Reciprocity Board in the past has informally negotiated arrangements with these states. These informal agreements are of doubtful legal validity, and some states have authorized their respective reciprocity boards or administrators to make declarations of the extent of reciprocity granted vehicles properly registered in jurisdic-

tions which have no authority to enter into formal written reciprocal agreements. The declaration is intended to clarify the extent and nature of exemptions, benefits, and privileges which will be extended by the one state to vehicles properly registered in the other jurisdiction. The Committee recommends that the Iowa Reciprocity Board be authorized to make such declarations regarding vehicles registered in states which have no authority to enter into or do not desire to negotiate formal written reciprocity agreements. (House File 1, Sec. 22)

#### **E. Denial of Reciprocal or Proration Privileges**

Section 326.2 of the Code authorizes the Iowa Reciprocity Board to deny a particular non-resident the exemptions granted under the terms of reciprocal or proration agreements negotiated with the nonresident's base state, only if the base state agrees to such denial. The present law is somewhat confusing in that other sections of chapter 326 authorize the Board to deny reciprocal or proration privileges with no reference to obtaining the consent of the base state. Consent of the base state may be difficult to obtain in some instances due to the nonresident's influence in his home state even though the carrier is operating in violation of Iowa law.

The Committee recommends that the Board be authorized to deny a nonresident the exemptions provided by virtue of a negotiated agreement without the consent of the base state if the nonresident is found to be in violation of Iowa registration, proration, or reciprocity laws or the terms of a reciprocal or proration agreement negotiated by the Board with the nonresident's base state. Denial of privileges and exemptions should continue to be made only after due notice and hearing before the Iowa Reciprocity Board in accordance with present law. (House File 1, Secs. 6, 23, 28)

#### **F. Trip Permits for Vehicles Not Entitled to Reciprocal Privileges**

Present statutes authorize the issuance of trip permits in lieu of full registration for vehicles leased by prorated carriers which, if operated by the lessor, would be entitled to reciprocal privileges for travel upon Iowa highways. No provision is made, however, for issuance of trip permits to owners of vehicles not entitled to

reciprocity privileges in Iowa, and the only alternatives presently available to owners of vehicles not entitled to reciprocity are either not traveling in Iowa or fully licensing the vehicle at the full Iowa annual registration fee. For example, the State of Illinois permits the licensing of vehicles operated only a few miles each year for fees which are substantially lower than the regular Illinois license plate fee. Iowa, however, does not grant reciprocity to vehicles displaying these plates, and any movement of the vehicle upon Iowa highways would require payment of the full Iowa registration fee in addition to the Illinois mileage plate fee.

The Committee recommends that a trip permit statute be enacted under which owners of vehicles not entitled to reciprocal privileges in Iowa, would be able to operate in interstate commerce on Iowa highways for a 72-hour period. It is recommended that the fee for issuance of such trip permits be \$10 per trip. (House File 1, Sec. 25)

#### **G. Registration Fees on Vehicles and Vehicle Combinations**

The Committee recommends that the major registration fee on vehicle combinations be placed on the power unit with a nominal fee on trailers and semitrailers. Study should be made of the adjustments which would be required in registration fees to place the major fee on the power unit and obtain a similar amount of revenue from registration fees imposed on vehicle combinations as is obtained under present law. Upon implementation of the above recommendation, the Committee further recommends that the nominal fee placed on trailers and semitrailers not be subject to proration. Proration of registration fees on trailers and semitrailers is very difficult to adequately enforce, and the costs of administration and enforcement of prorating the nominal fee on trailers and semitrailers would not justify the revenue derived.

The Committee also recommends that no truck or vehicle combination be permitted to be registered at a gross weight which is less than the actual unladen weight of the truck or combination. Vehicles registered for less than the unladen weight cannot legally be operated on highways, and the Committee believes Iowa law should expressly prohibit such registration. (House File 2, Secs. 3-5, 7)

#### **H. Refunds of Registration Fees**

The Committee recommends that the present registration fee refund statute be revised to allow refunds of fees in instances where the registered owner of the vehicle may not hold title to the vehicle. Present law provides for refunds of fees on vehicles which are destroyed, wrecked, stolen, or removed from the State, only if the vehicle is both registered and titled in Iowa. This requirement prevents the securing of registration fee refunds by many Iowa carriers who utilize leased units which may be titled in another state. In conjunction with this recommendation, the Committee believes refunds should only be allowed non-Iowa based vehicles if the base state also allows such refund. Many states make no provision for refunds of proportional registration fees paid by prorate carriers, and carriers from these states should not be granted refund privileges by Iowa unless the carrier's base state also allows such refunds. (House File 2, Sec. 6)

#### **I. Additional Statutory Authority or Clarification Needed in Administration of Reciprocity-Proration Laws and Procedures**

The Iowa Reciprocity Board under present law lacks express authority to perform many of the functions which are essential to insuring that carriers subject to the Board's jurisdiction are properly registered, and insuring proper administration of the provisions of the Uniform Agreement. Other provisions should be clarified to provide the Board with sufficient statutory authority to carry out present procedures and requirements established administratively by the Board. The following additional provisions are therefore recommended:

1. The Board should be granted specific statutory authority to examine, and under certain circumstances, cancel or revoke proportional registration or reciprocal privileges. (House File 1, Sec. 26)
2. The Board should be authorized to promulgate rules and regulations necessary to administer the present law. Present chapter 326 contains no express provision authorizing the Board to adopt such rules and regulations. (House File 1, Sec. 29)
3. Most Uniform Agreement states, including Iowa, prohibit by statute or administrative rule proration of individual ve-

hicles, and require registration of the same vehicles in a fleet which is to be prorated among two or more Uniform Agreement states. The Committee recommends that a statute to confirm the Board's authority regarding the above two practices be enacted. (House File 1, Sec. 10)

4. The procedure currently used by the Board for estimating fleet mileage of carriers on the initial application to prorate registration fees with Iowa should be specified by statute. (House File 1, Sec. 9)
5. The formula for computing registration fees due on vehicles added to the fleet after commencement of the registration year should be clarified to conform with the Uniform Agreement, and the time allowed for filing supplemental applications for additions to the fleet should be reduced from thirty to ten days. The Committee believes the proposed ten-day period is sufficient for filing supplemental applications, and specification by statute of the formula outlined in the Uniform Agreement for adding new units to the fleet will confirm present administrative procedures. (House File 1, Sec. 12)
6. A single section providing for disposition of fees collected under the entire chapter should replace references to disposition of fees appearing in separate sections of present chapter 326. (House File 1, Sec. 31)
7. A penalty clause providing that any violation of the proposed new chapter is a misdemeanor, punishable by a maximum fine of \$100 or thirty days in the county jail, unless such act is declared under Iowa law to be a felony should be enacted. Present chapter 326 contains no penalty clause. The penalty would be in addition to the Board's authority to deny the vehicle reciprocal or proration privileges. (House File 1, Sec. 28)
8. The Board should be authorized to prescribe and provide forms required in the administration of reciprocity-proration. The Board has no such specific authority under present law. (House File 1, Sec. 27)
9. A savings clause which would expressly provide that the provisions of the reci-

procity-proration chapter are severable if any part of the chapter is declared unconstitutional or void by the courts should be incorporated into the new chapter. (House File 1, Sec. 32)

#### **J. Present Motor Carrier Reporting Procedures**

Interstate motor carriers are presently required to file reports and carry in each vehicle evidence of compliance with the separate requirements of the Iowa Reciprocity Board, Iowa Commerce Commission, Department of Revenue, and Department of Public Safety. Much of the information required by each agency is identical to the requirements of other agencies, and a single cab card indicating compliance with the requirements of each agency would be more convenient to the carriers in addition to assisting in the enforcement of the regulations of each agency. At least one state, Washington, issues a single cab card. The Washington cab card includes evidence of compliance by the carrier with proration, motor fuel, public utility, and highway department regulations.

The Committee recommends enactment of legislation to provide for a single cab card indicating compliance with the separate requirements of the above four state agencies. Under the Committee's proposal, each participating state agency would convey a "certificate of compliance" to the Executive Secretary of the Iowa Reciprocity Board upon compliance by a carrier with the requirements of that agency. Upon receipt of the certificate of compliance from all the agencies, the Executive Secretary would issue a single cab card for a one-year period. The four participating agencies would jointly prepare the rules and regulations to implement the proposed single cab card. The card should be revoked upon withdrawal of the certificate of compliance by any one of the four participating agencies. (House File 3)

#### **K. Revisions Suggested but Not Considered to be Within the Scope of House Joint Resolution 23 Establishing the Study**

Information presented to the Committee in the course of the study indicates that many areas of motor carrier taxation and regulation should be reviewed for the purpose of determining whether revision is necessary. Although these suggestions are not within the scope of the study,

it is the belief of the Committee that these problems should be pointed out to the Legislative Research Committee and the members of the General Assembly. The Interstate Truck Rate Reciprocity Procedures Study Committee recommends that the Legislative Research Committee appoint appropriate study committees to undertake in depth studies and develop recommendations designed to solve or alleviate the following problem areas:

1. Commercial motor vehicle requirements of each state should be more uniform, to facilitate movement of vehicles in interstate commerce. Specific areas mentioned in the study have been the differences in size, weight, and load statutes; fuel tax procedures; and operating authority requirements between states.
2. The Iowa motor vehicle tax structure should be reviewed for the purpose of determining the equity of the present relationship between total taxes and fees imposed on the different types of motor vehicles, and the costs of constructing and maintaining highways allocable to these vehicles.
3. The adequacy of present enforcement of reciprocity-proration, size, weight, and load statutes by Highway Commission weight officers should be reviewed. Specific suggestions have been:
  - a. Present enforcement within municipalities may be inadequate since Highway Commission weight officers enter municipalities only upon request of the governing body. Enforcement of the statutory requirements on "piggyback" trailers appears to be a particularly difficult problem.
  - b. Overlength, double bottom combinations have been reported to be operating in some Iowa border cities.
  - c. The enforcement of all motor carrier regulations should be consolidated under a single agency. Present agencies involved in motor carrier regulation are the Highway Commission, Motor Fuel Tax Division, Commerce Commission, and the Department of Public Safety.
4. Present total gross and axle weight statutory maximums should be applicable to government-owned vehicles to eliminate the practice of vehicles being operated on Iowa highways at weights in excess of the maximum weights allowed for privately owned vehicles. Some privately owned vehicles making deliveries to at least one State agency, the Iowa Liquor Control Commission, are also reportedly far in excess of statutory weight maximums.
5. Nonresident vehicles apprehended for improper registration should be subject to the same penalty as resident vehicles, i.e., the owner must pay all additional registration fees due from the time of apprehension to the time when the vehicle was legally registered.
6. The present exemption from the 3% Iowa Use Tax of new motor vehicles registered in Iowa, but used exclusively in interstate commerce should be reviewed. Payment of the Use Tax for newly registered vehicles used in intrastate commerce is a prerequisite to vehicle registration.
7. Although unilateral action on the part of Iowa would not be practical, consideration should be given to having the base state or a central authority collect registration fees due on interstate fleets and allocate the amounts due each prorate state on the basis of the mileage formula of that state.
8. The great majority of interstate carriers utilize diesel fuel, and consideration should be given to imposition of a mileage tax in lieu of diesel fuel taxes for more efficient administration and greater convenience to interstate carriers. The feasibility of unilateral action by a state in this area is questionable, and this proposal is jointly being considered by several midwestern states.
9. Consideration should be given to adoption of the suggested Uniform State Motor Fuel Tax Act developed by the Eastern Regional Commercial Vehicle Tax Committee. This Act provides for apportionment of motor fuel taxes on interstate vehicles among the states on the basis of in-state as a percentage of total fleet mileage. Proration of registration fees might also be combined with the payment of fuel taxes so that the carrier would file a single report and pay both fees at the same time.

# Final Report of the Legislative Processes Advisory Committee

The Legislative Research Committee at its August 23, 1967 meeting established a study committee, pursuant to and in accordance with provisions of section 2.55 of the *Code of Iowa* (1966), for the purpose of studying the processes and operations of the General Assembly. It was decided that a majority of the composition of the Committee membership should be nonlegislators in order that an unbiased study would be undertaken. The Legislative Research Committee appointed eight legislative members to a Legislative Processes Study Subcommittee. A thirty-two member Legislative Processes Advisory Committee, composed of the eight legislators of the Subcommittee and twenty-four nonlegislators with various backgrounds and representing various geographical areas of Iowa, was appointed by the Legislative Research Committee.

Legislative members of the Study Subcommittee were:

Senator Robert R. Rigler, Chairman, New Hampton  
Senator Eugene M. Hill, Newton  
Senator John P. Kibbie, Emmetsburg  
Senator Max Milo Mills, Marshalltown  
Representative Donald E. Baker, Boone  
Representative Ralph F. McCartney, Charles City  
Representative James E. Maloney, Bondurant  
Representative Leroy H. Petersen, Grimes

Members of the Advisory Committee were:

Dr. Paul Sharp, Chairman, Des Moines  
Dr. Dean Zenor, Vice Chairman, Iowa City  
Mr. Richard G. Bowers (Resigned), Keokuk  
Mrs. Matthew Bucksbaum, Des Moines  
Mr. Robert Buck, Waukee  
Mr. Ray Eveland, Des Moines  
Mr. Paul Farver, Pella  
Mr. Gene Ford, Emmetsburg  
Mrs. Stephen Garst, Coon Rapids  
Mr. Charles Gifford, Newton

Mr. Clarence Hill, Minburn  
Dr. William Lang, Cedar Falls  
Mr. O. L. Marquesen, Fort Dodge  
Mr. Frank Nye, Cedar Rapids  
Mr. Richard W. Peterson, Council Bluffs  
Dr. John Powers, Estherville  
Mr. Don Reid, Des Moines  
Mr. Will Schnirring, Burlington  
Mr. Robert Spiegel, Mason City  
Justice William C. Stuart, Chariton  
Mrs. L. William Swanson, Mason City  
Mr. James Tyler, Atlantic  
Mr. Robert A. Wright, Des Moines  
Dr. Charles Wiggins, Ames

Dr. Paul Sharp, President of Drake University, was chosen by the Legislative Research Committee to be Chairman of the Legislative Processes Advisory Committee. Dr. Dean Zenor was chosen by the Advisory Committee to be its Vice Chairman.

It was decided that the study director should not be a representative of the legislative branch of government. Dr. Donald P. Sprengel of the Institute of Public Affairs of The University of Iowa was appointed by the Advisory Committee to serve as Study Director. However, the Legislative Research Bureau did provide administrative assistance to the Advisory Committee.

The Citizens Conference on State Legislatures, a bipartisan national organization dedicated to improving state legislatures, agreed to provide assistance to the Advisory Committee. Mr. George H. Morgan, Director of State Services of the Citizens Conference, attended several meetings of the Advisory Committee and agreed that the Citizens Conference would provide technical advice and assistance including material from other state legislative procedures study committees, the salary for a part-time secretary for the Study Director, and financial assistance for printing the final report.

The Legislative Process Advisory Committee was divided into four subcommittees, each of which was assigned a different study area. Each

subcommittee contained one senator and one representative, representing both political parties, and from six to eight nonlegislative members, one of whom was designated as Chairman.

Members of the Legislative Organization Subcommittee were:

Dr. Dean Zenor, Chairman  
Mrs. L. William Swanson, Vice Chairman  
Senator Eugene M. Hill  
Representative Ralph McCartney  
Mr. Robert Buck  
Mr. Frank Nye  
Justice William C. Stuart  
Dr. Paul F. Sharp, ex officio

The Subcommittee's study areas related to bill drafting, fiscal analysis, legislative review, code revision, printing services, rules and procedures, and standing and interim committees.

Members of the Personnel Subcommittee were:

Mr. Will Schnirring, Chairman  
Mr. Robert Spiegel, Vice Chairman  
Senator Robert R. Rigler  
Representative James E. Maloney  
Mr. Gene Ford  
Mrs. Stephen Garst  
Mr. O. L. Marquesen  
Mr. James Tyler  
Dr. Paul F. Sharp, ex officio

The Personnel Subcommittee was assigned the task of studying the size, composition, frequency of convening, and staff needs of the General Assembly, including recruitment and provision of retirement benefits for legislators.

Members of the Citizens Relations Subcommittee were:

Dr. Charles Wiggins, Chairman  
Mr. Richard W. Peterson, Vice Chairman  
Senator John P. Kibbie  
Representative Leroy H. Petersen  
Mr. Richard G. Bowers (Resigned)  
Mr. Paul Farver  
Mr. Clarence Hill  
Mr. Don Reid  
Mr. Robert A. Wright  
Dr. Paul F. Sharp, ex officio

The Citizens Relations Subcommittee studied relations with the press, conflicts of interest, ethics, and lobbying.

Members of the Facilities Subcommittee were:

Dr. William Lang, Chairman  
Mrs. Matthew Bucksbaum, Vice Chairman  
Senator Max Milo Mills  
Representative Donald E. Baker  
Mr. Ray Eveland  
Mr. Charles Gifford  
Dr. John Powers  
Dr. Paul F. Sharp, ex officio

This Subcommittee was assigned the task of studying the physical facilities and equipment available to legislators, their staff and constituents, the press, and lobbyists.

#### Subcommittee Study Procedures

The subcommittees began meeting in January, 1968 and continued to meet (with each subcommittee holding from five to eight separate meetings) until early June when subcommittee recommendations were completed.

The Legislative Organization Subcommittee began its task by reviewing the Joint Rules and the Rules of Procedure of each house of the General Assembly, procedures of other states, and various methods of organization both for legislators and staff of other states. Mr. Bill Kendrick, Chief Clerk of the House of Representatives and Mr. Al Meacham, Secretary of the Senate, were called upon for suggestions for rules revision. Speaker of the House of Representatives, Maurice Baringer, explained his methods for appointing members to the standing committees. Mr. Wayne Faupel, Deputy Code Editor, presented suggestions for improvement of the *Code of Iowa* and its distribution. The Legislative Organization Subcommittee recommendations are far reaching and innovative in regard to the establishment of a Legislative Council and elimination of the legislative interim committees.

The Personnel Subcommittee organized its procedure so that many interests throughout the state were allowed to express their opinions upon each of the study topics prior to any subcommittee discussion of the topics. A series of meetings was held which were attended by former and

present legislators, members of the news media, the state chairman of the Democratic party, a former state chairman of the Republican party, and Lieutenant Governor Robert Fulton. In addition, Dr. Sprengel mailed a questionnaire to all legislators asking for their opinions pertaining to salaries, retirement systems, and sessions, and tabulated the results. A series of questions was sent to major interest groups throughout the state requesting their views on the study areas.

Both Director of the Legislative Research Bureau Serge H. Garrison and Legislative Fiscal Director Gerry Rankin presented information pertaining to legislative services. Mr. Frank Covington, Director of the Office for Planning and Programming, discussed the relationship between acceptance of federal funds and sessions of the General Assembly. Dr. Charles Wiggins, a member of the Advisory Committee, who has directed the orientation programs for newly-elected legislators during the last two sessions, appeared and discussed past and future orientation sessions.

The Citizens Relations Subcommittee began its study by attempting to determine what is the image of the General Assembly as viewed by the citizens of Iowa. Dr. Samuel C. Patterson, Professor of Political Science at The University of Iowa, presented the results of a survey of the attitudes of one thousand Iowa adults toward the General Assembly. The Subcommittee was surprised that Iowans have a more positive attitude toward their State Legislature than was expected.

Members of the news media were invited to attend a meeting to discuss the relationship of the press to the General Assembly and the manner in which events of the General Assembly are reported.

In regard to lobbying activities, the Subcommittee invited the leadership of both political parties of each house of the General Assembly, including the Speaker of the House of Representatives and the President of the Senate, to present their viewpoints pertaining to lobbying and rules that should, or should not, be developed. Representatives of major interest groups also appeared and discussed their role in the legislative process. Mr. Bill Kendrick, Chief Clerk of the House of Representatives, appeared before the Subcommittee to explain the present procedure for registration of lobbyists in the House of Representatives.

In regard to conflicts of interest, the Subcommittee studied Senate File 476 (Chapter 107)

enacted by the Sixty-second General Assembly and recommended certain amendments to it in the light of testimony by several legislators who appeared before the Subcommittee, and discussed the need for conflict of interest legislation.

The Facilities Subcommittee began its study by touring the present facilities of the General Assembly and its service agencies. Representatives from the Capitol Planning Commission, the State Architect's Office, the Secretary of the Executive Council, and Buildings and Grounds were called upon to comment upon space that might become available for legislative use and plans for future space utilization which have already been formulated. In addition, the Secretary of Agriculture was called upon to discuss the feasibility of construction of a separate Department of Agriculture Building which would result in making available ten thousand square feet of space in the Capitol Building.

The Facilities Subcommittee also studied the utilization of computers for the legislative process. Dr. Clara Mattern of Aspen Systems Corporation, which programmed the placement of the *Code of Iowa* on computer tape attended a meeting, as well as representatives of the Data Processing Division of the State Comptroller's Office and International Business Machines Corporation, who described present and future use of computer technology in the legislative process.

Other individuals present at Facilities Subcommittee meetings included news media personnel and lobbyists who commented upon their respective facilities and improvements which appear to be necessary. A series of short-range and long-range goals were formulated by the Facilities Subcommittee. It is the hope of the Facilities Subcommittee that the short-range goals will be able to be implemented prior to the convening of the Sixty-third General Assembly.

It was decided by the Advisory Committee members that a series of five public hearings would be held in Waterloo, Fairfield, Storm Lake, Atlantic, and Des Moines for citizen participation and review of each of the Subcommittee's recommendations. The hearings were held during the last two weeks in June and were predominantly attended by legislators and representatives of organized interest groups.

The Advisory Committee met for three days in July to review each of the Subcommittee's recommendations in order to develop a series of

Advisory Committee recommendations which would constitute a final report of the Legislative Processes Advisory Committee. The series of recommendations has been published as a final report.

The Legislative Research Committee met on September 27, 1968 to review the final recommendations of the Legislative Processes Advisory Committee to determine which of the recommendations would be approved as Legislative Research Committee recommendations. Since the Legislative Processes Advisory Committee Report, which has been printed separately, contains a complete text of all recommendations of the Legislative Processes Advisory Committee, this report will summarize the recommendations within each of the four study areas which were approved by the Legislative Research Committee.

#### LEGISLATIVE ORGANIZATION

The proposals pertaining to organization of the General Assembly will result in substantial changes in the operations and procedures of the General Assembly and its staff agencies. Many of the proposals anticipate annual sessions of the General Assembly. Subsequent to the approval by the Legislative Research Committee of these proposals, annual sessions of the General Assembly were approved by the electorate.

It is recommended that legislative interim committees be eliminated and their functions be allocated to a Legislative Council and to standing committees, which it is recommended shall continue to function during the interim between legislative sessions.

The Legislative Council will be composed of the President Pro Tempore of the Senate, the Speaker of the House, the majority and minority leaders of both houses, and ten additional members, five from each house. The Council will provide its own staff and will recommend staff for the House of Representatives and the Senate and the permanent standing committees. It will recommend rules changes, be responsible for pre-session preparation, supervise and establish policy for the Legislative Research Bureau and the Office of Legislative Fiscal Director, and authorize investigations to be conducted by the standing committees during the interim.

The Legislative Council, with authorization from the General Assembly, will be responsible

for the names and numbers of the permanent standing committees which it is recommended be the same for both houses. The Legislative Research Committee recommends a maximum of fifteen committees, preferably ten, for each house and recommends that the corresponding committees meet jointly during the interim and whenever feasible during the session.

The standing committees will approve their staff and accept assistance from the legislative service agencies. They will be authorized to conduct investigations and to require reports and information from state agencies.

The Committee recommends that since the standing committees will be undertaking in-depth studies to evaluate legislation, studying existing laws, operations, and functions, assistance from advisory committees of private citizens would be beneficial. It is further recommended that the standing committees assume the functions of the Departmental Rules Review Committee within their functional areas. In regard to standing committees' duties during the session, the Committee recommends that thorough consideration be given to each bill, that fiscal notes be attached where necessary, committee reports be attached to each bill, and joint committee hearings be held.

It is recommended that the manner of selecting standing committee membership be determined in each political party caucus and that political party representation on each standing committee be based upon the ratio of party membership to total membership in the house. It is recommended, because more thorough committee work can be accomplished if each member serves on a minimum number of committees, that each legislator serve on a maximum of three standing committees.

The Advisory Committee consumed a great amount of time discussing the concept that the appropriations committees be abolished and their functions assumed by the standing committees and coordination of the total budget to be undertaken by the Legislative Council. The Committee recommends that the General Assembly devote further study to such a concept.

The Advisory Committee reviewed the Joint Rules and Rules of Procedure of each house, and the Legislative Research Committee approves the proposed rules changes in order to help increase the procedural efficiency of the General Assem-

bly. It is recommended that the Rules be rewritten using more easily understandable language and that obsolete rules be deleted.

In order to improve the general decorum of the General Assembly, it is recommended that rules be adopted for the use of radio, television and photographic equipment. The elimination of unneeded personnel from the floors of the two houses is also desirable. Visitations to the floor of the House of Representatives by private individuals and lobbyists and the frequent introduction of guests in both houses is to be discouraged.

The rules of the House of Representatives specifies that both *Roberts Rules of Order* and *Masons Manual of Legislative Procedure* govern the conduct of business, and the Senate Rules specify *Roberts Rules of Order*. It is recommended that *Masons Manual* be adopted by both houses.

Other Rules changes which are recommended include the adoption of a system for legislative bills to carry over from the first to the second session of each annual session of a General Assembly, the use of fiscal notes for bills which have been reported out of a standing committee and have fiscal implications for the state budget, less use of special orders as substitutes for steering or sifting committee action, and greater use of the Committee of the Whole by both houses.

The Advisory Committee discussed improvements which should be effected for bill drafting forms in order to aid in understanding legislation. The following suggestions are recommended by the Legislative Research Committee:

- (a) Renumbering the lines on each page of a bill rather than renumbering the lines in each section.
- (b) Reprinting the entire subsection or section being amended and properly identifying the language being deleted and the language being inserted.
- (c) Reprinting bills which are extensively amended in one house.
- (d) Providing explanations for all bills, not just for House of Representatives bills.
- (e) Clarification of the Prefiling Act.

It is the opinion of the Research Committee that the journals can be more easily read if sep-

arate items are set out more clearly one from the other through the use of distinctive type, proper spacing, and other means. It is recommended that recording debates in the General Assembly be instituted. More detailed and effective standing committee reports would also be of help to legislators.

Several recommendations are being made with regard to the printing and distribution of the *Code of Iowa*. It is suggested that provision be made for continuous code revision, for revision of the index, and for reprinting the code every odd-numbered year instead of after every odd-numbered session. A more flexible printing and distribution of the code should be carefully studied since annual legislative sessions have been approved. Since the Code Editor presently submits corrective legislation to the Judiciary Committee, it is believed to be more satisfactory to submit such revisions to the appropriate standing committee.

Preparation of a legislative employees' handbook appears to be an excellent manner in which to standardize necessary qualifications, duties, and procedures for legislative positions, and to aid employees to carry out their duties. The Research Committee recommends that such a handbook be prepared.

The Committee recommends that the General Assembly pass a constitutional amendment which will enable the General Assembly to call itself into special session.

The Committee further suggests that a study of the manner of filling legislative vacancies be undertaken, and suggests that since annual sessions have been approved, the two sessions of the General Assembly be numbered consecutively as the first and second sessions of a General Assembly.

#### PERSONNEL

The Legislative Research Committee is of the opinion that efforts should be made to insure that the members of the General Assembly continue to represent all segments of the population of Iowa. More adequate compensation for members of the General Assembly is needed to insure that many persons will be able to serve as members of the General Assembly. Annual salaries appear to be a more satisfactory mode of payment than per diem payments and it is recommended that

annual salaries of six thousand dollars be provided. Since the constitutional amendment allowing the General Assembly to set its own mode of payment has been approved, it will be possible to pay members of the Sixty-fourth General Assembly on an annual basis.

In addition, it is recommended that an expense allowance of eighteen dollars per day for actual days in session be paid. Legislators from Polk County, since they are not required to maintain a second residence although they do, of necessity, incur some extra expenses, should be paid an expense allowance of nine dollars per day. Legislators usually travel to their homes every week and since it is desirable to maintain contact with constituents, compensation for weekly travel at the standard state rate for mileage is recommended.

In order to encourage attendance at special sessions and at interim committee meetings, the Committee recommends that the per diem payments of forty dollars be continued. Also, payment of actual expenses for attendance at committee meetings and the present session expense allowance of forty dollars per day for attendance at special sessions are recommended.

The Legislative Research Committee recommends the Legislature pass for a second time the proposed constitutional amendment pertaining to mandatory subdistricting, and that the General Assembly consider changing the primary election to an earlier date. Campaign contributions statutes appear to be unrealistic and should be thoroughly reviewed.

A knowledgeable General Assembly is of utmost importance, and professional staff assistance appears essential in order to provide unbiased information, research, and bill drafting services. The Committee recommends that the Legislative Research Bureau, the Office of the Fiscal Director, and the Office of the Code Editor maintain close cooperation with one another. Staffing these agencies with qualified personnel is most important. The Committee further recommends that both private and educational sources should be utilized for assistance when needed by the General Assembly.

Since this report recommends that the standing committees continue to meet during the interim, the major standing committees should be

provided professional nonpartisan staff by the legislative service agencies. It is further recommended that the majority and minority leaders in each house be provided staff assistance at state expense during the legislative session.

The Committee agrees that the orientation program for legislators should be continued.

#### CITIZENS RELATIONS

In regard to the area of citizens relations the Committee believes that an increased knowledge of the activities of the General Assembly will help to improve the attitude of the citizenry toward the General Assembly. Therefore, it is recommended that various types of educational materials be made available to the public through educational institutions, and within the Capitol Building itself by means of expanded informational services for visitors.

In regard to relations with news media personnel, the Committee believes that an orientation session for legislative correspondents would be beneficial and would help to encourage more press coverage by smaller newspapers and coverage of all aspects of the activities of the General Assembly. However, the Committee recommends that members of the press be restricted from the floor during debate in the House of Representatives as they are presently restricted in the Senate.

In regard to lobbyists, the Committee recommends that all lobbyists register with the Secretary of State prior to or at the time that their lobbying activities commence. No fee should be required for registration.

Governmental employees should be required to file an authorization with the Secretary of State when they are representing the official view of their governmental agency. The Committee also decided that legislators and full-time legislative employees and their partners and business associates should not be allowed to accept compensation for lobbying activities.

Senate File 476 (Chapter 107, Acts of the Sixty-second General Assembly), the Iowa Public Officials Act, has been studied by the Committee, and recommendations for its amendment were adopted. Suggested amendments include specifying a time period of thirty days from the conven-

ing of the session for preparation of a code of ethics for lobbyists. The law presently requires no time limitation. Also, an amendment is recommended to require that charges against lobbyists be investigated by the ethics committees in the same manner that charges against legislators be investigated. It is recommended that the two-year restriction against former executive officials lobbying be repealed.

The Committee recommends joint action by the ethics committees in writing a legislative code of ethics, but individual committee action for enforcement of the code. It also recommends that business transactions not covered by competitive bidding involving legislators and full-time legislative employees, including their families and close business associates, who act as agents for the state, be prohibited.

The Legislative Research Committee approves the Advisory Committee recommendation that the General Assembly establish a study to determine the feasibility of creating an office of ombudsman.

#### FACILITIES

The Committee is aware of the lack of adequate space for the General Assembly members and staff. Recommendations pertaining to facilities are divided into two areas: those that might be completed prior to the Sixty-third General Assembly and those that might be considered long-range improvements.

A major problem concerning preparation of legislative facilities and equipment for the legislative session is that no committee or individual is given specific authority by rule or statute for such preparation. The Committee, elsewhere in this report, has recommended that the Legislative Council be given this duty.

In order to help the General Assembly operate more smoothly and efficiently, several recommendations for improvements were made which are considered to be short-range goals. The parking problem was studied, and the Research Committee approves the Advisory Committee's conclusion that assigned parking spaces for members of the General Assembly will help to relieve congestion. The Executive Council is prepared to establish such a system. The Committee also approves the recommendation that a signal system

be installed throughout the Capitol Building in order to inform legislators of impending quorum or roll call votes.

After considerable study, the Committee decided that the public address system in the chambers should be remodeled to allow for more individual control of microphones. Testimony indicated that the public address system in the House of Representatives is ineffective, and its eventual replacement may be warranted. Work has commenced on this recommendation. Since the use of audiovisual equipment in the legislative chambers has been substantially increasing and adequate electrical changes have not been made, the Committee recommends that the wiring systems in both chambers be replaced. It is also recommended that the operators of audiovisual equipment be assigned an area in which they might park their vehicles near the Capitol Building in order to unload their equipment.

In the past, legislators have found it almost impossible to secure lunch in the Capitol Building because many public employees and visitors usually are eating in the Capitol cafeteria. This has required legislators to eat outside the Capitol Building and has resulted in a substantial loss of work time. The Advisory Committee recommended that the area previously occupied by the Motor Fuel Tax Division located next to the present dining area be converted for use by legislators as a legislative dining room. The Legislative Research Committee approves of this recommendation and is having this recommendation implemented. The dining area will seat approximately one hundred sixty persons, will allow legislators, executive officials, and invited persons to eat or have a cup of coffee in a relatively private area. In addition to allowing legislators to more quickly secure a lunch, this area, when not being used for eating purposes, may be used as a caucus area.

Other changes recommended are a study to determine the cost of air-conditioning the Capitol, private restroom facilities for women legislators, and closing of the rotunda opening on the first floor.

Short-range facilities recommendations were also formulated with regard to the press personnel in order that the task of reporting the activities of the General Assembly might become easier. The Committee recommends that the number of press desks in each chamber be increased to

thirty, and that additional signal buzzers to summon pages be provided the press personnel. Because of inadequate lighting and difficulty in televising the proceedings of the General Assembly, it is recommended that larger wattage bulbs be inserted in the chandeliers.

The Legislative Research Committee, in an effort to implement the short-range goals prior to the convening of the Sixty-third General Assembly, directed its Equipment Subcommittee and the Facilities Subcommittee of the Legislative Processes Advisory Committee to meet with the Executive Council. Although the Executive Council agrees that such facility changes should be implemented, not all of such changes can be implemented prior to the convening of the Sixty-third General Assembly because of the lack of time and complexity of the work. However, all projects which can be completed will be prepared.

The Legislative Research Committee believes that the best procedure for relieving space congestion in the Capitol is the eventual removal of all offices connected with the Department of Agriculture to a separate building and utilization of the Capitol building exclusively for elected executive officials and the Legislature.

Other suggested long-range improvements include:

- (a) Additional Committee rooms.
- (b) Private lounge for legislators.
- (c) A larger and more adequate room for press personnel.

- (d) A radio-TV filming and taping studio.
- (e) Office space for legislators.
- (f) Adequate space for the legislative service agencies.
- (g) Adequate parking facilities.
- (h) A Capitol dining area located outside but easily accessible to the Capitol Building.
- (i) Earphone access points in the lounges so that debate in the legislative chambers can be heard.
- (j) Increased use of electronic data processing methods.

#### CONCLUSION

It is hoped that the adoption of the recommendations will enable the General Assembly to conduct its business in a more efficient and economical manner and that the legislative work load can be organized more quickly and completed more expeditiously. The Committee believes that with improved procedures, staff, and facilities, the Iowa General Assembly can become more responsive to the desires of its citizens and legislation of an excellent quality will be enacted.

The Legislative Research Committee will introduce legislation and make suggested rules changes to implement the recommendations of the Legislative Processes Advisory Committee. Many of the recommendations do not require either legislation or rules changes and efforts will be made by the proper officials to implement these recommendations.

# Final Report of the Retirement Programs Study Committee

Twenty-three legislators who served in the Sixty-second Iowa General Assembly requested in a letter dated July 1, 1967 that the Legislative Research Committee continue the study of Iowa retirement systems for State and local public employees begun during the 1965-1967 legislative biennium. The request noted that major proposals of the 1965-1967 Study Committee were adopted, but it was believed other areas, some of which were considered and recommended by the Study Committee, should be given further consideration. It was suggested that, in view of their study and knowledge of Iowa retirement systems, as many of the 1965-1967 Retirement Programs Study Committee members as deemed advisable be appointed to serve on the proposed Study Committee during the 1967-1969 biennium.

The Legislative Research Committee at its July 29, 1967 meeting resolved that the Retirement Programs Study be continued through the present interim. The motion continuing the Study specified that as many of the 1965-1967 Study Committee members as possible be reappointed to serve on the Study Committee during the 1967-1969 biennium. Senator Andrew G. Frommelt was reappointed Study Committee Chairman. Other legislators appointed to serve on the Retirement Programs Study Committee are:

Senator Charles F. Balloun, Toledo  
Senator Merle W. Hagedorn, Royal  
Senator Elmer F. Lange, Sac City\*  
Senator H. Kenneth Nurse, Hartley\*  
Representative Maurice E. Baringer, Oelwein\*  
Representative Minnette F. Doderer, Iowa City\*  
Representative J. Wesley Graham, Ida Grove  
Representative Dan L. Johnston, Des Moines  
Representative James T. Klein, Lake Mills

\*Legislator indicated also served on the 1965-1967 Study Committee.

The Retirement Programs Study Committee held its first meeting on August 29, 1967 at which time Representative James T. Klein was elected Committee Vice Chairman. The Committee began

its study with a review of information prepared, areas considered, and recommendations made by the 1965-1967 Study Committee. The 1965-1967 Study Committee developed four major goals for public employee retirement systems in evaluating the objectives, benefits provided, financial condition, and administration of public employee retirement systems. The 1967-1969 Committee reviewed and reaffirmed the four goals which are as follows:

1. A modern effective retirement system constitutes a positive approach to providing deferred compensation in order to implement personnel policies necessary for efficient and effective operation and meeting desirable social needs. Such a policy must be expressed in terms of retirement income adequate in real purchasing power to maintain an adequate standard of living relative to an employee's achievements during the years of employment.
2. The achievement of a benefit income level adequate to maintain the system's objectives, based on trends and programs in both private industry and government, should require a retirement income level of not less than fifty percent of compensation during the last five years of service, after having completed thirty-five years of employment. The number of years of employment (thirty-five) required to achieve full benefit should appropriately be adjusted for certain special classes of employment, such as public safety. In order to effectively achieve the retirement system's objectives, it is necessary to provide for the protection of the purchasing power of retirement income. This can most appropriately be done through a process of adjusting retirement income in accordance with local cost-of-living indexes. Consistent with the objectives of deferred compensation and social desirability, retirement income should take into account Federal Social Security program benefits determining total cost requirements.

3. The retirement system should be soundly funded. Resources to accomplish this purpose should be derived from employer and employee contributions and investment earnings.
4. The administration of the individual retirement systems should be combined in a federated system to secure the benefits that can be expected to result from more efficient operations. Unified administration should extend to investment policies and management.
5. Local retirement system trustees should maintain authority over the establishment of local policies and local systems should provide the resources necessary to fully fund these policies.

In determining study procedures, the Study Committee agreed that a public hearing should be held at which time all interested groups and individuals would be invited to present their views on needed revisions in present retirement systems offered Iowa state and local public employees. The public hearing was held October 27, 1967. The suggestions presented at the public hearing, plus additional areas of consideration suggested by Committee members, have been reviewed by the Study Committee during the present interim.

The Study Committee, particularly in regard to the Iowa Public Employees' Retirement System (IPERS), has worked closely with Mr. Edmund R. Longnecker, Chief, Retirement Division, Employment Security Commission, and the consulting actuary who performs actuarial examinations of IPERS, Mr. Fenton R. Isaacson, of Haight, Davis and Haight Division, Milliman & Robertson, Inc. These two persons have provided much information in addition to analyses of proposed revisions in retirement systems, and this Study would not have been possible without their assistance.

The following report of information compiled and recommendations of the Retirement Programs Study Committee is respectfully submitted for consideration by the Legislative Research Committee.

#### **PRESENT PUBLIC EMPLOYEE RETIREMENT SYSTEMS IN IOWA**

Three state administered retirement systems and at least one hundred fifteen local retirement systems have been established for Iowa state and

local public employees. In addition, certain permanent employees of the three state supported institutions of higher learning in Iowa are covered under a retirement system nationwide in scope, the Teachers Insurance and Annuity Association (TIAA), which is not administered at the state level. The one hundred nineteen retirement systems vary widely in number of members, benefits provided, contribution rates, financial condition, and administration of the systems.

The two major types of retirement programs offered Iowa public employees are the money purchase and defined benefit (formula benefit) programs. Under the money purchase program, benefits are computed entirely on the basis of employee contributions, employer contributions, and interest earned in accumulated funds. Benefits under the formula benefit program are specified in advance in accordance with a formula which is usually based on a percentage of the employee's salary multiplied by the number of years of public employment.

Appendix I lists the number of systems, active and retired memberships, and current assets of retirement systems for state and local public employees in Iowa. A brief analysis of each retirement system follows.

#### **State Administered Systems**

**Iowa Public Employees' Retirement System.** The Iowa Public Employees Retirement System (IPERS) was established in 1953 to replace the Iowa Old Age and Survivors Insurance Program (IOASI) which had been established in 1946. State and local public employees not covered under other retirement systems established in the state are required to be covered under IPERS. The Employment Security Commission is responsible for the administration of IPERS, which is by far the largest retirement system for public employees.

Legislation recommended by the 1965-1967 Study Committee and enacted by the 1967 Legislature provided for conversion of IPERS from a money purchase to formula benefit program. To be eligible to receive IPERS benefits, an employee must have been employed by state or local government at least eight years or have attained the age of fifty-five years prior to termination of public employment. Benefits provided under IPERS are service retirement and death benefits. Service retirement allowances vary according to years of

service and annual salary of the employee. The beneficiary of the employee upon his death is entitled to receive accumulated contributions of both the member and the employer plus interest earned. If death occurs while on retirement, benefits payable to the beneficiary vary according to which of the four optional retirement allowances has been selected by the member.

Years of creditable service for purposes of IPERS benefits are divided into "prior service" which includes years employed prior to establishment of IPERS in 1953, and "future service" which includes years of employment after 1953. Provision was made in 1953 for employees to either withdraw their contributions from the IOASI system, which preceded IPERS, or transfer the contributions into IPERS and obtain credit toward retirement for years of employment (prior service) before 1953. Only those employees who elected to transfer IOASI contributions into IPERS are entitled to prior service benefits.

IPERS is financed through employee and employer matching contributions equal to three and one-half percent of annual salary up to \$7,000, and interest earned on accumulated funds. Another important source of revenue is "quit-money" which represents the employer's share of contributions toward IPERS benefits in behalf of persons leaving public employment and who elect to withdraw their accumulated contributions plus interest which results in such employees forfeiting their rights to employer contributions.

IPERS is a very soundly financed program with the only unfunded obligation of the system attributable to assumption by IPERS of the payment of retirement benefits to members and beneficiaries of the former system, IOASI, and prior service benefits provided IPERS members. Section 97B.54 of the *Code of Iowa* requires that the unfunded obligations of the system be liquidated prior to July 1, 1998, and annual payments are being made to liquidate the liabilities of the system in accordance with the statutory requirement. It should also be noted that all proposed recommendations of this Committee, as well as the 1965-1967 Study Committee, have been examined by the actuary for the system to determine the impact of the proposal on the financial condition of the system.

**Judicial Retirement System.** The Judicial Retirement System was established in 1949 for the

purpose of providing a retirement program for judges of the Iowa Supreme and District Courts. Eligibility for coverage under the system was extended to municipal and superior court judges in 1959. The state comptroller is responsible for the administration of the system. Participation in the Judicial Retirement System is voluntary, but judges wishing to participate must do so within one year after taking their oath of office. Judges not electing to join the Judicial Retirement System are automatically included under IPERS.

Judges must complete either at least six years of service and attain the age of sixty-five, or twenty-five years of service to qualify for retirement benefits. Formula benefits for service retirement and disability retirement benefits are provided under the system. No death benefits, other than return of employee contributions, are provided under the present system.

Judges presently contribute four percent of their total salary toward the system, while the employer contribution rate is three percent of total salary. The employer contribution is far less than the rate required to fund the system in an actuarially sound basis, and the system consequently is being financed primarily on a pay-as-you-go basis, i.e., contributions from active members are being used to finance benefits payable to retired and disabled members. Funds are also appropriated by each General Assembly to meet benefit obligations of the system.

**Peace Officers' Retirement System.** The Peace Officers' Retirement, Accident and Disability System was established in 1949. All members of the Iowa Highway Patrol and Bureau of Criminal Investigation, except clerical workers, are required to participate in the system. The system is administered by a three-member board of trustees composed of the Commissioner of Public Safety, the State Treasurer, and a member of the system.

Formula benefits are provided under the system for service retirement, disability, and survivors' benefits in event of death of an active or retired member. Members with at least twenty-two years of service are eligible for service retirement benefits at age fifty-five. An additional feature of the Peace Officers' Retirement System is an escalator clause which provides for adjustments of the retirement benefits of retired, disabled, and deceased members upon the granting

of salary increases to active employees holding the same or equivalent rank of the retired member receiving benefits. The escalator provisions were enacted in 1965.

Members of the system are required to contribute a percentage of their total salary, ranging from four and ninety-one hundredths percent to six and one-half percent, which varies according to their age upon commencement of employment. The state is required by statute to contribute toward the system in accordance with a formula based on current assets, liability, and future salaries payable to members of the system. Present statutes contain a "savings clause", however, under which the state's share of the cost of providing benefits under the system may be financed on a pay-as-you-go basis. Although assets are being accumulated under the system, the state's contribution rate has not in the past been sufficient to fund the system in accordance with the statutory formula. The state's contribution under the statutory formula should be twenty-eight and six tenths percent of payroll compared to the present rate of sixteen percent of payroll. Another factor affecting the financial condition of the system is that members were given credit toward retirement for all previous years of law enforcement service prior to establishment of the system in 1949, but no provision was made to fund the liabilities accrued from allowing this credit.

#### **Locally Administered Retirement Systems**

**Retirement Systems for Local Policemen and Firemen.** The first retirement systems for policemen and firemen were established in 1909. These systems, which are authorized under present chapter 410 of the Code, have been largely superseded by retirement systems for policemen and firemen established under chapter 411 of the Code. The chapter 411 systems were established during the Extraordinary Session of the Forty-fifth Iowa General Assembly (1933), and all policemen and firemen employed after March 1, 1934 by municipalities required to establish such retirement systems, must be members of the chapter 411 systems. Policemen and firemen appointed prior to March 1, 1934 continue to be covered under chapter 410 systems, but these systems are now being liquidated in cities required to establish retirement systems under chapter 411. Until the systems are liquidated, however, most cities with populations exceeding 10,000

have four separate retirement systems for local policemen and firemen.

Chapter 411 requires that separate retirement systems be established for policemen and firemen in any city electing or required to appoint firemen and policemen under civil service. Cities with populations exceeding 8,000 persons, which have paid police or fire departments, are required under section 365.1 of the *Code of Iowa* to establish a civil service system for such employees. Establishment of a civil service system is optional for cities under 8,000 population.

Chapter 411 systems are administered by seven-member boards of trustees composed of city officials, members of the system, and private citizens. A separate board administers the separate systems for policemen and firemen in each municipality, but private citizen members serve on both boards. Chapter 410 systems are administered by three-member boards of trustees, but provision is made for these systems to be administered by the chapter 411 board of trustees in cities with systems under both chapters 410 and 411.

Benefits provided under police and fire retirement systems established in accordance with chapters 410 and 411 include service retirement, disability, and survivors benefits. Benefits are virtually identical to the benefits provided under the Peace Officers' Retirement System discussed previously, including provision for escalation of benefits to members receiving retirement allowances upon the granting of salary increases to active members.

Although little data on chapter 410 systems is available, it is believed most chapter 410 systems are being financed on a pay-as-you-go basis. Chapter 410, unlike chapter 411, does not require that the systems be funded on an actuarially sound basis, and most cities provide for an annual appropriation to the systems for the purpose of paying benefits due each year. This funding method is probably adequate for these systems since no new members are being admitted for coverage and very few active members remain in the systems.

Employee contribution rates and the procedure for calculating the city's contribution rate for chapter 411 systems is identical to the rates and procedures under the Peace Officers' Retirement

System. The 1965-1967 Study Committee forwarded a comprehensive questionnaire to cities with chapter 411 systems, and considerable information was obtained pertaining to the membership, benefits being paid, and financial status of each system. It is apparent from the results of the questionnaire that some chapter 411 systems are not being funded in accordance with the statutory formula, but examination of recent actuarial studies submitted in conjunction with the questionnaire by twelve cities reveals that systems in eleven of the twelve cities, which includes twenty-three separate retirement systems, are more adequately financed than the Peace Officers' Retirement System.

#### **Public School Teachers' Retirement Systems.**

Section 294.8 of the *Code of Iowa* authorizes any school district located in whole or in part within a city of at least 25,100 population to establish a retirement system for the public school teachers of the school district. Establishment of a retirement system in a city of less than 75,000 must be ratified by a vote of the people. It is provided that funds for retirement systems may be obtained from a tax levy, contributions by teachers, and interest earned on any funds accumulated. The teacher contribution rate must be at least equal to the school district contribution rate. Provision is made for administration of each system by a board of trustees composed of the board of directors of the school district.

The Des Moines school district is the only district in the state which has established a separate teachers' retirement system. In addition to administration of the system by the Board of Trustees (school board), an Advisory Committee has been established to advise the board in policy matters. The Advisory Committee is composed of the superintendent, president of the school board, one private citizen, and four members of the system.

Participation in the Des Moines system is voluntary, but teachers not electing participation are automatically included in IPERS. The Des Moines Teachers' Retirement system is a money-purchase plan which provides service retirement and disability benefits. The chief advantages of the Des Moines system compared with IPERS are the disability benefits, higher service retirement benefits resulting from the higher contribution rates which are based on total salary, and normal service retirement at age sixty. The vesting pro-

visions under the Des Moines system, however, are much more restrictive than IPERS. Members are eligible for IPERS benefits after eight years of service or attainment of at least fifty-five years of age prior to termination. Eligibility for benefits under the Des Moines system is restricted to teachers remaining in the system until age sixty, or teachers who attained the age of at least forty-five years and had completed twenty years of service prior to termination of employment. Employees who qualify for benefits under the latter provision receive an annuity equal to the actuarial value of employee contributions plus a pension equal to twenty-five percent of the annuity. Teachers with twenty years of service terminating employment between the ages of forty-five and sixty receive a pension equal to five percent of the annuity for each year of service completed after age forty-five.

#### **Utilities Employee Retirement Systems.**

Chapter 412 of the *Code of Iowa* authorizes establishment of municipal utility retirement systems in cities with populations of at least 5,000. Utility systems are defined as "waterworks, sewage works, gas, or electric light plants managed, operated, and owned by a municipality." Systems are to be administered by either the city council or the board responsible for administration of the municipal utility.

Funds for utility retirement systems may be obtained from employees, the employer, and interest earned on accumulated funds. The governing authority of the system may contract with any legal reserve insurance company authorized to conduct business in Iowa for payment of the retirement benefits provided.

At least seven municipal retirement systems have been established in Iowa, but little information on the systems is available at the state level. Information compiled for the 1965-1967 Study Committee concerning the municipal utility retirement system of the city of Ames, indicates that employees under the system are provided service retirement, disability, and death benefits. Service retirement benefits are equal to one and one-third percent of the average annual salary for the five consecutive highest years of earnings of the last ten years of service, multiplied by the number of years of service. Disability retirement benefits equal fifty percent of the employee's highest average annual salary. Death benefits are equal to the sum of accumulated employee contri-

butions or a lump sum payment of \$1,000, whichever is the greater. Contribution rates for the Ames system are five percent of total salary for employees and seven and one-half percent of total salary for the employer.

#### Retirement Systems for Municipal Judges.

The city of Ames has established a separate retirement system for municipal judges. No specific statutory authority to establish municipal judge retirement systems has been located in the Code, but provision was made under IPERS in 1953 that persons covered under any other retirement system could be excluded from IPERS coverage. It is believed that the Ames system is the only separate municipal judges' retirement system in the state, and the city's response to a 1965-1967 Study Committee survey indicated that only one judge was a member of the system. No information is available on the benefits provided under the Ames system.

#### Other Retirement Systems Offered Iowa Public Employees

Higher-salaried permanent staff employees of the University of Iowa, Iowa State University, and University of Northern Iowa are presently granted the option of either IPERS or coverage under an alternative retirement system with benefits provided by private insurers. It is believed that all, or virtually all, employees electing coverage under the optional program have selected the Teachers Insurance and Annuity Association (TIAA) program. TIAA is a nonprofit, legal reserve life insurance and annuity company which was founded in 1918 by the Carnegie Foundation for the advancement of teaching. Participation in TIAA is limited to employees of public and private colleges or universities and certain nonprofit research or educational organizations. Eligibility for TIAA in Iowa is limited to permanent staff employees with annual salaries of at least \$4,800 at the University of Iowa and University of Northern Iowa and at least \$6,600 at Iowa State University.

TIAA coverage has been offered in the three Board of Regents' institutions since about 1944. TIAA is nation-wide in scope, and the State is not involved in the administration of the system except for determination of eligibility, contribution rates and monthly remittance of contributions to TIAA.

The chief advantages of TIAA in comparison with IPERS are increased retirement benefits resulting primarily from greater employee and employer contribution rates toward the system, the variable annuity option provided, and the issuance of annuity contracts directly to the individual with no vesting requirement for eligibility to receive benefits. The employer contributes an amount toward TIAA equal to twice the contribution of the employee. Present employer contribution rates are six and two-thirds percent of salary up to \$4,800 and ten percent on the salary balance in excess of \$4,800.

The variable annuity program is offered under a separate nonprofit corporation, the College Retirement Equity Fund (CREF), although eligibility is restricted to those persons granted TIAA coverage. The employee may elect to allocate from twenty-five percent to seventy-five percent of total employee-employer contributions into CREF, and the funds allocated are invested in common stocks. Upon retirement, the person is granted a fixed-income based on TIAA contributions and a variable income based on CREF contributions. The variable income is recomputed each year on the basis of the market value of CREF funds.

The third major feature of the TIAA program, immediate vesting, permits an employee to accept employment in another institution without losing his rights to an annuity based on both employee and employer contributions. Most retirement systems have vesting requirements under which eligibility for retirement benefits is contingent upon employment for a specific number of years.

#### TIAA AND IPERS COVERAGE AT BOARD OF REGENTS INSTITUTIONS

First Quarter, 1968

Institutions	Number Under TIAA	Number Under IPERS	Total Full-time Employees	% Of Employees Under TIAA
Iowa State University	1,801	2,572	4,373	41.18%
University of Iowa	3,215	3,483	6,698	48.00%
University of Northern Iowa	481	630	1,111	43.29%
Totals	5,497	6,685	12,182	45.12%

**BOARD OF REGENTS INSTITUTIONS EMPLOYEES  
UNDER IPERS WITH SALARIES EXCEEDING \$4,800**

**First Quarter, 1968**

Institutions	Salary Level (Number of Employees)				Total Over \$4,800
	\$4,800- \$6,600	\$6,600- \$7,000	\$7,000- \$10,000	Over \$10,000	
Iowa State University	687	45	191	87	1,010
University of Iowa	505	61	214	33	813
University of Northern Iowa	93	25	78	25	221

**COMMITTEE RECOMMENDATIONS**

**Investment of Iowa Retirement System Funds**

**Present Procedures.** As previously discussed, most retirement systems for public employees established in Iowa are administered and funds invested by a separate governing authority. The Committee believes, in accordance with its fourth goal, that investment of the funds of individual retirement systems should be consolidated for more efficient operation and increased investment income. In discussing the possibility of centralizing investment of retirement system funds, it should be emphasized that the great majority of Iowa state and local public employees are covered under a single system, IPERS, which in effect results in considerable consolidation of administration and investment of retirement system funds. Other states may have separate retirement systems for state employees, teachers, local employees, and other types of employees, each of which may be administered by a separate agency or board.

Most retirement systems for Iowa public employees are formula benefit programs under which the employer must pay the difference between the total cost of providing benefits and the amounts obtained through employee contribution and investment income. Increases in investment income therefore directly reduce the employer's share of the cost of financing a formula benefit retirement program. Information available indicates that investment yields for the great majority of systems are less than four percent com-

pared with the overall present IPERS yield of four and eight tenths percent for the 1968 fiscal year. The yield on new money invested during the 1968 fiscal year was six and sixteen hundredths percent. Small increases in the rates of return can yield considerable amounts of revenue considering total assets invested. For example, total assets held by the sixty police and fire retirement systems established under chapter 411 of the *Code of Iowa* amount to about forty million dollars. An increased percentage yield of only five-tenths percent would result in an increase in investment income of \$200,000, while a full one percent increase would yield an additional \$400,000.

Management of a large and diversified investment portfolio requires skilled investment counsel, and it is extremely doubtful whether the board or official responsible for investment of the funds of many smaller state and local retirement systems has the experience and expertise needed to obtain the maximum return consistent with safety from accumulated retirement system funds. A further problem involved in investment of retirement system funds is that many of the systems are severely restricted in the types of securities for which investment is authorized. Most systems, with the exception of IPERS and the Des Moines Teachers' Retirement System, either are restricted by law or in actual practice limit investments to a purchase of government securities which yield much lower rates of return than other types of investments.

**Committee Proposal.** The Committee recommends that investment of retirement system funds be centralized under the Employment Security Commission. The three state administered retirement systems should be required to participate in the centralized investment program, but participation in the centralized investment program should be entirely voluntary on the part of the governing authority of locally administered systems. The Employment Security Commission is believed to be an appropriate agency for such centralization in that this agency is presently responsible for the administration and investment of funds of IPERS which is by far the largest retirement system in the state. This recommendation is being submitted to the Sixty-third General Assembly and is incorporated in Senate File 10.

The major features of the Committee's proposal as found in Senate File 10 are summarized below:

1. Creation of a single fund into which the assets of each retirement system required or electing to participate in the centralized investment are to be placed. All assets placed in the single fund must be transferred at market value or in cash so that a realistic value can be placed on the assets of each system, but systems electing participation may elect to retain securities which may have a market value which is less than the value at which purchased.
2. All moneys held by the three state administered retirement systems would be placed in a single fund, and all benefit payments and any other disbursements of the three systems would be paid from the single fund. Local systems electing to participate in the single fund would periodically remit the excess, if any, of receipts over disbursements, and each system would continue to pay benefits and all other disbursements from funds retained at the local level.
3. All funds in the single fund would be invested by the State Treasurer at the direction of the Employment Security Commission. Funds may be invested in any securities for which IPERS funds may currently be invested including common stocks. Investment income and expenses are to be credited or charged to each system on the basis of the average quarterly balance of each system in relation to the total quarterly balance in the single fund.
4. The Commission is authorized to employ such professional and clerical personnel deemed necessary, employ outside investment counsel, and promulgate any rules and regulations necessary to carry out its assigned functions.
5. The present Advisory Investment Board is continued with no expansion of its advisory powers, but the membership on the board is increased from five to seven members. Two board members would continue to be legislators, appointed by the presiding officers of each house, and the remaining five members are to be appointed by the Governor for six-year terms. No particular qualifications other than experi-

ence in the field of investment and finance are required of board members appointed by the Governor in contrast to the present law which outlines the specific qualifications of each board member.

6. The governing authority of any retirement system electing participation in the single fund may, upon no more than one hundred eighty days notice, withdraw from participation in the central fund. Assets of systems electing withdrawal are to be transferred in cash.

#### **Iowa Public Employees' Retirement System (IPERS)**

Major revisions in the Iowa Public Employees' Retirement System were recommended by the 1965-1967 Study Committee and subsequently enacted by the Sixty-second Iowa General Assembly. These revisions are summarized as follows:

1. Conversion of IPERS from a money-purchase benefit program to a formula-benefit. The increase in benefits from this conversion has been estimated to range from ten percent to seventy percent depending on age and length of service at the time of retirement. An estimated \$2,000,000 each year will be paid in increased benefits to presently retired IPERS members.
2. Prior service benefits, the benefits payable for two years of service prior to 1953, were increased from two-thirds percent of one percent to a full one percent for each year of prior service multiplied by the annual wage during the year of prior service that wages were the highest, up to a maximum of \$3,000 annual wage. This revision necessitated an increase of \$500,000 per year to finance prior service benefits.
3. The salary base for employee-employer contributions was increased from \$4,800 to \$7,000. This change will substantially affect future benefits since the formula benefit is based in part on annual salaries subject to IPERS contributions.
4. Expansion of investment authority for IPERS funds to include investments in common stocks of up to ten percent of the fund, with the restriction that no more

than twenty-five percent of new money may be invested in stocks any one year. The effect of this revision cannot yet be evaluated, but the intent of the Committee's recommendation was to increase the amount of funds available for retirement through increased investment income.

In view of the major revisions in IPERS enacted in 1967, the Study Committee is recommending no major revisions in the program in 1969. The full impact of the 1967 revision cannot yet be measured, but the Committee suggests that the revisions be subject to careful review at such time as sufficient information is available for evaluation purposes. The revisions suggested, information compiled, and the recommendations of the Study Committee are summarized below:

#### IPERS BENEFITS

**Present Benefit Formula.** The present formula benefit for service retirement under IPERS is equal to one and one-fourth percent of career average salary subject to contributions multiplied by the number of years of service. Adjustments in the formula can either be made in the percentage or the salary upon which benefits are computed. One of the goals of the Study Committee is that the retirement benefit, including Social Security benefits, provided a public employee completing thirty-five years should be not less than fifty percent of average compensation during the last five years of service. IPERS benefits presently meet the Committee's goal for employees with annual salaries up to \$7,000, but present benefits for employees with salaries in excess of this figure are inadequate in relation to the Committee's goal. It has been recommended that the present formula be changed from career average salary to average salary during either the last five or the highest five of the last ten years of service. The Committee recommends no change in the salary basis at the present time, but the salary basis should periodically be reviewed to determine the need for future adjustments.

The other method of adjusting formula benefits, increasing the percentage of salary, was also considered by the Committee but is not recommended at this time. Estimates computed at the request of the Committee indicate that an increase in the percentage from one and one-fourth percent to one and one-half percent would require

an increase in the contribution rate from three and one-half percent to four percent for both employees and the employer if the \$7,000 annual salary ceiling were retained. It is estimated that revision of the formula to one and one-half percent would result in approximately a twenty percent increase in retirement benefits.

**Pension Adjustments After Retirement.** A major problem in the maintenance of adequate benefits following retirement is the effect of inflation on fixed retirement income. A stable relationship between purchasing power and income can be maintained through salary increases while employed, but a fixed benefit at the time of retirement may be very inadequate following increases in the cost of living. Adjustments in pensions following retirement are provided under the Peace Officers' Retirement System, local police and fire retirement systems, and TIAA-CREF. Several methods of adjusting retirement benefits following retirement have been considered by the Committee. The methods, each of which is accompanied by a brief explanation, are as follows:

1. **Variable Annuity.** This approach is currently utilized under TIAA-CREF, the Wisconsin systems for public employees and teachers, state systems in New Jersey and Oregon, and the Milwaukee and New York City teacher retirement systems. Under the variable annuity approach authorized under TIAA-CREF, the member may elect to place a specific percentage of his employee-employer contributions into a separate fund which is invested in common stocks. The value of the member's accumulated contributions varies according to the favorable or unfavorable investment experience of the fund. Upon retirement, a value is placed upon the variable portion of the member's retirement benefit, and this value is annually adjusted upward or downward in accordance with the investment earnings performance of the total fund. Although there is no guarantee that the stock market will fluctuate with changes in the cost of living, past market performance indicates a close relationship between prices and adjustments in the cost of living.

A limited variable annuity approach presented for Committee consideration is to allow a member to place a percentage

of his accumulated contributions at the time of retirement in a separate fund invested in common stocks with an annual adjustment in benefits according to the investment experience of the fund. This approach contrasts with the CREF program, under which the participant may elect to place a percentage of contributions in CREF during his entire period of employment. Another approach, which is presently utilized by Arizona, is the "thirteenth check" concept, under which the retired member is paid an additional benefit at the end of the year based on favorable investment earnings experience and mortality rates for the preceding year.

It should be emphasized that, although the variable annuity is based entirely on favorable investment earnings, adoption of any of the above approaches will result in some additional cost to IPERS at least in the form of administrative costs. In addition, investment income is presently used to fund the formula benefits provided under IPERS, and a different allocation of this income will therefore somewhat affect the financial condition of the system.

2. **Formula Adjustments.** A second method of adjusting pensions after retirement is through either a fixed formula or adjustments based on economic factors. Fixed formula programs utilized in Hawaii, Nevada, and the Kentucky Teacher's System, provide for automatic increases in pensions each year. This approach is based on the assumption that there will be continual increases in the cost of living, and the fixed percentage increase is intended to maintain a stable relationship between pension income and cost of living increases.

Another approach under the formula method is adjustments in pensions on the basis of some type of economic indicator which reflects increases or decreases in the purchasing power of the dollar. The economic factor most widely utilized is the Consumer Price Index, also called the cost of living index, computed by the United States Department of Labor. Systems which use the cost of living approach in-

clude the Federal Civil Service Retirement System, state systems in Massachusetts and Utah, and several local systems in California.

3. **Adjustments According to Job Classification.** A third method of adjusting pensions after retirement is through an "escalator clause", currently used under the Peace Officers' Retirement System and local police and fire retirement systems, under which retirement benefits are adjusted in accordance with salary increases granted active members of the retired member's equivalent rank at the time of retirement. This method requires a well defined job classification system, such as found in law enforcement and other similar agencies, and it is believed that providing an escalator clause under IPERS may not be feasible at this time in view of the presently untested job classification system provided for most public employees covered under IPERS.
4. **Insuring Adequate Benefit Upon Retirement.** Perhaps the most important method of combating the effect of inflation on fixed retirement income is through insuring an adequate benefit at the time of retirement. Since the person's salary at the time of retirement reflects his standard of living upon retirement, many pension experts contend that retirement benefits based on average salary the last few years of employment will probably provide adequate retirement allowances for the lifetime of many retired persons.
5. **Periodic Benefit Increases.** Although no specific method of periodically adjusting pensions is provided under IPERS, it should be noted that adjustments in pension benefits after retirement have been periodically implemented through statutory revision. For example, large increases in IPERS benefits were provided by the Sixty-second General Assembly through increasing prior service benefits and implementation of the formula benefit.
6. **Committee Recommendation.** The Committee recommends adoption of a limited variable annuity option for retired members of IPERS. Legislation is being submitted

to carry out this recommendation in the Form of Senate File 15. The variable annuity option would be administered and would work as herein described.

IPERS now provides an amount of monthly pension determined by a formula which fixes the member's monthly pension at the time he retires. His monthly pension remains level throughout his retired lifetime.

The variable annuity option would permit a retiring IPERS member to elect that half of his monthly pension would be adjusted once each year. The amount of adjustment each year would depend on the investment performance on securities in the variable annuity investment account portion of the IPERS retirement fund. The securities in the variable annuity account would be mostly, if not all, in the form of common stocks. This type of investment would provide the maximum potential for adjustment of pensions.

The variable annuity option would provide the same death benefit as the normal form of IPERS retirement allowance, i.e., payment to the beneficiary of the excess, if any, of the member's accumulated contributions as of his retirement date over the total retirement allowances paid to him under the retirement system.

Assume an IPERS member is ready to retire and has made his retirement application to the IPERS administrative office. He is informed that he is entitled to a monthly pension of \$200.00 on a fixed basis or that he may elect to have \$100.00 of his monthly pension, i.e. one-half of his \$200.00 entitlement, paid to him under the variable annuity option with the other \$100.00 paid to him on the fixed basis. If he elects the variable annuity option, then the single sum value of his variable pension, computed on the basis of actuarial tables adopted by the Commission, is transferred to the variable annuity investment account within the IPERS retirement fund for the purpose of investing largely in common stocks. Based on the actuarial tables currently being used by Commission, the single sum value to be so

transferred for this retiring member is \$13,866.00, assuming he is age sixty-five.

During the first year of retirement, the retired member receives exactly \$200.00 per month. At the beginning of his second year of retirement, the variable half of his pension is adjusted by applying the variable annuity adjustment factor; this factor is based on the investment performance in the variable annuity investment account of the IPERS retirement fund.

Assuming a variable annuity account factor of 1.0388 computed at the beginning of the member's second year of retirement on the basis of investment performance in the variable annuity investment account during his first year of retirement, the variable half of the member's pension would be increased by multiplying the variable annuity account factor times the variable half of his pension. If the member's variable pension during his first year of retirement is \$100.00 per month, his variable monthly pension for his second year of retirement would be \$103.88 which, together with his fixed monthly pension of \$100.00, would give him a total monthly pension of \$203.88 during his second year of retirement. At the end of his second year of retirement, a new variable annuity account factor would be computed based on investment performance in the variable annuity investment account of the IPERS retirement fund during his second year of retirement. This new variable annuity account factor would be multiplied by the variable portion of his monthly pension paid to him during the second year of his retirement to determine the variable portion of his monthly pension payable during his third year of retirement. The same process would be repeated each year.

Appendix II illustrates how the variable pension would be adjusted each year based on a hypothetical set of variable annuity account factors for a span of fifteen years and assuming the member's monthly pension is initially \$200.00 (i.e. \$100.00 fixed and \$100.00 variable).

**Benefit Options Upon Retirement Under IPERS.** An IPERS member may select any of the following four benefit options at the time of his retirement:

**Option 1**—A lifetime monthly benefit with provision that if benefits received upon the member's death are not equal to the total accumulated contributions plus interest of the employee and employer, the remaining balance will be refunded to the beneficiary.

**Option 2**—A lifetime benefit with provision that if benefits received upon the member's death are not equal to employee contributions plus interest, the remaining balance will be refunded to the beneficiary. This option results in a higher benefit than Option 1 since only employee contributions plus interest are subject to refund upon death.

**Option 3**—A lifetime benefit with no refund paid upon death of the member. This option results in a higher benefit than either Options 1 or 2 since no refund is payable upon death.

**Option 4**—Decreased benefits with provision for continuing benefits to the beneficiary. The members may elect a decreased benefit for life with an identical benefit continued after his death to the beneficiary, a decreased benefit with provision that one-half of the monthly benefit is continued after his death to the beneficiary, or a decreased benefit with provision that one-fourth of the monthly benefit is to be continued after his death to the beneficiary.

Many retirement programs and life insurance policies provide an additional option that payment of full benefits to either the member or his beneficiary are guaranteed for a specified number of years. The chief advantage of this benefit option, referred to as a "certainty and life thereafter" option, is the guarantee that full benefits will be provided either the member for life or, in the event of the member's death, his beneficiary for the remaining years of the certainty period. Implementation of a certainty period option will not result in any additional cost to the system since the amount of the benefit is actuarially determined.

The Committee recommends that an additional benefit option providing for a ten-year certainty and life thereafter benefit option be

provided under IPERS. Examples of present benefits under each option, except Option 4, and comparisons with the proposed new option are included in Appendix III of this report. This recommendation is incorporated in Senate File 13.

**Death Benefits.** The present law requires payment of accumulated employee-employer contributions plus interest in a lump sum to the beneficiary upon the death of an active member. The Committee recommends that death benefits be made payable in annuity form in addition to the present lump sum method of payment. This option will result in no additional cost to the system since the monthly benefit would be actuarially determined. For tax purposes, it is recommended that the option be elected by the member rather than the beneficiary. If the member does not elect the option, the beneficiary would be entitled to select the method of payment. This recommendation is incorporated in Senate File 14.

#### **Service Requirements**

As indicated previously, state and local public employees at the time IPERS was established in 1953 were given the option of transferring their IOASI contributions to IPERS and qualifying for prior service benefits, or withdrawing employee contributions in cash. Many public employees withdrew their contributions in 1953, thus forfeiting their rights to prior service benefits. Prior service benefits have been substantially increased since 1953, and it is now apparent that employees who transferred their contributions into IPERS are now entitled to much greater benefits in relation to their contributions than employees withdrawing contributions in 1953 expected.

Proposals to permit IPERS members who withdrew their contributions to buy back prior service benefits were considered by this Committee, as well as the 1965-1967 Study Committee. Under the proposed "buy-back", employees would be permitted a certain length of time to return the amount withdrawn from IOASI plus interest which would have been earned on the funds since 1953. The maximum amount which could have been contributed to IOASI, without interest, is \$540.00. The interest earned from 1946 to the present would probably be about equal to the principal withdrawn in 1953.

The total cost to state and local government of permitting a "buy-back" of prior service was estimated for the 1965-1967 Study Committee to be approximately \$3,131,000 or \$119,000 per year if the liability were funded over a forty-year period. The Employment Security Commission staff has estimated that, in view of prior service benefit increases enacted by the 1967 Legislature, the present annual cost of permitting a buy-back will amount to about \$164,000 per year.

It is recognized that employees should have been given more encouragement in 1953 to transfer their contributions into IPERS and thus obtain credit for prior service, but the Committee believes that there is little which can now be done to correct this situation. The Committee therefore has rejected the suggestion that employees be allowed to "buy-back" prior service.

Another area closely connected with a "buy-back" provision is that elected county officials prior to 1953 were not eligible for IOASI; and consequently, those officials in office from 1946 to 1953 do not qualify for prior service benefits which are based on all years of service including years prior to establishment of IOASI in 1946. It has been suggested that an elected county official also be permitted to obtain credit for prior service by contributing an amount plus interest which would have been contributed by the elected county official had he been eligible for IOASI. Based on survey of counties conducted by the Fayette County Auditor, it has been estimated that the annual cost of allowing prior service benefits for the group of elected county officials not eligible for IOASI would amount to about \$20,000 per year.

While the cost of permitting a "buy-back" to elected county officials is not great, the Committee believes there is little justification for permitting such purchase of prior service credit. It is probable that these officials were not interested in coverage under IOASI, and many of these officials would probably have withdrawn their contributions in 1953 had they been eligible for such withdrawal. It is therefore recommended that elected county officials not be permitted to purchase prior service benefits in the manner outlined above.

#### **Financing Retirement Benefits**

IPERS benefits are presently financed by matching employee-employer contribution rates

equal to three and one-half percent of the employee's annual salary up to \$7,000. Other sources of revenue for the benefits provided are interest income and the employer's share of contributions, referred to as "quit-money".

IPERS is frequently compared with other programs which provide for much higher employer contribution rates than employee contribution rates. Employer contribution rates under the TIAA program, for example, are double that of the employee rate. The employer also contributes a much greater share than the employee under the Peace Officers' Retirement System and local police and fire systems. Although the employee-employer contribution rate is identical under IPERS, other factors are involved which affect the employer-employee contribution ratio of the system. At the Committee's request the actuary for IPERS calculated that the employer-employee contribution ratio under IPERS, considering "quit-money", was actually 1.43:1 even though employer-employee contribution rates are equal under IPERS. Since no major revisions in the IPERS program are being recommended this interim, the Committee recommends retention of the present employer-employee matching contribution rates under IPERS.

Another factor, in addition to contribution rates, which affects benefits under IPERS is the \$7,000 ceiling on IPERS contributions. The ceiling results in lower retirement benefits in relation to salary for persons earning in excess of \$7,000, since only that part of the employee's salary subject to contribution is considered in determining the formula benefit. Although removal of the \$7,000 ceiling cannot be accomplished without additional cost to the system, a study conducted by the actuary for IPERS at the request of the Study Committee reveals that the ceiling could be removed with no increase in contribution rates required to continue IPERS on a financially sound basis. The annual cost to the employer of removing the salary ceiling is estimated to be about \$1,800,000.

The majority of the Committee is of the opinion that the present \$7,000 salary ceiling should be retained. The full impact on retirement benefits of increasing the salary ceiling from \$4,800 to \$7,000 should be carefully evaluated prior to consideration of raising or removing the ceiling, and sufficient data does not now appear to be available to make such an evaluation.

## Peace Officers' Retirement System

**Retirement Benefits.** Members of the Iowa Highway Patrol and Bureau of Criminal Investigation are granted greater retirement benefits than other state employees, but the Committee believes that the service retirement, disability, and death benefits provided are justifiable in view of the need for young and career law enforcement personnel. The present retirement system insures the maintenance of a young law enforcement force through provision for early retirement and greatly assists in the recruitment of career personnel through providing excellent retirement benefits upon completion of service.

The Committee believes, however, that the escalator provisions which provide for adjustments in pensions on the basis of salary increases to active members should be continually reviewed by the Legislature. A problem with the escalator approach is that retired members benefit from salary increases even though these increases may be granted to attract and retain law enforcement officers with substantially greater training and educational achievement than the retired officer. Much emphasis is placed today on law enforcement activities and the need for highly trained law enforcement personnel. Adequate law enforcement personnel can probably only be obtained through great increases in salary to upgrade the profession, but the escalator clause which ties retirement benefits for retired officers to present salary levels of active officers may be detrimental to the granting of needed salary increases to present officers. The intent of the 1965 legislation was to insure that pension income would reflect changes in the cost of living, but the large salary increases which will probably be needed in the future to attract and retain law enforcement personnel may bear no relation to increases or decreases in the cost of living.

A further problem with the escalator clause is that the increase of one percent of salary in employee contribution rates, considered at the time to be sufficient to fund the entire cost of providing escalator benefits, is not sufficient to pay the full cost of escalator benefits. One of the arguments advanced in favor of enactment of the escalator provisions in 1965 was that the employee would pay the full cost of the increased benefits. At the request of the Committee, the actuary who performed the 1966 actuarial examination of the Peace Officers' Retirement Sys-

tem computed the cost of funding the escalator clause to be about two percent rather than one percent of payroll. Thus, an increase equal to one percent of payroll is needed in the employee contribution rate to insure that the escalator provisions are financed entirely from employee contributions.

The Committee believes that officers receiving retirement benefits are entitled to adjustments in these benefits based on changes in the cost of living, but retired officers should not necessarily benefit from any salary increases needed to upgrade the occupation of law enforcement. It is therefore believed that either employee contribution rates should be increased to insure that the entire cost of the escalator clause is financed from employee contributions, or the escalator clause should be replaced with a cost-of-living approach to insuring adjustments in retirement benefits in accordance with the cost of living.

**Financing the System — Committee Recommendation.** The Peace Officers' Retirement System does not conform with the Committee's stated goal that all systems be soundly funded. A review of actuarial examinations of the system conducted since establishment of the system in 1949 reveals that a substantial increase in the state's contribution was recommended following each examination of the system. Present statutes require that the state's contribution rate be equal to the normal rate computed by the actuary in accordance with a statutory formula, but a "savings clause" in the present law permits funding of the system on a pay-as-you-go basis. Review of the Peace Officers' Retirement System since its origin in 1949 reveals that the following two factors are primarily responsible for the present unsound condition of the system:

1. The state's contribution rate has always been substantially below the rate computed on the basis of the statutory formula. The state's contribution rate to the system was eight percent of payroll from the establishment of the system to July, 1957, and sixteen percent of payroll from that date to the present time. Actuarial studies have consistently revealed that the state's contribution rate should be increased to between twenty-six percent and thirty percent of payroll.

2. Members of the system were given credit for all years of previous law enforcement service toward retirement benefits, but no provision was made for funding the prior service liability resulting from allowing this credit upon which no contributions toward retirement were made.

The Committee recommends legislation which eliminates the "savings clause" under which the employer's (state) share of financing the Peace Officers' Retirement System may be funded on a pay-as-you-go basis and increases the employee contribution rate an additional one percent of salary. Section 97A.8 as amended would provide that the state's contribution payable each year is to be the "normal contribution rate" as determined in the most recent actuarial study of the system. The normal contribution rate is determined on the basis of present assets and future liabilities in accordance with a formula prescribed by statute. The state contribution must be paid from funds appropriated by the General Assembly to the Department of Public Safety. This recommendation is incorporated in Senate File 11.

The increase in employee contribution rates results in the range in rates from five and ninety-one hundredths percent of salary for employees entering service at age twenty to seven and one-half percent of salary for employees entering service at age forty or more compared with the present ranges of four and ninety-one hundredths percent to six and one-half percent respectively. Enactment of the present escalator clause in 1965 was accompanied by an increase in employee contribution rates believed to be sufficient to fund the entire cost of the escalator clause. An actuarial examination of the cost of funding the escalator clause requested by the Committee reveals, however, that the actual cost of funding the escalator clause amounts to about two percent of payroll, and the recommended one percent of payroll increase is required to provide for funding of the entire cost of escalator benefits from employee contributions.

The Committee also recommends that the minimum widow's benefits under the Peace Officers' Retirement System be increased from \$50.00 to \$75.00 a month, and the escalator clause basis be changed from forty-five to fifty percent of salary. These two areas are the only differences between the Peace Officers' Retirement

System and local and fire systems established under chapter 411 of the Code. This recommendation is incorporated in Senate File 12.

**Possible Revision.** Another area of the Peace Officers' System which was suggested for Committee is to reduce retirement benefits if the retired or disabled member is employed by state or local government while receiving benefits under the system. Retired members drawing full benefits may, under present law, accept full-time employment with the state with no provision for reduction of retirement benefits. Other retirement systems do not permit public employment while the person is receiving retirement benefits without provision for benefit reduction. The Committee is not recommending any action on this suggestion.

#### **Other State Law Enforcement Officials**

Other state officials defined as and performing peace officer functions are covered under the Iowa Public Employees Retirement System (IPERS). It has been suggested that the benefits provided the Iowa Highway Patrol and the Bureau of Criminal Investigation under the Peace Officers' Retirement System, notably the provisions for early retirement and disability benefits, should be extended to other peace officers. Officers most frequently mentioned in this regard are state conservation officers and guards at Iowa penal institutions.

The Fish and Game Conservation Officers' Association has requested that the Committee recommend establishment of a separate retirement system for conservation officers. The association recommended that the proposed system be identical to the present Peace Officers' System with the exceptions that normal retirement age be placed at age sixty rather than age fifty-five, and the provision for offsetting Social Security benefits against benefits payable to the member or his beneficiary be deleted. Retirement at age sixty rather than age fifty-five would reduce the amount of revenue needed to finance the system. Conservation officers are presently subject to Social Security, and the association believes that benefits derived from Social Security should not be offset, since officers will have contributed toward these benefits during their years of employment.

Another approach might be to extend the Peace Officers' Retirement System to include conservation officers. Present members of the Peace Officers' System have, however, expressed opposition to inclusion of conservation officers, and conservation officers also have expressed reluctance to join the system in view of its present financial condition.

#### **Local Police and Fire Retirement Systems**

No consideration has yet been given to revisions in local police and fire retirement systems other than the proposed centralized investment legislation which would include all state and local retirement systems. Consideration might be given to recommending substantially the same revisions as the Peace Officers' Retirement System since this system is virtually identical to local police and fire retirement systems.

#### **Judicial Retirement System**

During the latter part of the Committee's study the District Court Judges' Association indicated to the Committee that it desired to appear before it and present a plan for revision of the Judicial Retirement System. Pursuant to such request the Committee invited representatives of the District Judges' Association to appear before it. The District Judges' Association presented the following proposal for revision of the Judicial Retirement System:

Judges in office on or after July 1, 1969, would contribute the balance in excess of \$300,000 in the old retirement system fund, to start the new fund. Monthly deductions would be made from judges' salaries at the following rates based on their ages on July 1, 1969, or on subsequent appointment: under forty years, four percent; forty to forty-four years, five percent; forty-five to forty-nine years, six percent; fifty years and over, seven percent. Monthly deductions from judges' retirement compensation for life would be made at the same rates. The state would contribute monthly the additional amount required (less the earnings on the fund), in order to maintain the fund in an actuarially sound condition.

Judges who would retire under the proposed system would receive a pension on retirement

at sixty-five or older, consisting of four percent times years of service times the current salary of the office, with a ceiling of sixty percent of such salary. Judges would also be eligible to receive a pension on being determined to be permanently disabled, consisting of six percent times years of service times the current salary of the office, with a ceiling of sixty percent of such salary. A judge's widow would receive an annuity at age sixty (or older, at the judge's death), consisting of half of the amount the judge would receive if living.

To qualify for any benefits, a judge would be required to have at least six years of service. A widow, in order to qualify for benefits, would have to have been married to the judge at least five years prior to his death. She would cease to be qualified upon remarriage.

Judges would only receive a refund of their contributions if they did not serve six years, or if they were removed from office for cause. Otherwise the fund would retain a judge's contributions although he and his widow never lived to receive benefits. An actuarial review and actuarial projections under the system would be reported to the Governor and the presiding officers of the General Assembly every four years for such legislative action as is deemed appropriate.

The Committee reviewed the proposed revisions of the judicial system at its final meeting but is not recommending any action upon the proposal. The Committee notes, however, that the proposal would establish standards higher than provided for other Iowa public retirement plans and in excess of fifty percent of compensation during the last five years of employment, which fifty percent is a goal the Committee believes should be provided for all public employee retirement systems, not selected systems.

The Committee does recommend, however, that the judicial retirement system be revised so as to provide for widows' benefits under an option similar to that provided for in IPERS, and that the judicial retirement system be made actuarially sound over a period of years pursuant to adequate appropriations determined through a statutory formula. The Committee is not submitting legislation to carry out this recommendation because of the lack of study time needed to develop such legislation. It is the opinion of

the Committee, however, that such legislation should be developed and approved by the General Assembly.

**Legislation Submitted for Consideration by the Legislative Research Committee**

The Retirement Programs Study Committee submits for consideration by the Legislative Research Committee the following proposed legislative bills:

**Senate File 10.** An Act relating to consolidation of the investment of retirement system funds under the employment security commission.

**Senate File 11.** An act relating to contributions toward the peace officers' retirement, accident, and disability system.

**Senate File 12.** An Act relating to benefits payable to retired members and beneficiaries under the peace officers' retirement system.

**Senate File 13.** An Act to provide an additional retirement allowance option for members of the Iowa public employees' retirement system.

**Senate File 14.** An Act relating to optional payment of accumulated contributions upon death of an active member of the Iowa public employees' retirement system.

**Senate File 15.** An Act to provide that retired members of the Iowa public employees retirement system may elect to have one-half of their retirement allowances invested in a variable annuity program.

# Appendix I

## IOWA STATE AND LOCAL RETIREMENT SYSTEMS

### Number, Membership, and Assets

Systems	Number of Separate Systems	Membership		Current Assets
		Active	Receiving Benefits	
<b>A. State Administered Systems</b>				
Iowa Public Employees' Retirement System (June 30, 1968)	1	105,000	10,978	\$272,000,000
Judicial Retirement System (June 30, 1968)	1	77	34	429,000
Peace Officers' Retirement System (Dec. 31, 1967)	1	418	57	5,000,000
Total State Systems	3	105,495	11,069	\$277,429,000
<b>B. Locally Administered Systems</b>				
Systems established under Chapter 410 (Oct., 1965)				
Police	24	28	394	Not available
Fire	22	14	495	Not available
Subtotal	46	37	889	
Systems established under Chapter 411 (projected to Dec. 31, 1967)				
Police	38	1,272	276	\$ 19,825,000
Fire	27	1,294	218	19,860,000
Subtotal	60	2,566	489	\$ 39,685,000
Chapter 412 Municipal Utility Systems (October, 1965)				
	7	395	82	Not available
Other Systems				
Ames Municipal Judges (October, 1965)	1	1	0	Not available
Des Moines Teachers (June 30, 1968)	1	1,450	292	15,826,000
Total Local Systems	115	4,449	1,752	\$ 55,691,000
<b>GRAND TOTAL</b>	118	109,944	12,821	\$333,120,000

## Appendix II

### Illustration Of The Variable Annuity Option In Operation Over A 15 Year Period

Year of Retirement	VAA Factor	IPERS Monthly Pension		Total
		Fixed	Variable*	
1	1.0388	\$100.00	\$100.00	\$200.00
2	1.0485	100.00	103.88	203.88
3	1.0680	100.00	108.92	208.92
4	.8252	100.00	116.33	216.33
5	1.0821	100.00	96.00	196.00
6	1.1111	100.00	103.88	203.88
7	1.1014	100.00	115.42	215.42
8	1.0628	100.00	127.12	227.12
9	.9179	100.00	135.10	235.10
10	1.0192	100.00	124.01	224.01
11	1.0192	100.00	126.39	226.39
12	1.0385	100.00	128.82	228.82
13	1.0481	100.00	133.78	233.78
14	1.0577	100.00	140.21	240.21
15	1.0673	100.00	148.30	248.80

\*The variable pension each year is determined by multiplying the VAA Factor for the previous year times the variable pension for the previous year (i.e. the variable pension for the third year of retirement is 1.0485 times \$103.88 equals \$108.92).

# Appendix III

## IPERS

### BENEFIT ILLUSTRATIONS

#### Under Options 1, 2, 3, and 5

#### Assumptions:

- (1) No prior service
- (2) Accumulated employee contributions at retirement — \$3,600
- (3) Monthly Formula Benefit — \$100 payable at normal retirement
- (4) Male employee

Age Nearest Birthday at Retirement	Monthly Retirement Benefit			
	Option 1	Option 2	Option 3	Option 5
55	\$ 37.55 (106.3%)	\$ 40.00 (99.8%)*	\$ 41.31 (96.7%)	\$ 39.93
60	68.21 (99.0%)	70.00 (96.4%)	71.34 (94.7%)	67.51
65	98.15 (94.7%)	100.00 (92.9%)	101.83 (91.3%)	92.93
70	95.89 (91.4%)	100.00 (87.7%)	102.60 (85.4%)	87.66
75	90.88 (87.4%)	100.00 (79.4%)	104.05 (76.3%)	79.42

\* Ratio of Option 5 to each other option, expressed as a percentage.

#### Definition of Options:

- Option 1** provides refund on death of Employee's and Employer's matching contributions (with interest) in excess of pension payments made.
- Option 2** is the formula benefit (i.e. Normal Form) which provides refund on death of Employee's contributions (with interest) in excess of pension payments made.
- Option 3** is a life pension only — i.e. no death benefits.
- Option 5** is the proposed 10 year certain and life option.

## Appendix IV

### Comparison of Monthly Benefit Formula of 1.50% With 1.25%\* Age 65 or Over

Years of Service After July, 1953	AVERAGE ANNUAL COVERED WAGES							
	\$10,000		\$7,000		\$8,000		\$4,000	
	1.50%	1.25%	1.50%	1.25%	1.50%	1.25%	1.50%	1.25%
35	437	364	306	255	262	219	175	146
25	312	260	218	182	187	156	125	104
15	187	156	131	109	112	94	75	63
10	125	104	87	72	75	63	50	42
5	62	52	43	36	37	31	25	21

Changing formula from 1.25% to 1.50% for each year of service would increase benefits approximately 20% based on service after July, 1953.

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\* Prepared for the Retirement Programs Study Committee by  
Mr. Ed R. Longnecker, Chief, Retirement Division,  
Employment Security Commission.

## Appendix V

Iowa Employment Security Commission  
Iowa Public Employees' Retirement System  
1000 East Grand, Des Moines, Iowa 50319

### EXAMPLES OF FUTURE SERVICE BENEFIT UNDER OPTION 2\* BASED UPON SERVICE AFTER JULY 4, 1953

(For Prior Service Formula — See Final Paragraph)

Approximate monthly formula benefit under Option 2\* which provides for a lifetime benefit with a refund at death of the excess, if any, of the member's investment over total monthly retirement allowances received.

Years of Service After July, 1953	AVERAGE ANNUAL COVERED WAGES						
	\$7,000	\$6,800	\$6,000	\$5,000	\$4,500	\$4,000	\$3,500
<b>40 Yrs. Service</b>							
Age 65 or over	\$292.00	\$275.00	\$250.00	\$208.00	\$187.00	\$167.00	\$146.00
64	274.00	256.00	235.00	196.00	176.00	157.00	137.00
63	257.00	242.00	220.00	183.00	165.00	147.00	128.00
62	239.00	226.00	205.00	171.00	153.00	137.00	120.00
61	222.00	209.00	190.00	158.00	142.00	127.00	111.00
60	204.00	193.00	175.00	146.00	131.00	117.00	102.00
<b>35 Yrs. Service</b>							
Age 65 or over	255.00	240.00	219.00	182.00	164.00	146.00	128.00
64	240.00	226.00	206.00	171.00	154.00	137.00	120.00
63	224.00	211.00	193.00	160.00	144.00	128.00	113.00
62	209.00	197.00	180.00	149.00	135.00	120.00	105.00
61	194.00	182.00	166.00	138.00	125.00	111.00	97.00
60	168.00	158.00	144.00	120.00	115.00	102.00	90.00
<b>25 Yrs. Service</b>							
Age 65 or over	182.00	172.00	156.00	130.00	117.00	104.00	91.00
64	171.00	162.00	147.00	122.00	110.00	98.00	86.00
63	160.00	151.00	137.00	114.00	103.00	92.00	80.00
62	149.00	141.00	128.00	107.00	96.00	85.00	75.00
61	138.00	131.00	119.00	99.00	89.00	79.00	69.00
60	127.00	120.00	109.00	91.00	82.00	73.00	64.00
<b>15 Yrs. Service</b>							
Age 65 or over	109.00	103.00	94.00	78.00	70.00	63.00	55.00
64	102.00	97.00	88.00	73.00	66.00	59.00	52.00
63	96.00	91.00	83.00	69.00	62.00	55.00	48.00
62	89.00	84.00	77.00	64.00	57.00	52.00	45.00
61	83.00	78.00	71.00	59.00	53.00	48.00	42.00
60	76.00	72.00	66.00	55.00	49.00	44.00	39.00

**APPENDIX V (Continued)**

Years of Service After July, 1953	AVERAGE ANNUAL COVERED WAGES						
	\$7,000	\$8,000	\$9,000	\$5,000	\$4,500	\$4,000	\$3,500
<b>5 Yrs. Service</b>							
Age 65 or over	36.00	34.00	31.00	26.00	23.00	21.00	18.00
64	34.00	32.00	29.00	24.00	22.00	20.00	17.00
63	32.00	30.00	27.00	23.00	20.00	19.00	16.00
62	30.00	28.00	25.00	21.00	19.00	17.00	15.00
61	27.00	26.00	24.00	20.00	17.00	16.00	14.00
60	25.00	24.00	22.00	18.00	16.00	15.00	13.00
Approximate Allowance per month at age 65 for each year of service	\$ 7.30	\$ 6.90	\$ 6.30	\$ 5.20	\$ 4.67	\$ 4.20	\$ 3.70

**\*OPTIONAL FORMS OF BENEFIT:**

- Option 1** provides for a refund at death of the excess of the member's, plus the employer's accumulated contributions over the total retirement benefits paid, and the monthly payment would be less than for Option 2.
- Option 3** provides a lifetime benefit for the member but with no refund possibility at death, and the retirement allowance under this option would be greater than the amount indicated by the table for Option 2.
- Option 4** provides for a lifetime benefit decreased sufficiently to provide that after the member's death a lifetime monthly benefit will be paid to the contingent annuitant named. Estimates under this option will be provided upon request.

**PRIOR SERVICE BENEFIT:** If a person has a prior service credit he will receive a prior service benefit in addition to the benefit indicated by the above tables. He may compute his prior service benefit by multiplying 1% of his highest wage in any 12-consecutive month period prior to July 4, 1953 (not to exceed \$3,000) by the number of years of service prior to July 4, 1953. Dividing the result by 12 will give the monthly prior service benefit.

# Final Report of the State Mental Health Institutions Study Committee

Senate Concurrent Resolution 51 of the Sixty-second General Assembly directed that the Legislative Research Committee establish a study committee to conduct "a study to evaluate present and future program, staff, and facility needs of existing board of control institutions serving the mentally ill and mentally retarded." Accordingly, the State Mental Health Institutions Study Committee was established, and Representative Charles P. Miller of Burlington was designated Chairman. Senator J. Henry Lucken of Le Mars was elected Vice Chairman at the Study Committee's organizational meeting. Other legislators named to serve on the Study Committee were Senators John M. Ely, Jr., of Cedar Rapids, Donald S. McGill of Melrose, George E. O'Malley of Des Moines, and Richard L. Stephens of Crawfordsville, and Representatives Floyd P. Edgington of Sheffield, Harry R. Gittins of Council Bluffs, D. Vincent Mayberry of Fort Dodge, and Floyd H. Millen of Farmington.

Shortly after the Study Committee was formed, Representative Gittins resigned from the Legislature to accept appointment to the Pottawattamie County Board of Supervisors. He was succeeded on the Study Committee by Representative Joan Lipsky of Cedar Rapids. In view of Mr. Gittins' interest and background in the field of mental health, particularly as related to county government, he was subsequently appointed an advisory member of the Study Committee and has participated actively in the Mental Health Institutions Study. No other advisory members were appointed to the Study Committee.

The State Mental Health Institutions Study Committee held a total of 17 meetings in the period from August 30, 1967 to November 18, 1968. In the course of these meetings, the Study Committee visited each of Iowa's four hospitals for the mentally ill, both state hospital-schools for the mentally retarded, and the facilities of Black Hawk Developmental Center and of Goodwill Industries, at Cedar Falls and Waterloo, re-

spectively, to observe community programs for the mentally retarded in progress. In addition, the Study Committee has met with officials of the Iowa Mental Health Authority, the state administrative officials responsible for the programs for the mentally ill and mentally retarded formerly under the jurisdiction of the Board of Control and now under the Department of Social Services, and with representatives of the Iowa Association for Mental Health, the Iowa Association for Retarded Children, Progressive Action for the Retarded, the Iowa Comprehensive Alcoholism Program, and the Community Mental Health Center Association of Iowa. Representatives of a number of these agencies and groups have been present at nearly every meeting of the Study Committee.

## SCOPE OF THE STUDY

The preamble to Senate Concurrent Resolution 51 in effect posed four broad questions, which might be phrased as follows:

1. In view of the sharp reduction in the average daily patient populations of the state mental health institutes over the past decade, should all four of the institutes continue to be operated exclusively as hospitals for the mentally ill?
2. Could the steady increase in the per-patient-per-day cost of care at the state mental health institutes be arrested or slowed by using staff personnel for care and treatment of patients afflicted with disabilities other than mental illness?
3. Are staff and facilities at the state hospital-schools at Glenwood and Woodward adequate to provide proper care and treatment for the mentally retarded persons at these institutions?
4. What is to be the future role of the state and its facilities in meeting the needs of

Iowa's mentally ill and mentally retarded citizens for adequate care and treatment?

In order to try to answer the latter question, it was also necessary to consider at some length what should be the future role of local governments and community facilities in Iowa in providing needed care and treatment for the mentally ill and mentally retarded.

The Study Committee has been cognizant of the objectives of Senate Concurrent Resolution 51 and has studied them in detail during its deliberations. While consideration has been given to the most effective utilization of existing physical facilities, the paramount concern of the members of the Study Committee has at all times been the welfare of Iowa's mentally ill and mentally retarded citizens.

#### Explanation of Terms

Two similar terms which have somewhat different meanings are used in this report. The terms are "mental health institutions" and "mental health institutes". The term "mental health institutes" is derived from chapter 226, *Code of Iowa* (1966), which specifically assigns that designation to each of Iowa's four hospitals for the mentally ill, located at Cherokee, Clarinda, Independence, and Mount Pleasant. Where reference is made to a particular mental health institute, the term is capitalized (e.g., the Clarinda Mental Health Institute, or the Clarinda Institute) but collective references to the four institutes are not capitalized. The term "mental health institutions" has been used by the Study Committee to refer jointly to the four mental health institutes and to the hospital-schools for the mentally retarded, located at Glenwood and Woodward.

#### A PERIOD OF RAPID CHANGE

The State Mental Health Institutions Study Committee's quest for answers to the questions posed by Senate Concurrent Resolution 51 has been conducted during a period of unusually rapid and far-reaching changes affecting not only the state mental health institutions, but also other agencies, programs, and facilities which help to meet the needs of the mentally retarded and the mentally ill in Iowa. Most of these changes result from establishment of the Department of Social

Services, in which are combined the functions of the former Board of Control, Board of Social Welfare and Board of Parole, by chapter 209, *Acts of the Sixty-second General Assembly* (1967). In other actions which have been significant in the fields of mental illness and mental retardation, the 1967 Iowa Legislature:

- Increased the annual appropriation for operation of the Woodward State Hospital-School by more than fifty percent, and that of the Glenwood Hospital-School by more than forty-four percent. (Chapter 2, section 1, subsections 5, 6, *Acts of the Sixty-second General Assembly*. The Glenwood appropriation having previously been higher, the differential increases actually make appropriations for the two hospital-schools more nearly even.)
- Required state mental health institutions to bill counties, for care and treatment of mentally ill or mentally retarded patients having legal settlement in the respective counties, at eighty percent of the actual per-patient-per-day cost computed according to statutory formulas rather than at full cost as had previously been required. (Chapter 2, sections 5, 6, *Acts of the Sixty-second General Assembly*.)
- Empowered county commissioners of hospitalization to commit mentally ill persons for treatment in local hospital facilities rather than state mental health institutes, and allowed use of the county's state institution fund to pay the expenses of such treatment in a local hospital. (Chapter 202, *Acts of the Sixty-second General Assembly*.)
- Authorized counties of over 100,000 population to purchase, lease or construct, and operate county health centers in which to "provide those health, welfare and social services which such a county is presently or hereafter authorized or required by law to provide". (Chapter 299, *Acts of the Sixty-second General Assembly*.)

#### Department of Social Services Established

When the State Mental Health Institutions Study Committee was organized, the six state mental health institutions were under the juris-

diction of the Board of Control of State Institutions, composed of three members appointed for overlapping six-year terms. These institutions were administered through the Board of Control's Division of Mental Health, headed by State Director of Mental Health Dr. James O. Cromwell. Dr. Conrad R. Wurtz held the title Associate State Director of Mental Health for Mental Retardation.

During the time the Study Committee was functioning, the Board of Control—together with the State Board of Social Welfare—was succeeded by a part-time Council of Social Services, consisting of five members appointed for overlapping six-year terms, and a single full-time Commissioner of Social Services holding office at the pleasure of the Governor. Commissioner Maurice A. Harmon assumed this office February 15, 1968. The state departments and agencies formerly headed by the Board of Control, the Board of Social Welfare, and the Board of Parole were merged to form the Department of Social Services.

Subsequently, the former Board of Control Division of Mental Health was reorganized to form two of the five service bureaus established within the Department of Social Services. The Bureau of Mental Health Services is headed by Dr. Cromwell, to whom the superintendents of the four mental health institutes are responsible. The Bureau of Mental Retardation Services is headed by Dr. Wurtz, to whom the superintendents of the two hospital-schools are responsible.

It is to be expected that changes of such magnitude in state administrative structure have had and will continue to have significant effects on services to the mentally retarded and mentally ill in Iowa. However, it is not the Study Committee's responsibility to ascertain or evaluate such changes.

Therefore, while the Study Committee has made a number of specific legislative recommendations, its findings are perhaps less conclusive than would have been the case under other circumstances. Members of the Committee do not believe it desirable to propose further major changes in the mental health and mental retardation programs and facilities under the jurisdiction of the Department of Social Services until the Commissioner has had an opportunity to fully evaluate these programs and services, and the statutes under which they operate.

Reference was made, in the opening paragraph of this division of the report, to some of the other changes made by the 1967 Iowa Legislature which relate to mental health and mental retardation programs. These changes will be discussed in connection with specific findings and recommendations of the Study Committee.

#### EXPLANATION OF CONCLUSIONS AND RECOMMENDATIONS

The State Mental Health Institutions Study Committee's conclusions and recommendations, and some of the information on which they are based, are presented in the form of comments on and responses to the questions posed by Senate Concurrent Resolution 51. As stated earlier, the questions are paraphrased rather than quoted from the Resolution.

1. **In view of the sharp reduction in the average daily patient populations of the state mental health institutes over the past decade, should all four of the institutes continue to be operated exclusively as hospitals for the mentally ill?**

Iowa has experienced a dramatic and, perhaps most important, a steady decrease in the average daily patient populations of its four state mental health institutes during the past decade. Actually, the peak point in resident patient population at the institutes was in 1945-1946, when the four institutes had a total population of over 6600. This figure dropped to 4951 on June 30, 1956, and then more rapidly to 1559 on June 30, 1967, when the individual patient populations of the four institutes were:

Cherokee	—365
Clarinda	—446
Independence	—353
Mount Pleasant	—395

The decline in average daily patient population at the institutes has been accompanied by the following developments:

- A rapid rise in the total number of patients admitted to and released from the institutes each year, and a significant reduction in the length of time the average patient remains at a state mental health institute.

- A steady increase in the per-patient-per-day cost of care and treatment at the mental health institutes.
- Increased utilization of county homes, privately operated nursing and custodial homes, and similar facilities for long-term care of persons who do not respond to treatment at mental health institutes sufficiently to permit them to return to their homes.
- Inception of out-patient services by the institutes, and development of such services into major portions of each institute's overall mental health effort.

Accompanying and underlying these developments has been an intensive effort to upgrade the quality and quantity of professional services at the institutes. As this report is written, three of the institutes—Cherokee, Independence, and Mount Pleasant—are accredited by the Joint Commission on Accreditation of Hospitals. Psychiatric residency programs have been in operation at Cherokee and Independence for some time, and the Mount Pleasant Institute is prepared to begin such a program as soon as a qualified individual can be employed to head the program. Nursing education and pastoral counseling programs are maintained at all four institutions. The Division of Vocational Rehabilitation of the Department of Public Instruction now assigns at least one rehabilitation counselor to each institute. (The members of the Study Committee concluded, at the time of their visits to the respective mental health institutes in late 1967 and early 1968, that the vocational rehabilitation programs at the institutes should be further strengthened. The Director of the Bureau of Mental Health states that there have been continuing efforts in this direction in 1968.)

The foregoing is an indication of some of the programs and services initiated or greatly expanded by the Iowa mental health institutes as their average daily resident patient populations have declined, although it is not intended to be a complete list of all such programs and services. One question with which the Study Committee has been concerned is to what extent the existing physical facilities of the mental health institutes, which formerly housed a great many more patients than they now do, are needed for the institutes' expanded programs and services. The

views of Clarinda Institute Superintendent Dr. John Gambill are representative of those expressed to the members of the Study Committee by administrators and professional staff personnel at the institutes.

Referring to the change in emphasis at the institutes from custodial care to treatment and rehabilitation, Dr. Gambill writes:

"One of the essential elements in psychiatric treatment and rehabilitation is to treat the patient as an individual person worthy of dignity. This meant giving the patient or according the patient the right to wear his own clothes and to groom himself in a way becoming to his personality. It meant . . . giving the patient the privacy of a room that he may have by himself or share with three or four others rather than share the same sleeping room with twenty to fifty others. This meant space where patients could walk around or for chairs in which they could sit down and talk to each other without having to sit on beds. This meant space for patients to participate in recreational activities, not only on his own ward, but in the hospital gym and other areas of the hospital. This meant that patients were assigned an activity which contributed to the patient regaining his mental health rather than one that is used merely to keep him busy or to serve the hospital as a peon. The hospital had to take steps to preserve the patient's ability to get along outside of the hospital and to retrain the patients who had lost that ability.

\* \* \*

"How was this done? . . . (In part) by getting more physicians in the hospital and other professionals, such as psychologists, social workers, and activity therapists. They need offices. New drugs were used. Patients responded and there was a need for more personnel to treat the patients who were responding. Nurses, psychologists, social workers, physicians, and attendants used group psychotherapy and remotivation techniques. To get a group together for therapy, it took space for a meeting. In order for a physician or psychologist to lead a treatment team and multiply his insights and therapeutic prescriptions through others, he had to have con-

ferences with the other professionals, and this took space and time. Because we are better staffed, we actually treat more patients with less beds and shorter hospital stays, and fewer days away from work than ever before.

\* \* \*

"The above, I think, will help you understand why we need a good deal of space to treat fewer in-patients today than we did previously." (Letter from Dr. Gambill to Legislative Research Bureau Director Serge H. Garrison, April 23, 1968.)

#### Allocation of Institutes' Physical Plants

The four Iowa mental health institutes are generally similar in terms of physical plants. Each is housed in a single large central hospital and administration building and a number of other buildings of varying sizes which are presently, or were formerly, used as residential facilities for patients. In addition, there are at each institute a number of employees' apartment buildings or housing units, a fire station, and several garages, sheds, barns, or storage buildings of varying sizes and purposes.

Table I, Part 1, compares in some detail the utilization of the principal buildings at the Cherokee Mental Health Institute in 1945 when its patient population was highest, and at the time the Study Committee visited the Institute in January, 1968. Parts 2 and 3 of Table I make similar, but less detailed, comparisons for the Clarinda and Independence Institutes. The Mount Pleasant Institute has been omitted from the table because only one of the principal buildings which housed patients there in 1946 is still in existence. This is the Infirmary, or 18 Building, which was considered to have a capacity of 78 patients in 1946, but presently has an approved capacity of 42 patients.

#### Utilization of Extra Space

Members of the State Mental Health Institutions Study Committee noted during their visits

to the Iowa mental health institutes, in the late fall and winter of 1967 and 1968, that there was some space in each of the institutes not then being used, directly or indirectly, to serve patients. This was most apparent at the Clarinda and Mount Pleasant Institutes.

One or more wards in the main buildings at Cherokee, Clarinda, and Independence were not in use at the time of the Study Committee's visit. Empty wards on the upper stories of the main buildings at Clarinda and Independence are no longer considered suitable for use as patients' residence areas. The only other empty ward at Independence was reserved as a dormitory for clergymen attending the periodic pastoral counseling courses offered at Independence. Empty wards on the lower floors of the Cherokee and Clarinda Institute main buildings were being remodeled when the Committee visited these institutes.

It should also be pointed out that, apparently, not all of the wards in use as patients' residence areas are fully utilized at all times, in terms of what is presently considered their capacity. For example, part 1 of Table I indicates that the Cherokee Institute had 526 beds available in January, 1968, but its resident patient population was 421 on January 3, 1968 (the date of sample daily patient population statistics given the Study Committee at the time of its visit to the Institute).

**Mount Pleasant 20 Building** — The Mount Pleasant Institute's 20 Building, a three-story structure erected in 1948, had the highest proportion of unused space of any building in good physical condition which the Study Committee encountered in its visits to the four institutes. The building faces east and consists of a northeast, a southeast, and a west wing, each three stories high and each having an area of 5901 square feet on each floor. The utilization of this building in December, 1967, was:

First Floor—Northeast wing—Special unit for mentally retarded patients (see "Mount Pleasant Pilot Program", page 97.)

—Southeast wing—Occupational therapy, recreation therapy, Institute's standby disaster facility.

—West wing—Physical therapy

**TABLE I — USE OF PRINCIPLE BUILDINGS AT STATE  
MENTAL HEALTH INSTITUTES IN 1945-46 AND IN 1967-68**

**Part 1. — Cherokee Mental Health Institute**

Building	Area	1945*	1968*
Main (south) (constructed 1901)	Ward So. 1	36 patients	out-patient clinic and offices
	Ward So. 2	39 patients	18 beds
	Ward So. 3	45 patients	25 beds
	Ward So. 4	47 patients	temporarily closed (remodeling plumbing)
	Ward So. 5	36 patients	25 beds
	Ward So. 6	43 patients	25 beds
	Ward So. 7	42 patients	temporarily closed (remodeling plumbing)
	Ward So. 8	42 patients	not in use
	Ward So. 9	48 patients	to be remodeled for patients' homemaking classes
Main (north) (constructed 1901)	Ward No. 1	35 patients	professional offices
	Ward No. 2	38 patients	22 beds (male admission ward)
	Ward No. 3	43 patients	29 beds
	Ward No. 4	37 patients	24 beds
	Ward No. 5	33 patients	nursing education study area
	Ward No. 6	45 patients	24 beds
	Ward No. 7	38 patients	employee quarters
	Ward No. 8	43 patients	student nurse quarters
	Ward No. 9	45 patients	ward storage
Infirmery Bldg. (constructed 1911)	Ward NPI-A	34 patients	42 beds, in former 2-ward area
	Ward NPI 11	33 patients	
	Ward NPI 12	38 patients	20 beds (4 isolation)
	Ward NPI 15	35 patients	24 beds
	Ward NPI 16	33 patients	24 beds (4 isolation)
Kinne Bldg. (constructed 1914)	Ward K-1	32 patients	28 beds
	Ward K-2	40 patients	18 beds
	Ward K-3	38 patients	14 beds
	Ward K-4	17 patients	18 beds
Voldeng Bldg. (constructed 1906, now houses children's unit)	Ward K-4	10 patients	14 beds
	Ward V-1 (now 2 areas)	23 patients	showers, game room, lockers, outdoor equipment storage
	Ward V-2 (now 2 areas)	28 patients	recreation therapy
	Ward V-3 (now 2 areas)	42 patients	8 beds, nursing station, visiting rooms
	Ward V-4	8 beds	professional offices, dining area
	Ward V-5	40 patients	school rooms
Ward V-6	40 patients	occupational therapy	
		40 patients	8 beds
		40 patients	therapy rooms, library, study hall

**CHEROKEE MENTAL HEALTH INSTITUTE (Continued)**

Building	Area	1945*	1968*
Donohoe Bldg. (constructed 1932)	Ward D-1	91 patients	recreation, music, therapy, game room, patient's homemaking
	Ward D-2	99 patients	occupational therapy, woodworking, ceramics
	Ward D-3	82 patients	storage
Wade Bldg. (constructed 1925)	Ward W-A (now 3 areas)	100 patients	dining area, day room, nursing station 28 beds 26 beds
	Ward W-B (now 3 areas)	102 patients	dining area, day room, nursing station 28 beds 26 beds
<b>TOTALS FOR CHEROKEE —</b>		<b>1732 patients*</b>	<b>526 beds*</b>

\*NOTE: 1945 figures refer to patients actually in residence;  
1968 figures refer to beds available at the Institute.

**Part 2. — Clarinda Mental Health Institute**

Building	Present Use or Condition
Main (constructed 1889 to 1898)	Central administration, activities, and patients' ward building; top story attic-like areas which housed patients in 1946 not now considered suitable for use as residence areas due to inadequate summer ventilation and winter heat.
Southview Cottage (constructed 1906)	2-story building; was being used as patients' ward building at time Committee visited Institute, but ground floor is being sought by independent Inpatient Stroke Rehabilitation Center which would rent space from Institute.
Northview Cottage (constructed 1908)	Not in use; was offered to but not accepted by Clarinda campus of Area XIII Community College. Now considered deteriorated.
Sunset Cottage (constructed 1918)	Adjacent to Southview, this cottage may also be used by Stroke Rehabilitation Center.
Pines Cottage (constructed 1928)	Now used as a nurses' residence facility.
Hope Hall (constructed 1928)	Relatively large building, serves as Institute Infirmary, houses many of Institute's geriatric patients.

### Part 3. — Independence Mental Health Institute

Building	Present Use or Condition
Main (constructed 1872)	Central administration, activities, and patients' ward building; as at Clarinda attic-like upper story areas which formerly housed patients not now considered suitable for such use.
Farmers Lodge (constructed 1885)	Badly deteriorated, Institute is recommending building be demolished.
Grove Hall (constructed 1887)	Now serves as Institute's activities therapy building (music and occupational therapies, recreational and homemaking facilities, and patients' library).
Infirmery (constructed 1910)	Now a 65-bed patients' medical center; housed 177 patients in 1946.

NOTE: A much larger structure, the Witte Building, was constructed adjacent to the Infirmery in 1950, and houses recreation and occupational therapy areas, offices, and wards with a total of 245 beds available, including the Institute's geriatric wards.

Hilltop Cottage (construction date not available)	Now houses Institute's children's unit, with 40 beds available; served as Institute's tuberculosis hospital, with 47 patients in 1946.
Hilltop School (construction date not available)	Children's unit school building.

NOTE: A building called Sunny Villa which housed 240 patients in 1946, has since been demolished.

SOURCE: Data provided by superintendents of the mental health institutes.

Second floor—Northeast wing—Unused, except for some space used by a part-time volunteer program

—Southeast wing—unused

—West wing—Vocational rehabilitation area

Third floor—Northeast wing—Classrooms and laboratory, Area XVI Community College laboratory technician and medical assistant courses

—Southeast wing—unused

—West wing—unused

Committee members were informed that it was proposed to locate on the west wing of the third floor an Area XVI education library, which would serve Des Moines, Henry, and Lee Counties and part of Louisa County with books and other materials purchased by funds obtained by the state under Title II of the Federal Elementary and Secondary Education Act. However, upon learning that Area XVI Community College pays no rent for the space it uses and that it was proposed to extend the same policy to the new education library, some Committee members objected.

Institute Business Manager Monte Welker explained that it is believed the Institute derives certain benefits from the presence of the community college faculty and students, that this would also be true of the education library, and that the Institute incurs no significant cost by allowing them to use space in the 20 Building since the building would have to be maintained in any event. The Committee members who objected expressed the view that if no rent is charged, all of the southeast Iowa counties which are required to support the Institute are in effect subsidizing facilities which serve only Des Moines, Henry, Lee, and Louisa Counties.

It was subsequently reported to the Committee that an agreement had been concluded by the Institute with the joint county school boards of the four counties for use of the third floor, west wing, of the 20 Building as the Area XVI education library site, on a rental basis.

**Clarinda Institute Cottages**—Four buildings of varying sizes at the Clarinda Institute are identified as "cottages". These are Northview, Southview, Sunset, and Pines Cottages. At the time of

the Study Committee's visit to Clarinda in November, 1967, Northview and Sunset Cottages were empty, Southview was being used as a ward for patients admitted or committed for treatment of alcoholism, and Pines Cottage was serving as a nurses residence.

Several months after the Study Committee's visit to Clarinda, the Institute received a proposal, submitted jointly by two doctors in practice in the City of Clarinda and the administrator of the Clarinda Municipal Hospital, to rent the first floor of Southview Cottage and the adjacent Sunset Cottage for use as a privately operated stroke rehabilitation center. The proposal is still pending as this report is written.

Committee members were informed that Northview Cottage had at one time been offered for use by the Clarinda campus of Area XIII Community College, which declined the offer. The building has now been declared surplus, and as this report is written it appears that the Sixty-third General Assembly will be asked to approve its demolition. While the interior of this building is certainly badly deteriorated, its basic structure appeared sound at the time the Study Committee visited the Clarinda Institute. It is the view of Study Committee members that the building should not be razed until careful consideration has been given both to the purposes for which all of the Clarinda Institute's physical facilities are to be utilized in future years and, in this context, to the possibility of renovating Northview Cottage for future use.

### Conclusions

One of the questions posed by the Senate Concurrent Resolution 51 was "should all four of the institutes continue to be operated exclusively as hospitals for the mentally ill?" As will be seen from the foregoing paragraphs, not all of the institutes are presently being operated exclusively as hospitals for the mentally ill, so far as utilization of physical facilities is concerned.

For the reasons previously stated, the Study Committee has not made a formal recommendation on the questions whether one or more of the existing institutes could entirely cease to serve as a hospital for the mentally ill without impairing Iowa's present or future mental health programs, and if so, whether it would be wise to do so. State-

ments made to the Study Committee by the Commissioner of Social Services indicate he is aware of the possibility that, now or in the foreseeable future, Iowa may no longer need four state mental health institutes.

On July 19, 1968, Dr. Cromwell informed the State Mental Health Institutions Study Committee by letter of receipt of the formal proposal to rent space in the Mount Pleasant Institute's 20 Building for use as the Area XVI education library, and of the proposal to rent space in two of the Clarinda Institute's cottages for a privately operated stroke rehabilitation center. Dr. Cromwell stated in the letter that he would authorize the superintendents of the two institutes to accept the proposals unless there were objections by members of the Study Committee. The Study Committee had no authority to approve or disapprove any such proposals, but at its July 29 meeting a motion was passed stating the Committee had no objections to either proposal.

With no intent to criticize any person or agency, it is observed that the possibility exists of further changes in use of the physical plant at one or more of the institutes occurring gradually, perhaps without long-range planning, rather than by a more or less simultaneous "conversion" of an entire mental health institute to some other purpose. The Legislature may therefore wish to consider whether guidelines should be established, or a more specific procedure required, when use of a mental health institute's physical facilities by or for the benefit of an agency other than the institute itself is proposed.

2. **Could the steady increase in the per-patient-per-day cost of care at the state mental health institutes be arrested or slowed by using staff personnel for care and treatment of patients afflicted with disabilities other than mental illness?**

As pointed out in the preceding section of this report, the decline in average daily patient population of the state mental health institutes has been accompanied by a steady rise in the per-patient-per-day cost of operating these institutes. It is reasonable to assume that if the patient pop-

ulation of the institutes were again increased, the per-patient-per-day cost would tend to be reduced, however consideration must also be given to what effect such a policy would have on quality of care at the institutes.

Many of the persons who have met with the State Mental Health Institutions Study Committee—representatives of both state agencies and private groups—have urged that needs of people, rather than availability of unused space in buildings at some of the institutes, be the deciding factor in planning new or expanded programs. The point is not that there is no need to be concerned with the cost of maintaining physical facilities which are not being used, or are not being employed to capacity. Rather, the point is that placing additional persons in the available facilities—whether they be mentally ill, mentally retarded, or otherwise afflicted—will not be beneficial to these persons unless competent staff people are available to care for them. The most serious problem confronting the institutes has been recruiting, and keeping, qualified staff personnel. (The superintendent of the Clarinda Institute has indicated he believes the particularly difficult and continuing recruitment problem there is partly due to reports that the Institute may be closed.)

It may be noted that, while per-patient-per-day cost of care at Iowa mental health institutes has risen rapidly in recent years, it still does not—and, in the judgment of members of the Study Committee, never should—approach the daily cost of care in a private general hospital. Also in point is the following comment of an out-of-state doctor.

"Here in Iowa you are now admitting and treating 5,300 patients a year with only 1,700 patients in residence. This gives you a fantastically higher per diem figure . . . but a total cost of only \$11,500,000. In another state, Florida, which has only about 5,000 admissions but 10,000 resident patients, the per diem figure is a low \$6.07 but the total cost to the state, because of the large resident patient census, is \$22,000,000—just twice what it costs Iowa to more effectively treat more patients."\*

\*Dr. Harold L. McPheeters, Associate Director, Southern Regional Education Board, speaking at Mt. Pleasant, December 6, 1967. The annual appropriations for the four Iowa mental health institutes for each fiscal year of the 1967-69 biennium actually total \$11,809,660.

### **Mentally Retarded Patients in Mental Health Institutes**

One of the matters to which the Study Committee has devoted considerable attention is the question whether some mentally retarded patients should be moved from the hospital-schools for the mentally retarded to mental health institutes, in order to utilize available space and more nearly equalize the patient populations of the institutes and of the hospital-schools. For the reasons stated in the three foregoing paragraphs, it is not at all certain that implementing such a policy would materially reduce per-patient-per-day costs at the mental health institutes, but there are other considerations.

Dr. Cromwell, Director of the Bureau of Mental Health Services, believes that the mental health institutes can and should plan for and provide services to mentally retarded as well as mentally ill patients. Based on their comments to the Study Committee during its visits to the institutes, it appears that two of the present institute superintendents generally share Dr. Cromwell's views, and the other two do not. An additional complicating factor, with respect to possible treatment of mentally retarded patients at mental health institutes, is the establishment in the Department of Social Services of a separate Bureau of Mental Retardation Services, coequal with the Bureau of Mental Health Services. As a result, superintendents of the hospital-schools and of the mental health institutes are no longer directly responsible to the same bureau director, and coordination of programs for mentally retarded patients in mental health institutes may be more difficult.

There are also financial considerations involved in placing mentally retarded patients in mental health institutes. Both the institutes and the hospital-schools bill the individual counties for care of patients who have legal settlement in the respective counties at the rate of 80 percent of per-patient-per-day cost, as computed under present law. Counties in turn are empowered to recover amounts paid for care of any patient from the patient or his legally responsible relatives. (This policy has been commended as tending to maintain the family's interest in and contact with the patient.) However, section 222.78, *Code of Iowa* (1966), limits the liability of parents of a mentally retarded child or youth for the cost of his care at a state hospital-school to "the average mini-

mum cost of care of a normally intelligent, non-handicapped minor of the same age and sex", and imposes no liability whatever on the parents after the patient reaches age 21.

There is no corresponding section in chapter 230 of the Code, governing support of mentally ill patients, at least partially because it is recognized that the length of stay of patients in a hospital-school is often substantially longer than that of patients in mental health institutes. The Iowa Association for Retarded Children expressed concern to the Study Committee that if mentally retarded individuals should be placed in mental health institutes as patients, their parents would suddenly find themselves faced with a greatly increased financial liability.

Representatives of Progressive Action for the Retarded, as well as the Iowa Association for Retarded Children, also expressed their concern about the difficulty of obtaining psychiatric treatment for mentally retarded individuals. While mental retardation and mental illness are not the same thing, some mentally retarded individuals are also mentally ill. The direct admission of such individuals to mental health institutes is prohibited by section 226.8, *Code of Iowa* (1966), although section 222.7 does permit transfer of patients from hospital-schools to institutes and vice versa. In addition, section 226.8 defines a mentally retarded person as one "foolish from birth, supposed to be naturally without mind." This definition is not only out of date, it conflicts in both fact and philosophy with the definition of mental retardation found in section 222.2, a part of the chapter governing the hospital-schools.

**Mount Pleasant Pilot Program**—In the fall of 1966, a pilot program was initiated involving transfer of 21 severely or profoundly mentally retarded patients from Woodward State Hospital-School to Mount Pleasant Mental Health Institute. (Due to the financial considerations previously discussed, the 21 persons transferred were all state patients, whose care is paid for by the state because they do not have a legal settlement in any county in Iowa.) During its visit to the Mount Pleasant Institute, the Study Committee was informed that the Institute provides a program including recreation, occupational therapy, and considerable individual attention for these patients, who are housed in the northeast wing on the first floor of the "20 Building". Some of the transferred patients were reported to have attained

new skills at Mount Pleasant, and the belief was expressed that all of them had benefitted by the higher staff-to-patient ratio which the Institute was able to provide.

Dr. Cromwell, who as State Director of Mental Health in 1966 had jurisdiction over both the mental health institutes and the hospital-schools, explained the reason for initiating the pilot program:

"... it is to relieve the pressure on Glenwood and Woodward staffs and to upgrade the care of all mentally retarded patients... I felt that the four mental health institutes could and should learn how to program for mental retardation; that as the psychiatrists trained at the mental health institutes entered private practice we at least (since the Psychopathic Hospital does not) should have exposed our resident psychiatrists to training in the care and programming to meet the total needs of mentally retarded patients. I know this idea was violently opposed by some of our psychiatrists,..." (Letter from Dr. Cromwell to Study Committee, May 27, 1968. Emphasis is Dr. Cromwell's.)

Dr. Cromwell pointed out that the Sixty-second General Assembly had not enacted a requested amendment to section 226.8, to clearly legalize the pilot program. He therefore asked the Study Committee's advice on whether the patients involved in the pilot program should be returned to Woodward. After consideration, the Study Committee on May 3, 1968 adopted the following motion.

"The State Mental Health Institutions Study Committee endorses continuation of the pilot program, under which mentally retarded patients transferred from the Woodward Hospital-School are receiving care and treatment at the Mt. Pleasant Mental Health Institute, at least until such time as the Committee has completed its deliberations and made its recommendations."

#### Conclusions and Recommendations

It is the Study Committee's desire to avoid recommending to the Legislature major changes in present laws, which would mandate the reallocation of the state's institutional resources in the

field of mental health before the Commissioner of Social Services has had an opportunity to fully evaluate and plan for utilization of these resources. However, it is believed that the way should be open for the Commissioner to continue utilizing space in at least one of the mental health institutes for treatment of mentally retarded patients if he concludes that such a policy is desirable. It is further believed that mental health institutes should be authorized, and strongly encouraged, to provide psychiatric and other services to mentally retarded individuals who are also mentally ill.

Accordingly, the State Mental Health Institutions Study Committee recommends the adoption of the following legislation:

**House File 5**, relating to establishment of a special mental retardation unit to be located at one of the state mental health institutes, prescribing the functions of the special unit, and providing for the administration and support thereof and the admission of patients.

**House File 6**, relating to the definition of a mentally retarded person for the purpose of chapter 226 of the Code, and to the admission or transfer of such persons to the state mental health institutes.

House File 5 gives the Commissioner of Social Services permissive, not mandatory, authority to assign space in one of the state mental health institutes for use by a special mental retardation unit. The unit is authorized by the bill to provide psychiatric and related services to mentally retarded persons who are also mentally ill or emotionally disturbed, other services to meet the needs of particular categories of mentally retarded persons designated by the Commissioner to be served by the special unit, and diagnostic evaluation services.

The special unit will be established under chapter 222 of the Code, which presently governs the hospital-schools, rather than under the chapter relating to mental health institutes. Thus parents of mentally retarded minors admitted to the unit as patients will receive the benefit of the limited financial liability for cost of the patient's care, just as if the patient had been admitted to one of the hospital-schools. The special unit will have its own superintendent, becoming in effect "an institution within an institution," although it will utilize existing physical facilities, heat pow-

er, food preparation, and other support services of the mental health institute where the special unit is located.

House File 6 repeals section 226.8, which presently prohibits admission of any mentally retarded person to a mental health institute, and which includes the outmoded definition of mental retardation discussed earlier in this section. The present section 226.8 is replaced with the following language:

"No person who is mentally retarded, as defined by section two hundred twenty-two point two (222.2) of the Code, shall be admitted, or transferred pursuant to section two hundred twenty-two point seven (222.7) of the Code, to a state mental health institute unless a professional diagnostic evaluation indicates that such person will benefit from psychiatric treatment or from some other specific program available at the mental health institute to which it is proposed to admit or transfer the person. Charges for the care of any mentally retarded person admitted to a state mental health institute shall be made by the institute in the manner provided by chapter two hundred thirty (230) of the Code, but the liability of any other person to any county for the cost of care of such mentally retarded person shall be as prescribed by section two hundred twenty-two point seventy-eight (222.78) of the Code."

The effect of the bill is to permit the admission of mentally retarded individuals to mental health institutes where there is reason to believe that the individuals admitted can be helped by treatment at the institute to which they are admitted. Here again, the limited liability of parents for cost of care of mentally retarded minors admitted to state hospital-schools is applied.

**3. Are staff and facilities at the state hospital-schools at Glenwood and Woodward adequate to provide proper care and treatment for the mentally retarded persons at these institutions?**

The substantial increase in annual operating appropriations for the Glenwood and Woodward State Hospital-Schools during the present biennium was noted earlier in this report. The specific increase for each hospital-school, over the preceding biennium, is as follows:

	1965-67	1967-69
Glenwood	\$3,012,800 per yr.	\$4,356,595 per yr.
Woodward	\$2,907,100 per yr.	\$4,891,005 per yr.

This increase in appropriations has permitted both enlargement and improvement in the caliber of staff in all categories below the professional level, by permitting more selective hiring and by making it possible to grant periodic increases, in accordance with established salary scales, to employees who perform satisfactorily. Although professional staff has not been enlarged significantly, Dr. Wurtz, Director of the Bureau of Mental Retardation Services, believes better care by the nonprofessional staff is making the efforts of the professional staff more effective.

The average daily patient populations of the two hospital-schools have been declining in recent years, although the reduction began later and has not yet been so great as that occurring at the state mental health institutes. From a combined total of some 3700 patients in 1953, the patient population had been reduced to 854, at Glenwood, and 830, at Woodward, on June 30, 1968.

The decrease in patient population reflects an effort to make the hospital-schools primarily intensive treatment and training centers for individuals whose return to their home communities within a reasonable time is anticipated, rather than long-term custodial care institutions. Hospital-school patients who are believed unlikely to benefit from further treatment are being removed to county homes, nursing and custodial homes, and other community care facilities, and efforts are being made to limit new admissions sufficiently to permit continued progress toward meeting the standards of the American Association on Mental Deficiency for staffing of residential care institutions for the mentally retarded.

Dr. Wurtz reported in October, 1968, that both hospital-schools are approaching 100 percent of AAMD staffing standards, based on an average daily patient population of 750 at each hospital-school, a figure somewhat lower than the actual patient populations at the time this report is written. Whether the patient population at each hospital-school will be reduced to 750 by the end of the present biennium depends in some degree on availability of adequate community care facilities for patients believed unable to benefit from further treatment at the hospital-schools. (See discussion of community care facilities in the following section of this report.)

The availability of local and regional programs and facilities for the mentally retarded makes it possible for many of these persons to remain in or near their homes, or to return to their home communities after a period of treatment and training at a hospital-school rather than becoming long-term patients there. Thus there is a direct relationship between the programs and facilities for the mentally retarded available at the community level, and the success of the hospital-schools' efforts to further reduce the proportion of their staff time and physical facilities used to provide long-term custodial care.

**Special Education for Mentally Retarded**—It is therefore significant that growth is apparently continuing in the number of public school classes for the mentally retarded operated by local or county school systems, as evidenced by the following data provided by the Division of Special Education of the Department of Public Instruction.

**Growth in Public School Classes for the Mentally Retarded in Iowa**

Year	Educable	Trainable	Total
1950-51	93	-----	93
1955-56	158	4	162
1960-61	277	42	319
1965-66	511	101	612
1967-68	627	132	759

The Study Committee visited Cedar Falls and Waterloo to observe a program for trainable (i.e., moderately and severely) retarded children, youth, and young adults being conducted there. This program, operated by Exceptional Persons, Inc. (a voluntary association of 18 public and private community agencies concerned with services to handicapped children in the Area VII educational district, surrounding Waterloo), includes special education, activities, and training in a sheltered workshop situation where it appears such training would be beneficial. The program is financed by a combination of public and private funds, and has permitted some mentally retarded individuals who formerly resided at the Woodward Hospital-School to return home. A building to house the program was built in 1967 with funds received through a bequest and matched by federal funds available under Public Law 88-164, however representatives of Exceptional Persons, Inc. stressed to the Study Committee that the build-

ing was built only after the program had been established and operated for several years.

At least two other Iowa communities, each located in one of the state's relatively populous counties, have obtained or made final application for P.L. 88-164 funds, to be used for community mental retardation facilities. In these and a number of other Iowa communities, a variety of programs—usually initiated by local groups of parents or other interested private citizens—are being developed or are in operation, to provide to mentally retarded persons services which the hospital-schools would otherwise be called upon to provide.

The hospital-schools began working more directly with communities several years ago, when the regional community consultant program was initiated. Dr. Wurtz has stated that as enlargement of the nonprofessional staffs of the hospital-schools reduces pressure upon the professional staffs, professional staff persons are being made available to consult with communities on establishment and improvement of local and regional programs.

**Program Uniformity**—At the time of the Study Committee's visits to the two hospital-schools, in the fall of 1967, Committee members expressed concern about what appeared to be a difference in some aspects of patient care at Glenwood and Woodward. Specifically, it appeared that care and supervision of some patients—particularly severely retarded adults—at Glenwood was somewhat superior to that at Woodward.

Dr. Cromwell, who was in 1967 the State Director of Mental Health under the Board of Control and had jurisdiction of the hospital-schools, subsequently reported to the Study Committee that:

"The Director (i.e., Dr. Cromwell) did hold up exactly the same ideal for . . . Glenwood and Woodward to attain. The actual details of administrative implementation were left entirely to each superintendent who literally controls all money and all personnel at each institution, subject to law and to very general policies." (Letter to Study Committee, May 27, 1968.)

Dr. Wurtz has pointed out that the superintendents have faced somewhat different problems in that, historically, Woodward (formerly known

as the State Hospital and School) had a medical orientation and a less active training program than Glenwood (formerly known as the State School). Although both institutions are now designated as hospital-schools, past differences in orientation continue to be reflected in a substantially higher proportion of severely retarded, primarily custodial, patients at Woodward.

At least partially as a result of the Study Committee's observations and informal comments, efforts have been underway in recent months to more nearly equalize all programs common to the two hospital-schools. To this end, teams of professional employees from the hospital-schools have exchanged visits to familiarize themselves with each other's problems and procedures.

### Conclusions

Members of the State Mental Health Institutions Study Committee believe that the increased appropriations given the Glenwood and Woodward Hospital-Schools by the 1967 Legislature have resulted in a marked improvement in the quality of care provided the patients at these institutions. There appears to be no reason why improvement should not continue if adequate appropriations are made available.

#### 4. What is to be the future role of the state and its facilities in meeting the needs of Iowa's mentally ill and mentally retarded citizens for adequate care and treatment?

Obviously, the foregoing question could be the topic for a discussion of considerably greater length and detail than is possible in this report. In summary, nearly all of the individuals and groups with whom the Study Committee has met have supported the general proposition that services to the mentally ill and mentally retarded should be provided in the patients' home communities, or as near their home communities as possible. There have been differences of opinion on the implementation of this proposition, but no one has argued that providing services at the community level wherever feasible is undesirable.

There appears to be fairly general agreement that as more of the services needed by the mentally ill and the mentally retarded become available at the community level, the role of the state institutions should become primarily supportive, providing care and treatment in unusual or diffi-

cult cases for which it is impractical or impossible to program at the community level. This shift in the role of the state mental health institutions will in all probability be very gradual, and will take place as communities become able to adequately provide services which the mentally ill and mentally retarded must presently receive from the state institutions. It should also be recognized that development of community mental health and mental retardation facilities is occurring, and will continue to occur, quite unevenly in various parts of the state.

Jasper County, for example, utilizes the Jasper-Poweshiek Mental Health Center, facilities of a general hospital in Newton, and the Jasper County Home in such manner that very few patients from Jasper County are admitted to the Mount Pleasant Mental Health Institute. Many areas of the state do not have, and are unlikely to have for some time, either the personnel or the necessary facilities to establish such a program. Therefore, communities should have a high degree of flexibility in determining which of the mental health and mental retardation services needed by their residents are to be obtained from state institutions, and which are to be obtained locally.

The 1967 Iowa Legislature's actions permitting the state's larger counties to acquire and operate county health centers, and authorizing any county to use its state institutions fund to pay for treatment of mental illness in local general hospitals or other suitable local facilities as well as in state mental health institutes, (chapters 299 and 202, respectively, *Acts of the Sixty-second General Assembly*) are steps in the direction of providing more services to the mentally ill and mentally retarded at the community level. At least two counties—Black Hawk and Linn—are proceeding with the acquisition of facilities for and establishment of county health centers.

Dr. Cromwell reports that utilization by counties of local hospitals or other facilities for inpatient treatment of mental illness has not yet had a significant effect on admissions to state mental health institutes. Whether it will do so in the future depends upon the initiative of county officials, and the willingness of local general hospitals, in particular, to accept mentally ill persons as in-patients. Broadlawns-Polk County Hospital has recently undertaken expansion of its facilities for mentally ill patients from twenty-six to forty beds.

## Community Mental Health Centers

One of the key resources for providing needed mental health services at the local and regional levels is the community mental health center. There are presently twenty of these centers in Iowa, each serving one or more counties. The twenty centers serve a total of 57 counties which have approximately seventy percent of the state's population. The first Iowa community mental health centers (except the Des Moines Child Guidance Center, which has been in existence since 1936) were established at Burlington, Cedar Rapids, and Davenport in 1949. Two centers, at Atlantic and Fort Dodge, began full-time operation during 1968. Although counted as one of the twenty centers, the Des Moines Child Guidance Center, which serves both Polk and Warren Counties, does not provide services to adults.

The term "mental health center" often implies a facility offering a fairly broad range of services, including in-patient treatment. At present, however, some of the community mental health centers in Iowa operate entirely or primarily on an out-patient basis. In-patient resources are available to most of the community mental health centers in local general hospitals.

Community mental health centers in Iowa have a very high degree of local autonomy. They are loosely linked to the Iowa Mental Health Authority, a state agency located at the Psychopathic Hospital in Iowa City, but presently supported entirely by federal funds.

Section 230.24, *Code of Iowa* (1966), provides that a county or group of counties may establish a community mental health center "in conjunction with the Iowa Mental Health Authority." It is not clear precisely what relationship between the Authority, the community mental health centers, and the counties which help support the centers, was intended by the phrase quoted from section 230.24. Dr. Paul Huston, who until recently was director of the Authority, stated in a letter to the Study Committee that "the Mental Health Authority's role is entirely consultative, not coercive."

The present community mental health centers in Iowa are organized as nonprofit private corporations. The details of administration and arrangements with the supporting county or counties vary from center to center, but charac-

teristically patients are asked to pay that portion of the cost of their treatment which they can afford to pay, and the balance of the cost is paid from county tax funds, or from funds received by the center through community chests, special gifts, or other nontax sources. In response to a survey made for the Study Committee, a few of the centers reported that county tax funds accounted for nearly all of their receipts, and only one center reported receiving less than 60 percent of its total budget for the previous year from sources other than county tax funds.

In past years, most of the federal funds received by the Iowa Mental Health Authority have been expended directly by the Authority, much of it for administrative expense which has included the cost of advising on establishment and operation of community mental health centers. However, Dr. Huston reported in May, 1968, that new federal regulations require that at least 70 percent of the federal funds received by the Authority be distributed directly to community mental health centers.

The Iowa Mental Health Authority reported that the 18 community mental health centers operating in Iowa between July 1, 1966 and June 30, 1967 had a total caseload of 10,827 during that period. This is approximately twice the number of in-patient admissions to the mental health institutes during the same period (although the in-patient admission figures do not reflect the institutes' substantial out-patient caseloads).

Dr. Huston, meeting with the Study Committee, expressed the view that screening by community mental health centers of persons being considered for admission or readmission to mental health institutes could reduce the rate of admissions to the institutes by as much as 50 percent. Some of the institute superintendents expressed vigorous disagreement with Dr. Huston on this point. Independence Institute Superintendent Dr. Selig M. Korson submitted to the Study Committee figures which indicate that the rate of admissions there is higher from counties served by community mental health centers than from those not served by centers. The significance of this data is not entirely clear, but it may indicate more realization of need for in-patient mental health treatment is being brought about through the work of the centers.

Dr. Cromwell states that a patient leaving one of the mental health institutes is referred to

a community mental health center, if one is available to him, but the institutes have no authority to require the patient to contact a community mental health center unless he is a committed patient on convalescent leave. There is no direct statutory or administrative relationship between the mental health institutes and the community mental health centers, a situation in contrast with the relationship between the institutes and county homes which is discussed later in this section of the report. The Iowa Mental Health Authority is not a part of the Department of Social Services. A brief historical explanation of this fact may be helpful.

U.S. Public Law 79-487, passed in 1946, provided allocations of federal funds to each state for mental health research, if the state would designate "a single state agency" as the "mental health authority" through which the funds would be channeled. The Board of Control was not then adequately staffed to handle this responsibility and the University of Iowa College of Medicine, which desired the designation, did not qualify as a single state agency under P.L. 79-487. Since the Psychopathic Hospital did so qualify, the Fifty-second Iowa General Assembly (1947) by resolution designated it as the Iowa Mental Health Authority. In 1965 the Legislature enacted the present chapter 225B, *Code of Iowa* (1966), empowering the Board of Regents to designate the Iowa Mental Health Authority with the advice of the dean of the College of Medicine and of the Mental Hygiene Committee. The Mental Hygiene Committee, a 16-member group intended to be broadly representative of state agencies and private groups concerned with mental health, is a policy-making body for the Iowa Mental Health Authority. The Psychopathic Hospital has continued to be designated the Iowa Mental Health Authority under the 1965 law.

A survey of 30 states which have adopted community mental health services legislation indicates that only three do not assign responsibility for administration of such legislation to the same major state department which administers the state mental health institutions. Iowa was not one of the 30 states included in the survey, since by the standards applied Iowa could not be said to have a community mental health services law (i.e., one involving some degree of state support coupled with minimum state standards).

### County Homes as Custodial Care Units

Statistics listing county home residents in Iowa in the first six months of 1967 (the last period for which complete data is presently available from the Department of Social Services) indicate that nearly 75 percent of such residents were mentally ill or mentally retarded. On the basis of a total of nearly 5,000 county home residents, it would appear that there were in 1967, and probably still are, more mentally retarded and mentally ill patients in county homes than in state mental health institutions.

The mentally ill and mentally retarded residents of county homes are individuals transferred there because they are incapable of living independently, and are considered unlikely to benefit from further treatment in a state institution. The reasons for making such transfers were discussed earlier in this report. Transfer of a patient from a state institution to a county home does not end the state's responsibility for the patient.

Section 227.2, *Code of Iowa* (1966), as amended, requires the Director of Mental Health to make or have made semi-annual inspections of county homes, and also private nursing and custodial homes and similar institutions, where mentally ill persons reside. In addition the home must be inspected, and each mentally ill resident examined, at least once each year by a staff psychiatrist of the mental health institute serving the county where the home is located.

No systematic survey of county homes in Iowa was undertaken by the Study Committee, however information available to Committee members indicates there is variation not only in size and condition of county home structures, but particularly in the type and variety of activities regularly available to residents. Nearly all of the county homes are operated by a steward and a matron, usually a man and wife, who may or may not have additional help.

The actual cost of operating Iowa's county homes, on a per-patient basis, is most difficult to ascertain. Most of the county homes are located on farms, and many conduct some farming operations. Income from the farming operations, which may fluctuate considerably from year to year, affects the net county expenditure for operation of the home in such a way that the actual operating cost may be quite distorted in the required annual report.

Individuals who otherwise qualify to receive benefits under one of the categorical state-federal welfare programs, such as old age assistance, blind assistance, or aid to the disabled, are not eligible so long as they reside in a county home. Therefore, county home residents who become 65 years of age are usually transferred to a private nursing or custodial home if at all possible, so that old age assistance may be obtained to help pay the cost of such person's care. If mentally ill or mentally retarded residents of county homes become eligible for aid to the disabled or other categorical welfare programs, these persons may be transferred to private facilities, wherever such facilities are available. This possibility appears to raise some questions about the long-range role of county homes as community-level custodial care facilities for the mentally ill and mentally retarded.

#### **Financing of Community Mental Health Services**

The following is not intended to be an exhaustive treatment of the problems of financing community level mental health services in Iowa, but rather a discussion of some specific problems which have come to the Study Committee's attention.

The 1967 Legislature, by two separate actions, made a total of more than \$4,500,000 available to help ease the burden placed on county property taxpayers by the increasing costs of care and treatment of the mentally ill and mentally retarded. However, the manner in which these state funds are made available does not permit the counties as great a degree of flexibility, in determining where services are to be obtained and how they are to be paid for, as could be provided without further increasing state expenditures.

Chapter 196, *Acts of the Sixty-second General Assembly* (1967), permits the Legislature to specify, when making appropriations for the state mental health institutions, that the institutions shall bill the respective counties for the cost of care of patients having legal settlement therein at a rate less than 100 percent of the average per-patient-per-day cost of care. In the 1967 appropriation act, the institutions' billing rate to counties for the current biennium was set at 80 percent of full cost. At the current level of annual appropri-

ations for operating costs the 20 percent of cost of care and treatment at the institutions which is not being charged to the counties during the current biennium amounts to over \$4,000,000 each year.

Counties must pay the cost of care of their legal residents in state mental health institutions from the state institutions fund, which is created by section 444.12, *Code of Iowa* (1966), and supported by property taxation (patients, and their responsible relatives, may in some cases be required to reimburse the county for all or part of such expenditures, if they are able to pay). Thus, the action of the Legislature in reducing the state institutions' billing rate to the counties provides a measure of property tax relief. However, if the \$4,000,000-plus which the state is paying for operation of the state mental health institutions during each year of the present biennium, without reimbursement by the counties, had instead been apportioned to the counties on a per capita basis, earmarked for mental health and mental retardation services generally, some counties might have preferred to use a portion of these funds to support a community mental health center or provide more adequate care for mentally retarded and mentally ill patients in their county homes.

The county fund for mental health, created by section 230.24 of the Code, is pertinent to both community mental health centers and county homes. Section 230.24 presently requires that county boards of supervisors levy a tax of one mill or less for the county fund for mental health, which may be used for:

1. The support of mentally ill patients in the county home, "or elsewhere outside of any state hospital for the mentally ill".
2. Construction of additions or improvements to the county home which are needed to permit proper care of mentally ill persons residing in the county home.

Boards of supervisors are also authorized to draw upon the county fund for mental health to pay for "psychiatric examination and treatment of persons in need thereof, or for professional evaluation, treatment, and habilitation of mentally retarded persons," in a community mental health center or other appropriate facility. Any county making such use of the county fund for

mental health is authorized to levy an additional half mill for the fund, or a total of one and one-half mills.

Statements by some county officials and persons working in or with community mental health centers indicate they regard section 230.24 as limiting expenditures from the county fund for mental health, for community mental health center purposes, to the amount which can be raised by a half mill levy. The legislative history of section 230.24 seems consistent with this interpretation, but the actual language of the section does not appear to prohibit use of a part of the basic one mill levy for community mental health center purposes.

When a custodial care patient is transferred from a state mental health institution to a county home, nursing or custodial home, or other community facility, the cost of his care theoretically ceases to be paid from the state institutions fund of the county, and is instead paid from the county fund for mental health. However, if the latter fund is depleted before the end of any year, the cost of the transferred patient's care in any privately operated facility must be paid, during the balance of that year, from the state institution fund, for which there is an unlimited levy, or in the case of the county home, the cost of the patient's care may be paid from the poor fund.

Section 227.16, 227.17, and 227.18, *Code of Iowa* (1966), as amended in 1967, provide a permanent annual appropriation of one million dollars from which is to be paid to each county five dollars per week for each custodial care patient transferred from a state mental health institution and supported by the county in the county home or another community facility. (This standing state appropriation was increased in 1967 from \$500,000 per year to \$1,000,000 per year, and weekly payments were increased from three to five dollars. Despite this increase, the appropriation apparently will not be sufficient to pay all claims submitted during the present biennium.) However, this state aid may be obtained only on behalf of patients the cost of whose care is paid from the county fund for mental health. When this fund is depleted, and the cost of the patient's care must be paid from another county fund, the county can no longer legally receive the five dollars per patient per week state aid, even though the cost of care is still being paid by the county with funds raised from the same property taxpay-

ers who were taxed for the county fund for mental health.

#### Conclusions and Recommendations

The State Mental Health Institutions Study Committee, after consideration of the foregoing information, recommends the adoption of the following legislation:

**House File 7**, relating to establishment of community mental health programs by counties or groups of counties, authorizing state aid for such programs, and providing a permanent appropriation therefor.

**House File 8**, to combine the present county fund for mental health with the state institution fund, redesignating the latter as the county health and institutions fund, prescribing the purposes for which such fund may be used, and authorizing a levy therefor.

**House File 9**, relating to county homes.

**County Mental Health Programs**—The Study Committee believes that community mental health centers are already playing an important role in meeting Iowa's mental health needs, and will do so to an increasing extent in the future. It is further believed that the time has come when the state should encourage the continued development of community mental health services, and assist those communities which have already developed such services, by making some state financial aid available.

Community mental health centers in Iowa presently operate with nearly complete local autonomy. Almost the only references to community mental health centers which have been located in the *Code of Iowa* (1966) are those in section 230.24 permitting a tax levy for support of centers established "in conjunction with the Iowa Mental Health Authority," and authorizing a non-recurring appropriation of \$250 per thousand population in the county from the state institutions fund for establishment of a community mental health center. (There is also a collateral reference in section 444.12, which governs the state institutions fund.) The Iowa Mental Health Authority states that its role is consultative, not coercive. Thus, community mental health centers are operating with no actual state control of methods of organization or administration, the kinds of serv-

TABLE II—COUNTY SUPPORT OF STATE MENTAL HEALTH INSTITUTES AND COMMUNITY MENTAL HEALTH CENTERS IN 1967, AND AMOUNT OF STATE FUNDS COUNTIES COULD RECEIVE UNDER SECTION NINE OF H.F. 7

1	2	3	4	5	6	7
County	Official 1960 Census Population	Mental Health Institute (MHI) Serving County	Total Paid by County for MHI Care 7/1/66 6/30/67	Community Mental Health Center (CMHC) Serving Co. (If Any)	Amount Remitted to CMHC by County in Comparison Period <sup>a</sup>	Amount County would be Allocated if the Procedure Recommended by the State Mental Health Institutions Study Committee Were Followed
Adair	10,893	Clarinda	\$ 25,235.86	None		\$ 20,164.48
Adams	7,468	Clarinda	\$ 17,182.93 <sup>b</sup>	None		\$ 13,825.48
Allamakee	15,982	Independence	\$ 27,275.66	N.E. Iowa M.H.C.	\$ 6,432.62 <sup>c</sup> (FY)	\$ 29,584.52
Appanoose	16,015	Mt. Pleasant	\$ 57,495.71 <sup>b</sup>	None		\$ 29,645.40
Audubon	10,919	Clarinda	\$ 38,648.08	S.W. Iowa M.H.C.	d	\$ 20,213.84
Benton	23,422	Independence	\$ 74,638.58	None		\$ 43,354.92
Black Hawk	122,482	Independence	\$354,385.93	Bl. Hawk Co. M.H.C.	\$ 75,773.75 <sup>e</sup>	\$226,704.52
Boone	28,037	Clarinda	\$ 71,160.64 <sup>b</sup>	Gen. Iowa M.H.C.	\$ 7,137.50 <sup>f</sup>	\$ 51,896.32
Bremer	21,108	Independence	\$ 71,317.03	Cedar Vly. M.H.C.	\$ 16,730.00	\$ 39,071.88
Buchanan	22,293	Independence	\$ 37,063.25	None		\$ 41,265.48
Buena Vista	21,189	Cherokee	\$ 93,415.35	N.W. Iowa M.H.C.	\$ 4,669.35	\$ 39,222.04
Butler	17,467	Independence	\$ 28,207.43	Cedar Vly. M.H.C.	\$ 15,100.00	\$ 32,333.12
Calhoun	15,923	Cherokee	\$ 56,597.92 <sup>b</sup>	N. Cen. Iowa M.H.C.	g	\$ 29,475.28
Carroll	23,431	Clarinda	\$ 73,275.88 <sup>b</sup>	S.W. Iowa M.H.C.	d	\$ 43,371.16
Cass	17,919	Clarinda	\$ 53,741.12 <sup>b</sup>	S.W. Iowa M.H.C.	\$ 15,000.00	\$ 33,168.84
Cedar	17,791	Mt. Pleasant	\$ 25,349.63 <sup>b</sup>	None		\$ 32,932.76
Cerro Gordo	49,894	Cherokee	\$125,008.75 <sup>b</sup>	M.H.C. of N. Iowa	\$ 40,375.00(FY)	\$ 92,351.84
Cherokee	18,598	Cherokee	\$105,194.83	None		\$ 34,426.28
Chickasaw	15,034	Independence	\$ 24,194.19	Cedar Vly. M.H.C.	\$ 13,000.00 <sup>h</sup>	\$ 27,829.24
Clarke	8,222	Clarinda	\$ 25,093.96	None		\$ 15,220.92
Clay	18,504	Cherokee	\$ 65,280.24	N.W. Iowa M.H.C.	\$ 16,148.00 <sup>i</sup>	\$ 34,252.44
Clayton	21,962	Independence	\$ 74,532.21	N.E. Iowa M.H.C.	\$ 981.00 <sup>l</sup> (FY)	\$ 40,652.32
Clinton	55,060	Mt. Pleasant	\$150,580.13 <sup>b</sup>	None		\$101,912.60
Crawford	18,569	Cherokee	\$ 29,115.71	None		\$ 34,372.84
Dallas	24,123	Clarinda	\$ 65,669.69 <sup>b</sup>	W. Cen. M.H.C.	\$ 35,000.00 <sup>h</sup>	\$ 44,652.28
Davis	9,199	Mt. Pleasant	\$ 27,519.87	None		\$ 17,029.64
Decatur	10,539	Clarinda	\$ 27,434.22	None		\$ 19,510.04
Delaware	18,483	Independence	\$ 69,740.69	None		\$ 34,212.88
Des Moines	44,605	Mt. Pleasant	\$134,289.95 <sup>b</sup>	S.E. Iowa M.H.C.	\$ 20,832.65	\$ 82,562.80
Dickinson	12,574	Cherokee	\$ 43,859.98	N.W. Iowa M.H.C.	\$ 7,688.75	\$ 23,276.64

TABLE II (Continued)

1	2	3	4	5	6	7
Dubuque	80,048	Independence	\$236,941.42 <sup>b</sup>	Dubuque Co. M.H.C.	\$ 60,017.47	\$148,164.28
Emmet	14,871	Cherokee	\$ 34,450.50	None		\$ 27,527.56
Fayette	28,581	Independence	\$ 59,350.64	Cedar Vly. M.H.C.	\$ 6,690.00	\$ 52,903.16
Floyd	21,102	Independence	\$ 51,923.36 <sup>b</sup>	M.H.C. of No. Iowa	\$ 12,900.00 <sup>1</sup>	\$ 39,060.72
Franklin	15,472	Cherokee	\$ 47,856.27 <sup>b</sup>	M.H.C. of No. Iowa	\$ 11,250.00	\$ 28,639.92
Fremont	10,282	Clarinda	\$ 41,763.45	None		\$ 19,033.52
Greene	14,379	Clarinda	\$ 50,205.36 <sup>b</sup>	None		\$ 26,617.44
Grundy	14,132	Independence	\$ 26,335.23 <sup>b</sup>	Bl. Hawk Co. M.H.C.	\$ 4,226.25	\$ 26,159.52
Guthrie	13,607	Clarinda	\$43,614.58 <sup>b</sup>	W. Cen. M.H.C.	\$ 15,548.07	\$ 25,188.52
Hamilton	20,032	Cherokee	\$ 30,983.42 <sup>b</sup>	None	(\$ 5,666.00) <sup>1</sup>	\$ 37,080.52
Hancock	14,604	Cherokee	\$ 22,744.02 <sup>b</sup>	M.H.C. of No. Iowa	\$ 9,000.00 <sup>1</sup>	\$ 27,033.54
Hardin	22,533	Cherokee	\$ 63,750.62 <sup>b</sup>	Marshall Co. M.H.C.	\$ 12,000.00	\$ 41,708.88
Harrison	17,600	Clarinda	\$ 87,395.72	Pott'mie Co. M.H.C.	\$ 10,000.00	\$ 32,579.00
Henry	18,187	Mt. Pleasant	\$ 48,727.36 <sup>b</sup>	None		\$ 33,663.32
Howard	12,734	Independence	\$ 36,586.49	N.E. Iowa M.H.C.	\$ 4,671.58 <sup>1</sup> (FY)	\$ 23,571.24
Humboldt	13,156	Cherokee	\$ 60,368.50 <sup>b</sup>	N. Cen. Iowa M.H.C.	"	\$ 24,350.16
Ida	10,269	Cherokee	\$ 20,693.28	None		\$ 19,008.84
Iowa	16,396	Mt. Pleasant	\$ 27,069.33	None		\$ 30,349.56
Jackson	20,754	Independence	\$ 67,201.89 <sup>b</sup>	None		\$ 38,465.44
Jasper	35,282	Mt. Pleasant	\$ 12,235.81 <sup>b</sup>	Jasper-Pow'k. M.H.C.	\$ 22,000.00 <sup>1</sup>	\$ 65,305.52
Jefferson	15,818	Mt. Pleasant	\$ 70,738.34	None		\$ 29,279.48
Johnson	53,663	Mt. Pleasant	\$108,167.74 <sup>b</sup>	None		\$ 99,326.68
Jones	20,693	Independence	\$ 80,893.23	None		\$ 38,302.48
Keokuk	15,492	Mt. Pleasant	\$ 28,570.91	S. Cen. M.H.C.	\$ 8,700.00 <sup>1</sup> (FY)	\$ 29,676.12
Kossuth	25,314	Cherokee	\$ 60,318.03 <sup>b</sup>	M.H.C. of No. Iowa	\$ 8,000.00	\$ 46,856.04
Lee	44,207	Mt. Pleasant	\$198,856.10 <sup>b</sup>	Lee Co. M.H.C.	\$ 33,853.09	\$ 81,824.52
Linn	136,899	Independence	\$394,745.87 <sup>b</sup>	Linn Co. M.H.C.	\$101,019.00	\$253,387.64
Louisa	10,290	Mt. Pleasant	\$ 35,834.52	None		\$ 19,047.40
Lucas	10,923	Mt. Pleasant	\$ 19,581.04	None		\$ 20,219.28
Lyon	14,468	Cherokee	\$ 38,540.15 <sup>b</sup>	None		\$ 26,780.48
Madison	12,295	Clarinda	\$ 30,681.58	W. Cen. M.H.C.	\$ 16,000.00	\$ 22,758.20
Mahaska	23,602	Mt. Pleasant	\$ 53,670.45	S. Cen. M.H.C.	\$ 14,500.00 <sup>1</sup> (FY)	\$ 43,686.72
Marion	25,886	Mt. Pleasant	\$ 37,251.04	S. Cen. M.H.C.	\$ 10,072.89 <sup>1</sup> (FY)	\$ 47,913.96
Marshall	37,984	Independence	\$ 56,384.13 <sup>b</sup>	Marshall Co. M.H.C.	\$ 25,000.00	\$ 70,306.24
Mills	13,050	Clarinda	\$ 19,704.02 <sup>b</sup>	None		\$ 24,156.00
Mitchell	14,043	Independence	\$ 43,897.37	M.H.C. of No. Iowa	\$ 7,000.00	\$ 25,993.48
Monona	13,916	Cherokee	\$ 72,901.46 <sup>a</sup>	None		\$ 25,758.76
Monroe	10,463	Mt. Pleasant	\$ 8,862.59 <sup>a</sup>	S. Cen. M.H.C.	\$ 4,692.00	\$ 19,367.68
Montgomery	14,467	Clarinda	\$ 29,875.04	None		\$ 26,779.12

TABLE II (Continued)

1	2	3	4	5	6	7
Muscatine	33,840	Mt. Pleasant	\$114,875.26	None		\$ 62,636.40
O'Brien	18,840	Cherokee	\$ 48,398.78	N.W. Iowa M.H.C.	\$ 4,805.46	\$ 34,873.40
Osceola	10,064	Cherokee	\$ 34,821.91	N.W. Iowa M.H.C.	\$ 2,640.00 <sup>a</sup>	\$ 18,629.04
Page	21,023	Clarinda	\$ 91,088.28	None		\$ 38,913.28
Palo Alto	14,736	Cherokee	\$ 46,128.80	N.W. Iowa M.H.C.	\$ 7,893.81	\$ 27,276.96
Plymouth	23,906	Cherokee	\$ 58,000.44	None		\$ 44,249.16
Pocahontas	14,234	Cherokee	\$ 72,520.40 <sup>b</sup>	No. Cen. Iowa M.H.C.	<sup>s</sup>	\$ 26,347.24
Polk	266,315	Clarinda	\$810,901.86 <sup>b</sup>	<sup>m</sup>	<sup>m</sup>	\$492,924.40
Pottawattamie	83,102	Clarinda	\$240,694.23	Pott'mie Co. M.H.C.	\$ 43,959.03	\$153,815.72
Poweshiek	19,300	Mt. Pleasant	\$ 39,242.90 <sup>b</sup>	Jasper-Pow'k. M.H.C.	\$ 23,000.00 <sup>b</sup>	\$ 35,724.00
Ringgold	7,910	Clarinda	\$ 23,508.91	None		\$ 14,642.60
Sac	17,007	Cherokee	\$ 44,696.95	None		\$ 31,480.52
Scott	119,067	Mt. Pleasant	\$241,870.90 <sup>b</sup>	Scott Co. M.H.C.	\$ 87,633.75	\$220,383.12
Shelby	15,825	Clarinda	\$ 42,540.74 <sup>b</sup>	S.W. Iowa M.H.C.	<sup>a</sup>	\$ 29,293.00
Sioux	26,375	Cherokee	\$ 66,424.98	None		\$ 48,819.00
Story	49,327	Cherokee	\$ 71,103.96 <sup>b</sup>	Cen. Iowa M.H.C.	\$ 28,285.00 <sup>a</sup>	\$ 91,301.72
Tama	21,413	Independence	\$ 41,908.55 <sup>b</sup>	Marshall Co. M.H.C.	\$ 12,000.00 <sup>b</sup>	\$ 39,635.68
Taylor	10,288	Clarinda	\$ 25,338.89 <sup>b</sup>	None		\$ 19,044.68
Union	13,712	Clarinda	\$ 73,382.20	None		\$ 25,381.32
Van Buren	9,778	Mt. Pleasant	\$ 19,495.12	None		\$ 18,100.08
Wapello	46,126	Mt. Pleasant	\$212,065.94 <sup>b</sup>	S. Iowa M.H.C.	\$ 23,000.00 <sup>a</sup>	\$ 85,376.36
Warren	20,829	Clarinda	\$ 25,820.34	<sup>m</sup>	<sup>m</sup>	\$ 38,554.44
Washington	19,406	Mt. Pleasant	\$ 65,565.55 <sup>b</sup>	None		\$ 35,922.16
Wayne	9,800	Clarinda	\$ 30,020.11 <sup>b</sup>	None		\$ 18,141.00
Webster	47,810	Cherokee	\$179,400.90 <sup>b</sup>	No. Cen. Iowa M.H.C.	<sup>s</sup>	\$ 88,493.60
Winnebago	13,099	Cherokee	\$ 29,371.30	M.H.C. of No. Iowa	\$ 6,000.00	\$ 24,246.64
Winneshiak	21,651	Independence	\$ 43,958.04	N.E. Iowa M.H.C.	\$ 18,776.71	\$ 40,055.36
Woodbury	107,849	Cherokee	\$340,218.49 <sup>b</sup>	None		\$199,619.64
Worth	10,259	Cherokee	\$ 32,081.71 <sup>b</sup>	M.H.C. of No. Iowa	\$ 6,000.00	\$ 18,990.24
Wright	19,447	Cherokee	\$ 52,820.43 <sup>b</sup>	M.H.C. of No. Iowa	\$ 10,000.00 <sup>a</sup>	\$ 35,996.92

<sup>a</sup>Figures given in column 6 are those provided by county auditors for the calendar year 1967, unless otherwise noted. Thus comparison in most cases is between payments by county to MHI for period 7/1/66-6/30/67 (column 3), and payments by county to CMHC for period 1/1/67-12/31/67 (column 6). It is assumed that costs are sufficiently constant to permit a valid comparison. Where figures in column 6 are also for period 7/1/66-6/30/67, the letters (FY) appear after the dollar amount in column 6.

<sup>b</sup>County was billed \$500 or more for care provided by one or more MHI's other than that in whose district the county is actually located.

<sup>c</sup>Amount CMHC reported, in audited financial statement, was received from Allamakee County in period 7/1/66-6/30/67. Allamakee County treasurer reported contributions of \$7,846.53 to CMHC in period 1/1/67-12/31/67.

<sup>d</sup>Audubon, Carroll, Shelby Counties did not affiliate with S.W. Iowa M.H.C. until late in 1967.

<sup>e</sup>Black Hawk Co. M.H.C. 1967 financial statement shows receipts of \$80,000 from "county board of supervisors". This figure is not broken down between Black Hawk and Grundy Counties, and no information was received from Black Hawk County auditor. Figure in column 6 derived by subtracting amount Grundy County auditor reported was contributed in 1967 from the \$80,000 total.

<sup>f</sup>Amount county auditor reported was levied and collected for CMHC, but CMHC reported receipts of \$8,475 attributed to "Boone County tax".

<sup>g</sup>N. Cen. Iowa M.H.C. did not actually begin operation until 1968.

<sup>h</sup>Amount county auditor reported was levied and collected for CMHC in 1967. In absence of statement to contrary, it is assumed full amount was actually remitted to CMHC.

<sup>i</sup>Amount CMHC reported was received from county in 1967. County auditor's figures on remittances to CMHC for same period not available.

<sup>j</sup>Amount CMHC reported was received from Hamilton County in 1967. County withdrew support from CMHC during 1967.

<sup>k</sup>Amount Lee County auditor reported was paid to CMHC in 1967, but CMHC reported receipts of \$40,980.00 from Lee County in 1967. It is not certain both reports were intended to refer to same period of time.

<sup>l</sup>Although Polk and Warren Counties contribute to support of the Des Moines Child Guidance Center they have been treated as counties not served by a CMHC in this table because it is believed that cost figures might not be representative of a CMHC serving both children and adults.

<sup>m</sup>Amount CMHC reported was received from Scott County in period 10/1/66-9/30/67.

<sup>n</sup>Amount Tama County auditor reported was paid to CMHC in 1967, but CMHC reported receipts of only \$11,000.00 from Tama County in 1967.

ices to be rendered, or standards of professional competence, services to be rendered, or standards competence, and are subject only to such external control as county supervisors may insist upon as a condition of county financial support.

The foregoing is by no means intended to suggest that community mental health centers in Iowa have abused their autonomy. In fact, because the present pattern of operation of the centers—nonprofit private corporations providing services to counties under financial arrangements agreed upon with the boards of supervisors—has not been unsatisfactory, House File 7 has been carefully drawn to permit this general pattern of operation to continue, while providing for a degree of state control sufficient to assure that state aid will be properly utilized.

House File 7 authorizes counties, individually or jointly with other counties, to establish county mental health programs providing any or all of a number of kinds of mental health services which the board or boards of supervisors believe are needed by the residents of the county or counties served. The list of services which the program may provide is based upon the services which it is required or suggested be provided by a comprehensive community mental health center, as defined by federal regulations issued pursuant to Public Law 88-164, the Community Mental Health Centers Act of 1963.

The policy-making body for a county mental health program, under the general authority of the board or boards of supervisors, will be a county mental health board, which may be constituted in any of the three following ways:

1. The members of the board or boards of supervisors may serve, ex officio, as the county mental health board.
2. Where a county mental health program is established by two or more counties, an equal number of members of the board of supervisors of each county may make up the mental health board.
3. The board or boards of supervisors may appoint any number of residents of the county or counties, other than themselves, to serve on the county mental health board, for staggered three-year terms.

The power to decide which specific mental health services are to be provided rests with the board or boards of supervisors of the county or counties supporting a county mental health program. When this determination has been made, the county mental health board may contract for any or all of the services which the board or boards of supervisors believe should be provided, with any of the following:

1. A community mental health center which meets the standards of the Iowa Mental Health Authority, relating to administration, standards of professional competence, fee schedules, and accounting procedures.
2. Individuals, associations, corporations, or hospitals or other health facilities operated by political subdivisions of the state, upon a finding by the Mental Health Authority that the person or persons who will provide the services meet "generally recognized standards of professional competence."
3. Any state hospital or institution in Iowa.

House File 7 intentionally preserves to some extent the present autonomy of community mental health centers in Iowa, and does not directly prescribe the manner in which community mental health centers are to be organized and operated. The Iowa Mental Health Authority is given power to establish some standards for community mental health centers, and any center meeting these standards is eligible to contract to provide services to a county mental health program. Representatives of the Iowa Mental Health Center Association have indicated that most members of the Association do not object to delegating such rule-making power to the Iowa Mental Health Authority, as presently constituted.

**State Aid for Mental Health**—A key provision of House File 7 is section nine, under which an annual appropriation totaling at least one million dollars, plus whatever additional amount the Legislature sees fit to appropriate, is made to a newly established state mental health reimbursement fund. The entire amount appropriated to this fund for each fiscal year is to be allocated in that year among all of the counties in the state on a per capita basis. Counties may use the funds so allocated, in such proportions as they deem advisable, for any or all of the following purposes:

1. To pay up to 50 percent of the cost of a county mental health program established under House File 7.
2. To pay up to 20 percent of the charges to the county by the state for care and treatment of residents of the county in state mental health institutions.
3. To pay up to 50 percent of the cost of care of mentally ill or mentally retarded persons in the county home or other community facilities.

It is recognized that the Legislature may well be reluctant to approve new state expenditures in 1969. Therefore, it is suggested that the state mental health reimbursement fund be established by shifting state funds presently channeled to counties, directly or indirectly for mental health purposes, in the following manner:

1. Repeal of sections 227.16, 227.17, and 227.18, *Code of Iowa* (1966), under which one million dollars per year is appropriated to the state mental aid fund for distribution to counties (see "Financing of Community Mental Health Services" earlier in this report), and substitution of a one million dollars per year permanent appropriation to the new state mental health reimbursement fund.
2. Direction by the Legislature to state mental health institutions to resume billing counties, for care of their residents who are patients in the institutions, at 100 percent of average per-patient-per-day cost rather than at the present 80 percent rate, and appropriation to the new state mental health reimbursement fund of an amount equal to the amount being expended from the state treasury during the current biennium (1967-69) to pay the 20 percent of the per-patient-per-day cost which is not being charged back to the counties.

The foregoing procedure would neither increase total state spending for mental health nor decrease the amount of state funds expended in lieu of property taxes for support of mental health services, but would give the counties added flexibility in determining where mental health services needed by their residents are to be obtained.

Table II shows amounts expended by counties for care of patients in state mental health institutes and for services obtained from community mental health centers in the period July 1, 1966-June 30, 1967, the last fiscal year during which state mental health institutions were billing counties at full cost. Column 7, Table II, shows the amount which would be allocated to each county from the proposed state mental health reimbursement fund if the procedure outlined in the foregoing paragraph were followed.

House File 7 and House File 8 (see following paragraph) together replace section 230.24 of the Code, which creates the county fund for mental health. Section seven of House File 7 replaces that portion of section 230.24 authorizing a tax levy for support of community mental health centers and a nonrecurring appropriation for expenses of establishing a center.

**County Fund for Mental Health Abolished—**House File 7 incorporates in section 444.12 of the Code, which creates and prescribes the use of the state institutions fund, the present provisions of section 230.24 other than those specifically relating to community mental health centers. Since both the state institutions fund and the county fund for mental health are raised by property taxation, and the unlimited-levy state institutions fund may be drawn upon for support of mentally ill and mentally retarded patients in local facilities when the one mill levy for the county fund for mental health is depleted, it is believed adoption of House File 8 would simplify county book-keeping.

**Updating of County Home Law—**A quick review of chapter 253, *Code of Iowa* (1966), will indicate that county homes in Iowa were not originally conceived of as community mental health facilities, but that is largely what they have become. The Study Committee believes the time is approaching when Iowa should decide either to greatly update many of its county homes, no doubt at considerable expense, or else to abandon county homes, as such, as community custodial facilities for the mentally ill and mentally retarded. However, no recommendation as to which course of action would be preferable should be made until more study has been given to the question than has been permitted by limitations of time and of the priority assigned by the Study Committee to other matters.

House File 9 is intended simply to update chapter 253 to reflect the actual purpose and mode of operation of present-day county homes in Iowa. The bill requires the annual financial statement of each county home to be presented in such manner as to permit easy determination of the actual cost of operating the home, on a per-patient basis. Reference to the county home matron, as well as to the steward, is inserted, and the outdated provisions for education of poor children residing in county homes are repealed. Provisions for admission, commitment, and release of residents of the home are rewritten to be

more suitable to the persons actually being cared for in present-day county homes. Authority for the board of supervisors to lease the county home for private operation is updated, and the requirement that all county homes be licensed as nursing or custodial homes which has been in effect for several years is specifically written into chapter 253. The provisions of sections 230.25 through 230.30, inclusive, *Code of Iowa* (1966), which now relate to support of patients in state mental health institutions, are also made applicable to support of residents of county homes.

# Explanation of Legislative Research

## Committee Bills

### Senate Bills

**Senate File 4 (Companion Bill House File 4)**—**Revision of Divorce Laws and Creation of Family Court.** This bill modifies the adversary nature of divorce procedures, modifies divorce grounds, repeals the doctrine of recrimination, and establishes a family court within the structure of the district court. The family court will have jurisdiction over all domestic relations cases, provide counseling services for marital disputes, provide investigation for custody and support purposes, and generally strive to preserve wholesome family relationships. See Report of the Divorce Laws Study Committee.

**Senate File 10 (Companion Bill House File 10)**—**Centralized Investment of Retirement System Funds.** This bill creates a special fund into which the assets of IPERS, the Peace Officers' Retirement System, and the Judicial Retirement System will be placed for investment purposes. All local retirement systems would have the option of electing to transfer investment authority to the Employment Security Commission, which agency would be responsible for investment of the centralized fund. The present Advisory Investment Board for IPERS would provide advice on investment procedures in the same manner as it does for IPERS, except that the membership would be expanded from five to seven members. See the Report of the Retirement Programs Study Committee.

**Senate File 11 (Companion Bill House File 11)**—**Contributions to Peace Officers' Retirement System.** This bill eliminates the "savings clause" under which the employer's (state) share of financing the Peace Officers' Retirement System is funded on a pay-as-you-go basis and increases the employee contribution rate an additional 1% of salary. The rate range of contributions for employees will be 5.91% of salary to 7.50% as com-

pared with the present contribution rate range of 4.91% to 6.50%. See the Report of the Retirement Programs Study Committee.

**Senate File 12 (Companion Bill House File 12)**—**Benefits Payable to Retired Members and Beneficiaries Under the Peace Officers' Retirement System.** This bill provides that the minimum widow's benefit under the Peace Officers' Retirement System shall be \$75.00 per month as compared to the present rate of \$50.00. It also provides that the rate of salary to be used in computing benefits under the escalator clause shall be 50% of salary instead of 45% of salary. These amendments will make the widow's benefits and the escalator clause the same for the Peace Officers' Retirement System as they are for local police and fire retirement systems. See the Report of the Retirement Programs Study Committee.

**Senate File 13 (Companion Bill House File 13)**—**Additional Option for the Payment of Benefits Under IPERS.** This bill establishes a "certainty and life thereafter" option for the payment of benefits under IPERS. The option guarantees that full benefits will be provided either the member, or in case of his death, his widow for a ten-year certainty period. See the Report of the Retirement Programs Study Committee.

**Senate File 14 (Companion Bill House File 14)**—**Optional Method of Payment of Benefits to IPERS Beneficiaries.** This bill allows a member of IPERS to select the manner in which his benefits will be paid to his beneficiary in case of the member's death. If the member does not exercise such choice the beneficiary may exercise it upon the member's death. Present law allows only a lump sum payment of accumulated employee and employer contributions to the beneficiary. This bill would allow either the lump sum payment, a

monthly life annuity with no certainty period, or a monthly life annuity with a ten-year certainty period. See the Report of the Retirement Programs Study Committee.

**Senate File 15 (Companion Bill House File 15)—Variable Annuity Program for IPERS Retired Members.** This bill establishes a limited variable annuity option for retired members of IPERS. Upon the member's election, one-half of his retirement benefit would be deposited in a variable annuity account to be invested primarily in common stocks. See the Report of the Retirement Programs Study Committee.

**Senate File 18 (Companion Bill House File 18)—Revision of State Banking Laws.** This bill is a complete recodification of the present Iowa banking statutes. The bill's major objectives are to improve the organization, consistency, and clarity of the state's banking laws, to update these laws in some respects, to replace the variety of state-chartered banking entities presently authorized by law with a single type of state bank, and to prescribe more precisely the requirements for establishment and dissolution of banking corporations. See the Report of the Banking Laws Study Committee, and the separately bound text of Senate File 18 with explanatory comments following each section.

## House Bills

**House File 1 (Companion Bill Senate File 1)**  
—**Revision of Motor Vehicle Reciprocity and Proration Registration Laws.** This bill completely revises Chapter 326 of the Code which is entitled "Motor Vehicle Registration Reciprocity". The major change contained in this bill will provide that apportionment of mileage under proration would be on a total fleet mile basis rather than a compact mile basis. See the Report of the Interstate Truck Rate Reciprocity Procedures Study Committee.

**House File 2 (Companion Bill Senate File 2)**  
—**Registration Fees of Commercial Motor Vehicles.** This bill provides that the registration fees for commercial motor vehicles, excepting automobiles and vehicles designed to carry nine passengers or less, registered during the first quarter year shall be a full annual registration fee and thereafter be subject to a monthly reduction schedule. Provisions for administration of refunds are also contained in the bill as well as a requirement that motor trucks must be registered for a gross weight at least equal to the unladen weight of the vehicle. See the Report of the Interstate Truck Rate Reciprocity Procedures Study Committee.

**House File 3 (Companion Bill Senate File 3)**  
—**Single Cab Card for Certain Commercial Motor Vehicles.** This bill authorizes certain commercial motor vehicles to carry a single cab card in lieu of carrying evidence of compliance with the separate requirements of each agency presently charged with the administration and enforcement of motor carrier statutes. See the Report of the Interstate Truck Rate Reciprocity Procedures Study Committee.

**House File 5 (Companion Bill Senate File 5)**  
—**Special Mental Retardation Unit at One of the State Mental Health Institutes.** This bill authorizes the Commissioner of Social Services to direct the establishment and operation, at one of the existing state mental health institutes, of a special unit to serve mentally retarded persons who need psychiatric services or other services which the Commissioner may authorize the special unit to provide. The Commissioner is empowered to appoint the superintendent of the special unit, which in many respects would function as a separate institution while sharing the physical fac-

ilities and support services of the mental health institute at which it is located. The limitations on financial liability of parents for the cost of care of patients at the Glenwood or Woodward State Hospital-School are extended to the special unit. See the Report of the State Mental Health Institutions Study Committee.

**House File 6 (Companion Bill Senate File 6)**  
—**Admission or Transfer of Mentally Retarded Persons to the State Mental Health Institutes.** This bill repeals the present ban against admission of any mentally retarded person to the state's hospitals for the mentally ill, and substitutes language permitting such admissions, either directly or by transfer from a state hospital-school for the mentally retarded, where a professional evaluation indicates that a particular mentally retarded person is likely to benefit thereby. The limitations on financial liability of parents for the cost of care of patients at a state hospital-school are extended to parents of patients so admitted to any of the state hospitals for the mentally ill. See the Report of the State Mental Health Institutions Study Committee.

**House File 7 (Companion Bill Senate File 7)**  
—**Establishment of County Mental Health Programs by Counties or groups of Counties.** This bill authorizes counties, individually or jointly, to establish county mental health programs providing to their residents as many of a broad list of permissible mental health services as the board or boards of supervisors authorize. These services may be obtained by contract with a state institution, a local public or private hospital or other facility, private practitioners, or a community mental health center meeting standards which the bill empowers the Iowa Mental Health Authority to establish. The bill shifts state funds, presently used in various ways to assist counties in paying for certain mental health services, to a single fund allocated annually among all counties on a per capita basis. Counties may use these funds to support county mental health programs, to help provide community care for patients who would otherwise be in state institutions, and to help pay the cost of care of county residents who are patients of state mental health institutions. The present half-mill county levy for support of community mental health centers is replaced by a levy of not to exceed one mill for county mental health programs. See the Report of the State Mental Health Institutions Study Committee.

**House File 8 (Companion Bill Senate File 8)**  
—Combining of County Fund for Mental Health with Counties' State Institution Fund. This bill combines the present county fund for mental health, created by section 230.24, with the state institution fund which each county is required, by section 444.12, to maintain. The combined fund is designated the county health and institutions fund. The bill also revises section 444.12 to make it easier to read and understand. See the Report of the State Mental Health Institutions Study Committee.

**House File 9 (Companion Bill Senate File 9)**  
—Updating of County Home Law. This bill updates Chapter 253 of the Code, relating to county homes, so that it more accurately reflects the present use and mode of operation of county homes. Certain provisions of Chapter 230, relating to support of the mentally ill, are made applicable to support of county home residents. See the Report of the State Mental Health Institutions Study Committee.

**House File 16 (Companion Bill Senate File 16)**—Amendments to Laws Relating to Drainage and Levee Districts. This bill makes a substantial

number of amendments and additions to existing Iowa statutes which relate to drainage and levee districts. These amendments and additions are recommended by the Drainage Laws Study Committee on the basis of its work over the past three years. See the Report of the Drainage Laws Study Committee.

**House File 17 (Companion Bill Senate File 17)**—Establishment and Administration of Conservancy Districts. This bill establishes, prescribes the boundaries of, and provides for administration and support of six conservancy districts, which together will include the entire territory of the State of Iowa. The districts are created for the purpose of coordinating the work of individual drainage and soil conservation districts, and to help put into effect the comprehensive statewide water resources plan being developed by the Natural Resources Council as required by present law. In order to more effectively control soil erosion and prevent siltation of Iowa's lakes and streams, the bill also authorizes local soil conservation district commissioners to promulgate and enforce mandatory soil conservation practices regulations. See the Report of the Drainage Laws Study Committee.