

SCOMM

#6:10

August 1977

## ALCOHOLISM

### A private problem goes public

"I DON'T KNOW ANY ALCOHOLICS."

Maybe you just don't know you know any alcoholics. Some of your best friends may have drinking problems. They don't seem "different." And they usually try to hide their illness, even from themselves. About 1 of every 10 executives has a drinking problem.



DRINKING MYTHS SERIES  
Courtesy U. S. Department

THE REALLY SERIOUS PROBLEM IN OUR SOCIETY IS DRUG ABUSE

Right. And our number one drug problem is alcohol abuse. About 100,000 Americans are addicted to heroin. But about 9,000,000 are addicted to alcohol. It's not even close.

DRUG? DRUG.

Alcohol is a drug, all right. If you don't believe it, ask your doctor.



"YA GOTTA HAND IT TO JOE. HE CAN REALLY HOLD HIS LIQUOR."

Don't envy Joe. Often the guy who can hold so much is developing a "tolerance" for alcohol. And tolerance can be a polite word for need.



DRINKING MYTHS SERIES  
Courtesy U. S. Department

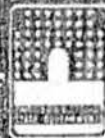


"I DRIVE BETTER AFTER A FEW DRINKS."

In most states, the legal definition of "driving under the influence" is a blood alcohol level of 0.10%. But scientific tests have proved that even professional drivers' abilities diminish sharply at levels as low as 0.04% to 0.05% — just a few drinks. Not only that, but judgment is affected, too. So people think they're driving better than ever while they're really driving worse.

Senator Mike Colletta  
Box 3188  
Anchorage, Alaska 99501

The  
Council of  
State  
Governments



# ALCOHOLISM

In public, on the job, drinking is getting attention.

States which have decriminalized public drunkenness are finding it's not as easy to treat an alcoholic as it was to fill a drunk tank.

As more state legislatures are beginning to view alcoholism as an illness rather than a crime, they are passing laws decriminalizing public intoxication. At least 36 states have passed laws providing for some form of treatment rather than jail for public intoxication.

Before these laws were passed the public drunk was arrested. In 1970, 1.5 million were taken into police custody for public drunkenness, representing the nation's largest single crime category.

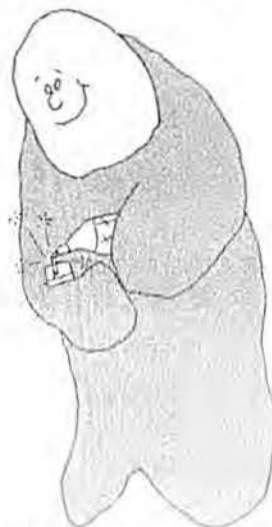
But the problem of drunkenness extends beyond the issue of what to do about public intoxication. The economic costs of alcohol misuse and alcoholism are estimated at \$25 billion annually in lost production, illness, traffic accidents, and social welfare costs, according to a study for the National Institute on Alcohol Abuse and Alcoholism (NIAAA).

A Gallup poll showed that approximately 68 percent of Americans drink, the amount varying from one drink at Christmas to dozens daily.

A study by the University of North Carolina Center for Alcohol Studies finds that 85 percent of business and professional workers drink, 78 percent of clerical and sales, and 71 percent of manual laborers drink.

A change in the state laws on public intoxication began in 1967 when Congress removed it as a crime in the District of Columbia. Maryland followed soon after.

In 1968, the U.S. Supreme Court in *Powell v. Texas* ruled it would violate the Eighth Amendment to punish a homeless alcoholic for public intoxication (Powell's conviction was upheld, however, since it was not proven he was homeless).



DRINKING MYTHS SERIES  
Courtesy U. S. Jaycees

Most state action followed the 1971 promulgation of the Uniform Alcoholism and Intoxication Treatment Act by the National Conference of Commissioners on Uniform State Laws.

Twenty-seven states have adopted the uniform act, while nine more have adopted some form of comprehensive treatment legislation but do not have all the requisites of the uniform act.

Although the points of law vary in different states, the major effect of the legislation is that the public drunk is no longer taken to jail and charged with a criminal offense. He is instead taken home, to a hospital, or to a treatment center, depending on the program in a particular area.

In some states, the person may be held in a treatment center for up to 48 hours without his consent to allow time for him to "dry out". In other states, the drunk must give his consent to being taken to a center or hospital.

There is evidence to suggest that the change in treatment of the alcoholic has a positive effect on the recidivism rate in treatment centers. Florida's Dade County reports that at least 75 percent of the drinkers treated at their facilities gave up drinking, at least temporarily. Minnesota reports that 35 percent of the

people admitted to the detoxification centers have not returned.

The passage of the uniform act has decreased police workload in those states which have it. Police are no longer required to spend time picking up drunks and processing arrests. In addition, there are savings on court time and costs.

## Treatment funds

When states first began decriminalizing drunkenness, some did not allocate enough funds for treatment centers and other alternatives to arrests. With treatment centers lacking and no funds to pay for the services, hospitals would turn drunks away if they could not pay. Police might simply "look the other way."

In recent years, federal and state money for treatment centers has increased. This year states received \$56.8 million in federal block grants, in addition to special grant programs and extra funds for states with the uniform act. The block grant formula was changed this year to reflect a state's need for alcoholism grants based on its incidence of alcoholism, as well as its population and financial need.

Those ranked most in need of alcoholism help were Alaska, the District of Columbia, Hawaii, New Jersey and California. Full details on the rankings will appear in the Federal Register. Large population states still receive the most funds.

States spend most of their block grants (61 percent) on treatment and rehabilitation programs. Federal funds are a small part of overall state efforts, however.

California, ranked number one in federal funds with \$4.5 million in block and \$7.7 million in special grants, spends \$21.1 million in state

funds on alcoholism. However, California ranks only number 17 in percentage of its state budget spent on alcoholism.

Alaska is number one in percentage of its state budget devoted to alcoholism at \$2.73 million. Next are Wisconsin, Connecticut, and North Carolina.

Other states also are increasing alcoholism efforts. Connecticut last year approved \$2.3 million in state funds for detoxification centers. Minnesota appropriated \$6.1 million in 1976 for alcoholism.

State detoxification programs also run into trouble if police are not trained to deal with alcoholics. Many may not know how to differentiate between an alcoholic and a person who is just ill.

There was also a rise in disorderly conduct arrests in many of those states with decriminalization of public intoxication statutes.

With all of the problems, some states have talked of repealing the uniform act, but to date, none has done so.

To head off some of the potential problems, New Jersey held 31 local and regional conferences to prepare for implementation of its uniform act this May. Manuals were developed for those attending, ranging from police to health care providers to attorneys. The newly formed division of alcoholism approves funding for local projects. State alcoholism funds were increased to \$400,000 in fiscal 1977-78, but many local projects come up with their own funds and welfare funds are also used. The New Jersey division's priorities are to expand the number of 24-hour detoxification centers statewide, fund more persons to serve as escorts for intoxicated persons, and to develop extended care facilities for chronic alcoholics. The escorts relieve the police from being a taxi service and make sure a drunk gets safely home or to a treatment center. Federal CETA funds have been used to hire 100 escorts to date.

### Working Alcoholics

Increased recognition of the problems of alcoholism goes beyond a movement toward new treatment of the public drunk. It is now realized that an alcoholic is also often a full-time worker. It is estimated that

over 5 percent of the people in the nation's work force are either in some early stage of alcoholism or are overtly addicted to alcohol, according to the NIAAA.

The alcoholic worker costs business an estimated \$10 billion a year in lost production. Forms of loss include accidents, absenteeism, poor judgment, erratic and decreased productivity, failure to meet schedules, lowered morale, resentment on the part of other employees, waste of supervisory time, and damage to public relations.

Interest in employee rehabilitation programs in private industry rose after the passage in 1970 of the Federal Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act (PL 91-616). This act created the NIAAA in 1972 which established an Occupation Programs Branch to aid in the establishment of worker programs in private companies.

Initially 21 states received federal funds to provide occupational alcoholism services for industry and government. When these grants expired in 1975, states began using federal block funds or state monies to continue the programs. In New Jersey, occupational alcoholism programs are under the civil service office where they started several years before the state alcohol division was established.

On the federal government level, the Civil Service Commission established alcoholism programs and the U.S. armed forces developed alcoholism rehabilitation programs.

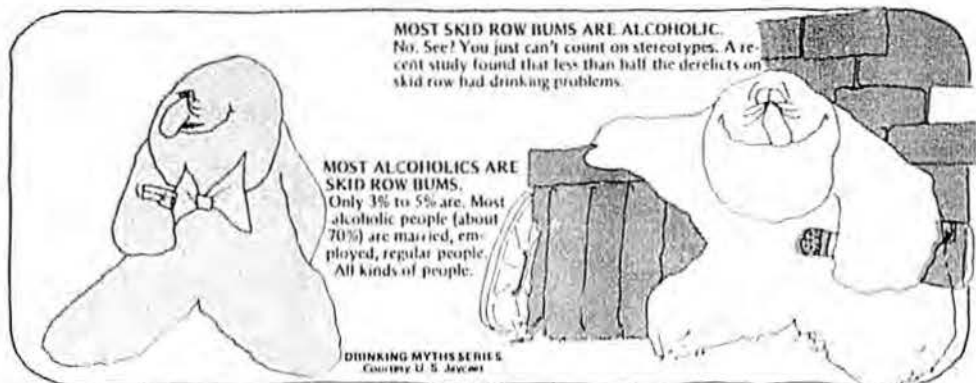
To save money and, also, for humanitarian reasons, some companies have implemented early detection and treatment programs for alcoholic workers. Supervisors are trained to recognize a problem and the employee is then referred either to in-house counselors or to treatment facilities in the community. Among the techniques used in these facilities are detoxification, psychotherapy, lay therapy (Alcoholics Anonymous) and chemically induced abstinence.

The companies which have implemented such programs have reported remarkable results. A company with 18,000 employees shows that lost man-hours has decreased 50 percent since the implementation of its rehabilitation program. There also were great reductions in disciplinary actions, visits to the medical center, and costs of medical benefits.

Fewer than 500 of the 1,000,000 companies in the United States have developed rehabilitation programs.

Several states are making efforts to control alcohol abuse among state workers. Minnesota Governor Rudy Perpich this year ordered establishment of a diagnostic and referral service for state employees. Maine has been using volunteer assistance in an alcoholism program for state employees.

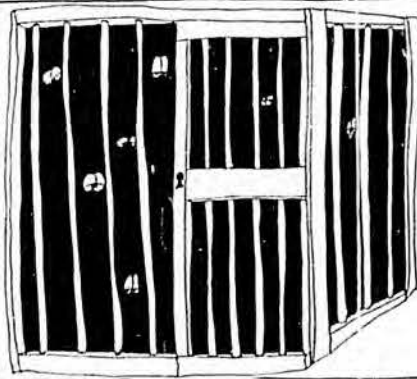
The high recovery rate reported by employers is attributed to two factors. First, a program provides a systematic way to identify an alcohol problem when it is in its early stages. Secondly, people can often be reached more effectively through their jobs than through any other aspect of their lives. Fear of losing their jobs provides a motive for reform.



**THE "DRUNK TANK" IS A GOOD CURE FOR ALCOHOLISM.**

Nonsense. Alcoholism is an illness, and can be treated successfully. We don't jail people for other illnesses. Why for alcoholism?

DRINKING MYTHS SERIES  
Courtesy U. S. Jaycees



**Alcoholism Insurance**

Perhaps the most striking indication that alcoholism is beginning to be regarded as an illness is the movement toward coverage of alcoholism in health insurance plans. As recently as 10 years ago, alcoholism was excluded from health benefits in nearly all insurance programs. In the past few years, many insurance companies have revised their policies to include alcoholism, and state legislatures have passed laws forcing other reluctant companies to do the same.

Wisconsin was the first state to enact mandatory alcohol-related coverage during its 1972 session, and around 30 states have approved alcoholism-inclusion legislation in varying degrees. On the federal level, the Health Maintenance Organization Act of 1973 states that certain services relating to alcoholism must be included as part of the basic benefits package for any federally qualified HMO.

Many insurance companies have included alcohol coverage on their own accord. Their willingness to do so has been due in part to the results of studies showing that the inclusion of alcoholism coverage may not cost more to subscribers. Since untreated alcoholism may spawn or accelerate other illnesses, the early treatment of an alcohol problem can reduce the occurrence of these diseases.

Although many companies carry some sort of alcoholism coverage, the policies do not always include outpatient and intermediate care services. Less than 10 percent of the total cost of alcoholism rehabilitation is presently covered by private insurance and health care protection programs.

**Bar-keeper Liability**

The increasing number of alco-

holics who drink and then drive has caused a rise in bar-keeper liability suits. Many states have Civil Damage Acts (more commonly called Dram Shop Acts) which state that if someone becomes intoxicated and subsequently causes injury to himself or another, the person who sold him the liquor can be held liable in civil action arising from the injury. Twenty states have some form of dram shop law, and in nine more common law interpretations have found the barkeeper liable in civil cases.

High settlements against the bars and restaurants are creating steeply rising liability insurance rates. In some states, there is a limit on judgments of \$20,000 in cases involving single

victims and a total of \$50,000 in cases involving more than one victim.

**Alcoholism Research**

Research on alcoholism is being conducted by two agencies in North Carolina.

The Alcoholism Research Authority, created by the general assembly in 1973, grants money for projects in the state. The authority has been allocated \$300,000 for the 1977-79 biennium.

Research is also being conducted at the University of North Carolina Center for Alcohol Studies, which received \$200,000 in state appropriations, as well as funds from businesses and foundations, and is seeking federal funds. Dr. John A. Ewing, professor of psychiatry, is both executive secretary of the authority and director of the center. The center is trying to determine why some persons become alcoholics and others don't, Dr. Ewing said, with a study of the social, behavioral and physical factors involved.

(By Michelle Gardner, CSG, Lexington).

**LAWS DECRIMINALIZING PUBLIC INTOXICATION**

State	Uniform Act	Other*	State	Uniform Act	Other*
Alaska	x		Missouri		x
Arizona	x		Montana	x	
California		x	Nebraska		x
Colorado	x		Nevada	x	
Connecticut	x		New Jersey	x	
Florida	x		New Mexico	x	
Georgia	x		New York	x	
Hawaii	x		North Dakota	x	
Idaho	x		Ohio		x
Illinois	x		Oregon	x	
Iowa	x		Rhode Island	x	
Kansas	x		South Carolina		x
Kentucky		x	South Dakota	x	
Maine	x		Tennessee		x
Maryland	x		Virginia		x
Massachusetts	x		Washington	x	
Michigan	x		Wisconsin	x	
Minnesota	x		Puerto Rico	x	
Mississippi		x	D. C.	x	

\*States that adopted some form of comprehensive treatment legislation, but not in accord with all basic provisions of the Uniform Alcoholism & Intoxication Treatment Act.

## INSURANCE PANEL CREATED

A seven-member insurance regulatory commission was created by Kentucky Governor Julian Carroll to share the responsibility of rate setting with the commissioner of insurance. The governor said the commission would function similarly to a public utility commission and have a strong lay membership.

## BONDS GET VOTER OKAY

Rhode Island voters June 28 gave overwhelming support to a \$41.5 million transportation bond issue, the second largest ever approved in the state's history.

The bulk of the issue, \$36.7 million, is intended for building, rebuilding, and repairing non-interstate highways. The rest is for airports, rail projects and public transit. The issue is expected to generate \$110 million in federal grants.

Also approved was \$6 million for a corrections facility for prisoners awaiting trial or placement. Passage of both measures was hailed by Governor Joseph Garrahy who had campaigned for them.

The new corrections center and some of the transportation projects had been rejected by voters last November when 10 bond issues totaling \$46 million were defeated.

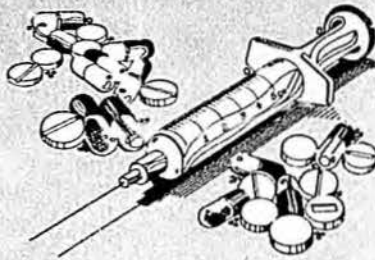
Rhode Islanders were not the only ones voting on bond issues in June. Nationwide voters approved \$367.3 million or 69.8 percent of the \$526 million in local bonds on June ballots, according to *The Weekly Bond Buyer*.

Approval was given to 41 of 88 school bond proposals for a total of \$108.8 million. Ohio was the key state where voters endorsed 16 issues totaling \$33 million.

In the first six months of 1977, voters have approved 71.6 percent of bond issues submitted for a total of 510 issues and \$2.3 billion.

New York will vote on a \$750 million bond for economic development in November under a measure approved by the 1977 legislature.

Pennsylvania Transportation Secretary James Wilson said future bond financing was being cancelled and 1,000 employees furloughed because the legislature had not supplied adequate financing. He said there was not enough money to service more debt.



Michigan House Legisletter

## DRUG LAW FOUND INEFFECTIVE

A federally funded \$1 million study by the Committee on Drug Law Evaluation has found that New York's tough 1973 drug law did not reduce drug use or drug-related crime. The law, said to be the toughest in the nation, had stiff mandatory sentencing provisions. The committee said the law itself is important but that the condition of the criminal justice system is even more of a factor in determining whether the law is effectively implemented.

## POT PENALTY REDUCED IN NEW YORK

New York has become the ninth state to remove criminal penalties for possession of small amounts of marijuana. The New York law makes possession of up to 25 grams of marijuana a violation, in the same category as a traffic offense, with a fine of up to \$100 for a first offense. New York is the only state of the nine to limit non-criminal possession to less than one ounce.

Other states which have decriminalized marijuana are Alaska, California, Colorado, Maine, Minnesota, Mississippi, Ohio and Oregon.

A state study of California's liberalized marijuana law (SB 95) which went into effect July 1976 showed a decline in marijuana arrests, a reduction in associated criminal justice costs, and an increase in juvenile trafficking arrests.

The number of adult Californians who use marijuana rose from 9 to 14 percent according to Field Research surveys conducted for the state study. The survey also showed that 66 percent of the 18 to 29 year olds have tried marijuana and that 31 percent of this age group use it. State Attorney General Evelle J. Younger said that if these trends continued consideration should be given to tighter controls.

## JUDGES APPEAL ETHICS RULING

Seven Louisiana state district judges have filed suit in federal court to appeal a ruling by the Louisiana Supreme Court which said the judges' positions on boards of financial institutions violate a canon of the state Code of Judicial Conduct and give the appearance of a conflict of interest. The court gave the judges 30 days to resign from the boards or be suspended without salary. The judges refused on the grounds that no conflict of interest existed and that proceedings against them were an arbitrary and unreasonable exercise of state power.

## FLAG PLEDGE REQUIRED

Teachers in Massachusetts will be required to lead their pupils in the Pledge of Allegiance daily under a measure passed into law over the governor's veto and the supreme judicial court's and the attorney's general advice that it would be unconstitutional.

## CHILD SUPPORT UP TO BOTH PARENTS

Divorced women who are able must help support their children, the Maryland Court of Appeals ruled June 30 in applying the state Equal Rights Amendment to the question of child support. It said parents must share responsibility in accordance with their financial resources.

### STATE GOVERNMENT NEWS

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# The New Outlaws

## Cactus heads for the last roundup

The state of Arizona is faced with a sticky situation—how to stop the wholesale theft of one of the state's most beautiful resources—the desert cactus.

According to Richard A. Countryman, chief enforcement officer of the Commission of Agriculture and Horticulture and the so-called "cactus cop" of Arizona, "We are talking about unique and beautiful plants. Some grow nowhere else in the world and cannot be replaced in our lifetime."

He said the saguaro, a majestic, sparsely branched cactus, can be found only in the Arizona desert and in the state of Sonora, Mexico. Conditions must be perfect before it will grow. Even with ideal conditions, it will grow less than 1/2 inch per year. A saguaro 18-20 feet high would have begun growing around 1900, he said.

### State flower endangered

Some experts feel that unless the theft of the saguaro is stopped, Arizona will be stripped of its state flower, the white flower of the saguaro, within the next three decades. The ecology of the desert region could suffer irreparable damage.

Stealing cacti and selling them has become a multimillion dollar business. The plants are sold for low maintenance, low cost landscaping in the warm regions of the country and for houseplants nation- and worldwide.

The state has a law which makes it illegal for anyone in Arizona to remove a native plant from private property without first getting a state permit and metal tag for each plant. A permit for the saguaro costs \$2.

Countryman says that his office will check to verify ownership of private land and in some cases will visit the land to see that the plants are actually growing there before a permit is issued. A seal is then attached to each plant to be moved.

### Lands stripped

However, much of the private land in the state has been stripped of the plants so the cactus thieves are now turning to the public lands.

Persons caught transporting

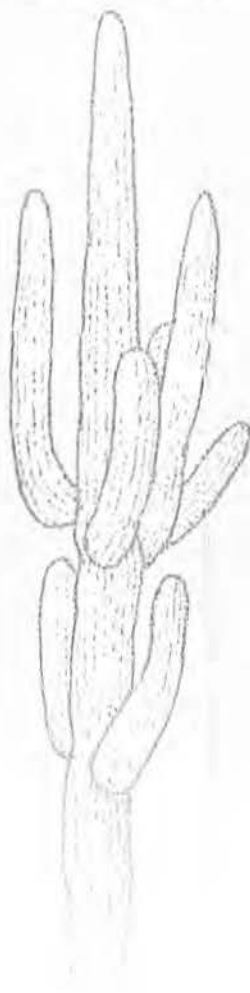
plants without a seal can receive a fine of \$100-\$1,000 or imprisonment of up to one year or both for each plant confiscated.

Countryman said, "The law doesn't seem to deter them. We've arrested 45 people already this year. However, 12,000 cacti have been confiscated or salvaged."

Countryman and his five full-time inspectors are licensed to carry a gun because many of the large-scale commercial thieves are ex-cons. He has had many threats on his life, he said.

Nevada and California have enacted laws similar to Arizona's. Countryman said he hoped that this would cut down on cactus theft because that means there are just that many more people out there trying to stop them.

*(By Linda Bailey, CSG, Lexington).*



## WISCONSIN HAS NEW GOVERNOR

With the departure of Patrick J. Lucey to his new post as ambassador to Mexico this July, Wisconsin's new governor is Martin J. Schreiber, who served as lieutenant governor since 1971.

## HIRING FREEZE SUCCEEDS

A hiring freeze imposed by Delaware Governor Pierre S. duPont when he assumed office in January was extended until September 30. The governor said the freeze saved the state some \$1.5 million and cut the number of state workers by more than 200.

## PENSIONS LIMITED

Pension benefits were tightened by new laws passed by the 1977 Washington State Legislature. State employees, police and fire officers, and teachers hired after July 1 will be affected by the new limitations which are estimated to save the state \$900 million over 20 years. The laws boost retirement ages, place police and fire officers injured off-duty under workers compensation rather than the law enforcement retirement system, and limit pension benefits to 60 percent of final salary for future employees.

## LEGISLATIVE CALLS ARE PUBLIC RECORD

"No general privilege against disclosure" is attached to the records of state representatives' long distance telephone calls under the state's public records law, Wisconsin Attorney General Bronson La Follette has told Assembly Speaker Ed Jackamonis.

An assertion of a right to privacy by persons with whom an office holder deals or to whom records refer has never been successful in justifying denial of access to records, La Follette's opinion stated.

## FEDERAL ELECTION FUNDS REPAID

Pennsylvania Governor Milton J. Shapp repaid from personal funds the \$299,066 in federal matching funds his presidential campaign committee received in 1976. A federal review showed his campaign was not entitled to have received the federal funds.



Senator Oliver Ocasek

## ENERGY, ECONOMY OCCUPY MIDWESTERN CONFERENCE

Midwestern economic affairs, energy, health care cost containment, product liability and legislative improvement were the major topics at the 1977 annual meeting of the Midwestern Conference of the Council of State Governments held in Columbus, Ohio on July 17-20.

The meeting, chaired by Ohio Senate President Pro Tempore and Majority Leader Oliver Ocasek, 1976-1977 Midwestern Conference Chairman, brought together legislators and other state officials from 12 midwestern states.

The conference accepted an invitation from 1977-78 Midwestern Conference Chairman Walter Kozubowski and Chicago Alderman Edward M. Burke to hold the 1978 annual meeting in Chicago.

Action was also taken on resolutions on Medicaid regulations, cooperation among midwestern economic organizations, federal energy program rebates, the interstate nonresident violators compact, uniform motor-cycle statistics, natural gas from Alaska, the impact of federal regulations and loans to family farm partnership and family farm corporations.

Midwestern business, industrial and agricultural economic ills were discussed at the July 18 session. U.S. Senator Howard Metzenbaum of Ohio, the featured speaker, told of recent efforts to bring together a Midwest/Northeast Coalition for Economic Advancement in the U.S. Senate.

Health care cost containment measures were suggested at the July 19 session by South Dakota's Secretary of the Department of Health, Judith K. Call, and Robert Baumgartner of the Ohio Legislative Budget Office.

## The Council of State Governments



Close-up

Energy was the major topic for the July 20 session featuring Dr. Robert J. Robel, director of the Kansas State Energy Board.

### COUNCIL CALENDAR

August 28-31—Southern Governors' Conference, San Antonio, Texas. Contact: Herbert Wiltsee, Atlanta.

August 31-September 3—Western Governors' Conference, Anchorage, Alaska. Contact: Jerry Norris, San Francisco.

September 25-28—Western Conference of CSG, Santa Fe, New Mexico. Contact: Jerry Norris, San Francisco.

October 20-22—CSG Annual Meeting, Indianapolis, Indiana. Contact: Herbert Wiltsee, Lexington.

December 4-7—Eastern Regional Conference of CSG, St. Thomas, Virgin Islands. Contact: Alan Sokolow, New York.

### TOPICS OF INTEREST

Alternatives in sentencing criminal offenders have been addressed in recent months from several platforms by Mike Kannensohn of the Council staff. Mr. Kannensohn's appearances include speeches to several seminars on criminal justice issues, participation in a national radio broadcast, and serving as an informational source on criminal sentencing for national television news specials.

The Council's Interstate Consulting Clearinghouse is assisting the Florida Department of Business Regulation on a technical assistance project involving economic regulation policy in the state. Contact: Mike Kannensohn, CSG, Lexington.

### PEOPLE

An article in the CSG journal, *State Government*, discussing the role of government public information officers in establishing public policy has been cited in White House news briefings. Walter Wurfel, one of President Carter's deputy press secretaries, has mentioned the article as containing ideas of merit in his briefings for news editors from outside Washington, D.C. Joseph P. McLaughlin's article, appearing in the Winter, 1977, edition of *State*

*Government*, calls for stronger, more professional press officers to serve as advisers of politicians in setting public policy.

### IN PRINT

Order from the Director of Publications, The Council of State Governments, P.O. Box 11910, Lexington, Ky. 40511.

The problem of establishing criteria for classifying and monitoring juvenile detention, correctional, and shelter facilities is explored in *Juvenile Facilities: Functional Criteria*, RM-602, \$6.

*Reorganization of State Corrections Agencies: A Decade of Experience*, RM-605, \$4.50, examines the effectiveness and consequences of restructuring juvenile and adult corrections agencies.

A state-by-state breakdown of legislative staff, coded in many instances by key functions, is provided in *Principal Legislative Staff Offices (1977 Edition)*, RM-611, \$6. It provides names, addresses, and telephone numbers.

Published by the National Association of Attorneys General, *The Attorneys General of the States and Other Jurisdictions*, RM-612, \$5, offers informative biographical data on each attorney general.

A report recently completed by the Council's Innovations Project, *Managing Natural Resource Data: Minnesota Land Management Information System*, RM-616, \$3, tells of the development and operation of Minnesota's computerized data bank of land resource information.

The first in a series of reports on priority issues among the states, *Energy: Massachusetts Leads in Energy Conservation Planning*, RM-619, \$2, describes briefly (12 pages) Massachusetts' federally-approved energy conservation plan.

Presentation made at five seminars concerning state rail planning are now available through the Council of State Governments, which cosponsored the seminars with the Federal Railroad Administration. Four of the seminars last fall were designed to educate those states which became eligible for federal rail assistance during the past year. The last seminar discussed the past experience and the future of rail planning and assistance programs in the northeast and midwest regions. *Regional Rail Planning Seminars (BDA-77)* is available in limited supply from the Council.

## Child porn banned

Action against child pornography—the use of children in sexually explicit performances for magazines and films—is being taken by more states.

The trend in this recent legislation is toward stiff fines and prison terms for people who use a minor in an obscene performance which will be photographed or filmed. The definition of the age of a minor varies from state to state.

A revised Missouri criminal code, signed by Governor Joseph Teasdale, has a provision which bans the use of children in making pornographic films.

A tough New Hampshire child-pornography bill, signed by Governor Meldrim Thomson, Jr., June 14, makes it a felony to knowingly use a child for pornographic purposes or to sell or publish material which contains child pornography.

A Connecticut bill is on Governor Ella T. Grasso's desk which sets prison terms of up to 20 years for people who use children in pornographic films and magazines. This significantly raises the penalties from a law already on the books which calls for a \$250 fine and less than one year in jail.

In Illinois, a bill before Governor James R. Thompson, creates the crime of obscenity involving a minor and

establishes a penalty of up to three years in prison and a \$25,000 fine for first offenders and up to 10 years in prison and a \$50,000 fine for second offenders.

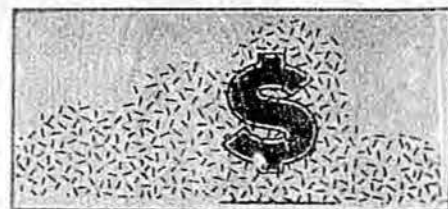
A 1977 Arizona law (SB 1036) makes it a felony punishable by a fine of \$10,000 to \$20,000 or five to 10 years in prison for making or selling obscene films or photographs of minors.

A 1977 Delaware law (HB 468 a/a/b H.A. 1) makes sexual exploitation of a child or selling a magazine or photograph of a child engaging in a prohibited sexual act a felony. The bill was signed by the governor in July.

An Ohio measure to ban child pornography passed both houses in July, and was awaiting senate concurrence on house amendments before being sent to the governor (SB 243).

Legislation has been introduced in the Wisconsin Senate (SB 451) which defines the crime of sexual exploitation of children and sets a fine of up to \$10,000 or imprisonment of up to 10 years or both.

States which already have laws on the books prohibiting child pornography are Connecticut, North Carolina, North Dakota, Rhode Island, South Carolina and Tennessee. (See *State Government News*, June 1977).



## Rainy day fund

The good times are rolling again in Detroit with record auto production, but the bad times of slow sales and massive layoffs are not forgotten.

Michigan state government has decided to put aside some of its excess revenues from today's good economic times to save for future bad times.

To do so it created an economic stabilization fund designed to counter the cyclical nature of Michigan's economy, which in the past has caused program cuts during recessionary periods. First-year funding of \$74.7 million was provided by the 1977 session.

Money is paid into and taken out of the fund through formulas based on real personal income growth. Money can also be released in times of high unemployment.

The fund was proposed in 1976 by House Speaker Bobby D. Crim and former Senate Majority Leader William B. Fitzgerald to a citizens panel created by the legislature to recommend ways to strengthen the state economy. The panel, chaired by now U.S. Treasury Secretary W. Michael Blumenthal, endorsed the concept as did Governor William G. Milliken who included it in his 1978 budget.

(Contact: House Speaker Crim, State Capitol, Lansing, MI 48901).

## Return to zero

A zero-base budgeting system will be implemented in Delaware starting in 1979. A 1977 law (HB 416) mandates that 35 percent of the total proposed expenditures be converted to zero-base budgeting for fiscal 1979. Seventy percent is to be covered in 1980 and the rest in 1981.

Governor Pierre S. duPont had earlier directed the budget office to prepare a program budget for fiscal 1979. He noted the new budgeting method would help determine the cost effectiveness of programs.

Some form of zero-base budgeting is practiced by about 20 states.

## Gene tinkering

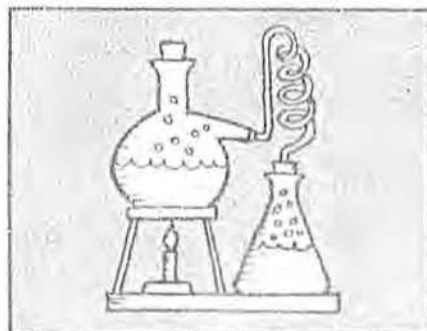
DNA research—the subject of a scientific controversy—will be regulated for the first time on the state level by a 1977 Maryland law.

Effective July 1, HB 1887 sets standards to ensure that experimental DNA research has no ill effects on the researchers, the public, or the environment.

Recombinant DNA research involves combining deoxyribonucleic acid (DNA) from different organisms to form a new molecule. This new molecule would have the capacity to infect and replicate in some host cell.

The law extends to nonfederally funded laboratories DNA guidelines issued by the National Institutes of Health (NIH). It also requires federally funded researchers to submit evidence they are complying with NIH guidelines.

Registration and licensing of



DNA research projects is required and procedures are given for license suspension or court action to stop dangerous research. A seven-member bio-hazards committee is to evaluate and inspect DNA research projects.

At least two other state legislatures, California and New York, considered measures to regulate DNA this year.

(See *State Government News*, May and June 1977).

# Smoke, gas, booze taxes heading up

Taxpayers in most states can breathe easy as 1977 legislative sessions are adjourning without major new taxes. But some had better save their extra change for higher taxes on gasoline, alcohol, and cigarettes.

A few states found it necessary to raise sales taxes or extend "temporary" higher rates. Consumers in Maryland will pay an extra cent on every dollar purchase as the 1977 session raised the sales tax to 5 percent to balance the budget (SB 352). Sales and income taxes were increased in Nebraska by the state board of equalization to fund a legislative increase in school aid.

Rhode Island extended its 6 percent sales tax rate indefinitely and Washington retained its 4.6 percent rate until 1979 (HB 1009).

Taking motor trips will be more expensive in eight states. Gasoline taxes were raised in Colorado from 7 to 8 cents a gallon (H 571), in Delaware from 9 to 11 cents (HB 157), in Montana from 7.75 to 8 cents (C. 390), in Nebraska from 8.5 to 9.5 cents (LB 139), in North Dakota from 7 to 8 cents (SB 2240), in South Carolina from 8 to 9 cents (HB 2888) and in Washington under a variable tax of 9-12 cents (SB 2537). Hawaii made permanent its "temporary" hike in motor fuel taxes from 5 to 8.5 cents.

Smokers will have to shell out more in four states. Cigarette taxes were hiked in Colorado from 10 to 15 cents a pack (HB 1726), in Florida from 17 to 21 cents a pack (SB 8), in Indiana from 6 to 10 cents (HB 1344), and in South Carolina from 6 to 7 cents (HB 2210).

Drinkers were targeted for higher taxes in five states. Alcohol or beer taxes were upped by Florida (SB 6), Indiana (HB 1344), Kansas (HB 2396), Mississippi (SB 2541), and Montana (C. 414).

Energy producers will be taxed more in nine states under 1977 laws. Severance taxes were newly enacted in Colorado on minerals, oil and gas, and coal to replace other taxes (HB 1076), in North Dakota on coal at 65 cents per ton (HB 1262), and in South Dakota on oil and gas at 3 percent (HB 909). Severance taxes were increased or revised in Alaska

(S 238), Florida (SB 5 and 7), Minnesota (C. 423), New Mexico, Wisconsin (SB 77), and Wyoming (HB 279).

Personal income taxes will be effectively lower in Idaho which eliminated a \$10 filing fee (HB 180) and in New York which let the 2.5 percent surtax expire and allowed tax reductions. Revised income taxes in Kansas (SB 494) and Minnesota (C 423) set new brackets for higher incomes and increased exemptions. Michigan extended its personal income tax at the rate of 4.6 percent (HB 4055).



Businesses were given tax breaks in Connecticut (SB 1321) and Utah (SB 81). The corporate income and other business taxes were raised in Delaware (HBs 382, 161, and 162).

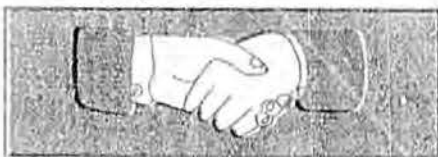
## Strike ends

Wisconsin state employees returned to work July 18 following a week-long strike after the State's Joint Operations Committee on Employment Relations, composed of state legislative leaders, agreed to a two-year contract providing wage hikes, a nonrecrimination clause, and a 10-cent-per-hour annual cost of living adjustment.

State workers were given a pay scale plan permitting them to advance to top minimum for employee grades in four years. The union has 13,000 members, but negotiates contracts covering 24,000 employees.

Contract talks were aided by an independent mediator, Robert G. Howlett, a retired Michigan employee relations commissioner. Union members returned to work following the tentative settlement and were expected to quickly ratify the contract.

According to Evan Zeppos in the Wisconsin Governor's office, some state officials were concerned with the non-recrimination clause which, ostensibly, would restrain the state from filing civil or criminal proceedings against striking workers. State law prohibits state employee strikes.



However, Wisconsin Attorney General Bronson La Follette, who was not a party to the contract settlement, had already filed court action against the striking workers prior to the settlement. The Wisconsin judge hearing the attorney general's case had issued an injunction ordering workers back to their jobs and, subsequently, issued an order for the employees to "show cause" why they should not be held in contempt of court for violating the injunction.

State officials have asked the attorney general not to pursue the disciplinary legal action, Mr. Zeppos said, in fulfillment of their contract agreement.

## PUBLIC EMPLOYEE BARGAINING VOIDED

Indiana's 1975 collective bargaining law for public employees was ruled unconstitutional by the state supreme court July 12. The decision upheld a circuit court ruling which had blocked implementation of the law.

The law was faulty, the court said, because it did not permit judicial review of the state employment relations board's recognition of the size and makeup of a bargaining unit and of the board's certifications of exclusive bargaining representatives.

The law would have affected most state and local government workers, except teachers, police and firefighters.

## VALUE OF IMPRISONMENT QUESTIONED IN STUDIES

A study examining the relationship between imprisonment and crime rates in the states contends that incarceration does not significantly reduce the crime rate and there should be a moratorium on the construction of new prisons.

The study by William G. Nagel, Director of the Institute of Corrections, American Foundation, Inc., says alternatives are needed before prison construction is resumed.

The study found that so-called "conservative" states were more likely to build more prisons and incarcerate more offenders while "liberal" states have looked toward other alternatives such as probation, fines, earlier paroles, and shorter sentences. The study attempted to classify states as "conservative" and "liberal" by using the voting records of U.S. senators over a 20 year period.

A similar study by the Dangerous Offender Project at the Academy for Contemporary Problems concluded that more cells provided to accommodate an increasing number of arrested offenders will not reduce crime to a significant degree. It also reported that until police efficiency is increased and certainty of punishment for crime is assured, the deterrent value of prisons is questioned.

In another corrections study, the American Bar Association's Criminal Justice Section Joint Committee on the Legal Status of Prisoners released its recommendations for standards for correctional facilities. It recommends that the state pay wages to working prisoners. Those prisoners who are paid would, in turn, pay for their room and board and would be subject to taxes. The committee also suggests abolition of the parole system and the establishment of an independent releasing agency which would determine release dates in accordance with a set penalty structure.

In an effort to ease overcrowding in his state's penal institutions, Illinois Governor James R. Thompson outlined an eight-point plan which includes adding 700 inmate beds and instigating a review by the Department of Corrections and the Parole and Pardon Board to find nonviolent, one-time offenders in the state's prisons for possible early release. The review would be a one-time action specifically designed to relieve the present overcrowding problem.

# Cabinets prove popular

The governor is not alone in running the executive branch of state government—giving him advice and counsel are members of his cabinet.

Cabinet systems now exist in 36 states. They are considered a key facet of government reorganization and 18 of the 19 states which have undergone major executive branch reorganization since 1965 have cabinets.

Cabinets reflect the diversity of state governments and share little in common from state to state. The Council of State Governments recently surveyed the governors' offices to update a 1969 study on state cabinets.

## Most kept cabinets

The new survey found that of the 26 states which had cabinets in 1969, 19 kept them. In addition, 17 other states adopted cabinets.

The members of state agencies represented on cabinets vary widely, with over 50 different position titles represented among the 36 state cabinets. The types of agencies represented on cabinets has changed dramatically since 1969, perhaps indicating a change in state priorities. Cabinet membership is determined by the governor in 13 states and by statute or other means in the rest.

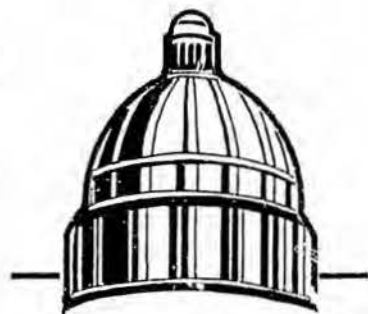
## Agencies change

Education, which was most frequently represented on state cabinets in 1969, slipped to fourth place with membership on only 25 state cabinets. Conservation, environment and natural resources rose from 12th to first in frequency, appearing on 30 state cabinets. Others most frequently included on state cabinets were finance and administration (29 states), transportation (29), agriculture (22), and labor and industrial relations (22).

The size of state cabinets range from six to 29 members, with an average size of 16.

## Usefulness rated

Asked to rank the usefulness of



cabinets, 25 governor's offices checked their value in disseminating information among members, 19 noted their value in problem solving, 18 commented that cabinet meetings allowed discussion of issues of common interest, and 16 said the meetings helped development and presentation of new ideas.

Those surveyed also said that cabinet meetings gave visibility to decisions, helped in identifying priorities, served as a policy making body, and allowed the governor to maintain closer contact with executive agencies.

The cabinet was called a good management tool for the governor by the Massachusetts governor's office. Massachusetts also noted that cabinet meetings allowed departments to share problem solving techniques and fostered a team approach.

The Kentucky governor's office said the cabinet structure allowed the governor to meet collectively with nine agency heads rather than with 50 different agencies.

Michigan governor's office said it afforded an opportunity for the governor to hear the concerns of the departments.

The New Mexico governor's office said the cabinet had improved communications and coordination in state government. The cabinet also helps develop policy recommendations and the administration's legislative package.

Cabinet meetings are held monthly in nine states, twice a month in four, weekly in seven, and twice a week in two others. Many meet only as needed or at the governor's request. Some have subcabinets which meet frequently, while the full cabinet meets infrequently.

Meetings are closed to the public in 17 states.

(Contact: Judy Nicholson, CSG Research, Lexington).



# Connecticut revamps agencies

Government reorganization and ethics reforms were accomplished by the 1977 Connecticut legislative session.

## Budget

The legislature adopted a 1977-78 budget totalling \$1.9 billion which included no general tax increases but did add spending for cities and towns, the elderly, and welfare recipients. Total expenditures rose by 11 percent compared to the previous fiscal year. The measure became law without the governor's signature.

## Ethics

A lobbying measure effective in 1978 will require more complete reporting of money spent by those lobbying to influence legislation and administrative proceedings.

The bill's major features include a ban on gifts valued at more than \$25, reports whenever \$25 or more is spent on one occasion or function regardless of per person costs, and strict registration of lobbyists by identification badges.

An ethics bill, which will take effect in 1979, will force a limited personal financial disclosure by legislators, top state officers and high level appointees. Although general financial information would be made public, specific fees and commissions would be kept in private files. Some standards in the existing law are strengthened including a ban on gifts to the immediate family of such public officials.

A new seven-member ethics commission will be established after October 1 to enforce the provisions of both laws and would replace the existing ethics committee. If the commission finds probable cause of a violation, it can order a full hearing at which time it can subpoena individuals and records.

## Reorganization, Government

The first major reorganization of the executive branch in 40 years combined more than 200 agencies into 23. It came as the result of a 16 month study made by the Filer Commission at the behest of Governor Ella T. Grasso.



Connecticut State Seal

An Office of Planning and Management and a Department of Administrative Services will become effective on October 1, 1977 while all other newly formed agencies will be in place as of January 1, 1979.

The reorganization measure contains a sunset provision which would require that state agencies, beginning in 1980 be required every five years to justify the financing of their programs.

In addition to raises for 40,000 state employees for the coming fiscal year, bills were passed to increase the salaries of legislators, judges and certain key statewide elected officials as of 1979. Legislative pay was raised to \$17,000 for the biennium rather than the present \$13,000, while the salary for the lieutenant governor was increased from \$18,000 to \$25,000 per year; for the secretary of state, treasurer and comptroller from \$20,000 to \$25,000; and for the attorney general from \$30,000 to \$38,500. No raise was included for the governor at the behest of Governor Grasso—whose pay will remain at \$42,000.

## Health and Welfare

Bills aimed at tighter regulation of the nursing home industry would give the Commission on Hospitals and Health Care access to more details about nursing home finances and the interests of owners and stockholders in determining rates, and would beef up the licensing requirements of nursing home administrators and revamp the Board of Licensing of Nursing Home Administrators.

Able bodied welfare recipients must work in local community projects in order to receive welfare benefits.

Unemployment compensation may be denied to people who quit their jobs or are dismissed for cause. Under the present law, these individuals could receive benefits after waiting four weeks. It is estimated that benefits to those in this category amount to \$20 to \$30 million per year.

A measure to deal with unscrupulous funeral homes requires that funeral directors provide price lists for all services before the funeral. The list must include the agreed method of payment. A fine of \$100 will be imposed for a first offense while one of up to \$500 for a second one. Such offenses would risk license suspension.

## Other

Governor Grasso signed a bill to outlaw the practice of mortgage redlining—a banking practice of refusing real estate loans on properties because of the neighborhood in which they are located. It applies only to one-to-four family occupied dwellings. Fines up to \$5,000 could be imposed for violations under this law which takes effect on October 1.

A bill making it easier to vote for an independent presidential candidate allows voters to write in the last name of the independent candidate instead of the names of his eight presidential electors. The new procedure will be in place for the 1980 presidential election.

Another measure denies landing rights at Bradley International Airport, except in emergencies, to nonmilitary supersonic aircraft (SST) on the basis of noise levels.

A measure to protect battered spouses will allow a spouse to seek a court order to bar the violent spouse from the home. In addition, \$75,000 was appropriated to provide aid, temporary shelter and counseling to men and women abused by their mates.

Under a bill protecting the elderly, a judge must consider the victim's age in deciding whether to grant youthful offender status to an accused offender between 16 and 18 years old. It will take effect on October 1.

(By Alan V. Sokolow, Director, Eastern Office, CSG)



# Indiana clears horse race betting

Ratification of the Equal Rights Amendment and legalization of horse-race betting were among actions taken by the 1977 Indiana General Assembly. The general assembly ended its regular session April 30 and met in a one-day special session May 23 to pass a budget.

Indiana became the 35th state to ratify the proposed national ERA with passage of HJR 2.

Pari-mutuel wagering at horse races was authorized and a state racing commission established by passage of HB 1049 over the governor's veto.

## Budget, Taxes

On May 23, the general assembly adopted a record \$7.74 billion state budget for the next two years. It also approved changes in pension benefits for police and firefighters. Pension revenue will come from an increase in employee contributions, a hike in the cigarette tax from six to 10.5 cents a pack and an increase in the liquor tax from \$2.28 to \$2.62 a gallon (HB 1344).

The Multi-state Tax Compact was repealed (SB 414).

The general assembly removed the \$2,000 limit on property tax deductions for solar heating and cooling systems and also extended the full deduction for such systems to mobile homes (SB 420).

## Government

A government in the sunshine law requires that deliberations and actions of public agencies be conducted openly (SB 83).

A sunset law limits agencies created by statute to 10 years unless expressly extended, limits agencies created by resolution to the term of the general assembly, and limits agencies created by executive order to the governor's term (HB 1763).

The public will be given notice of proposed regulations by state agencies by publication of an Indiana Register beginning July 1978 (SB 101).

A privacy law allows individuals to refuse their social security number to most state agencies and to inspect and correct personal information on file with state executive agencies (HB 1570).



Indiana State Seal

New election laws include a provision for voter registration at colleges twice yearly (HB 1278) and a 30-day precinct residency for voters (HB 1220).

The governor was permitted to transfer state land to the federal government for project sites in order to allow the state to compete for federal grants (HB 1890).

State merit employees were allowed to run for elective local office, but not state or federal offices (HB 1672).

A commission was established to coordinate data processing systems in the executive branch (HB 1766). Human service programs are to be coordinated by an interdepartmental board (HB 1852).

State government organization is to be studied by a joint legislative committee to expire in 1978 (HB 2181).

## Criminal Justice

Revisions were enacted in the comprehensive penal code adopted in 1976 but delayed from taking effect until next October (SB 84). The revisions included expansion of the categories of murder for which the state may seek a death sentence, as well as increased penalties for rape, robbery, arson, burglary, gambling, and drug pushing.

Penalties were provided for certain misconduct using CB channels, including obscene messages (SB 43).

A public defender council was created to assist attorneys representing indigents (HB 1525).

## Labor

To meet federal requirements, the session changed the unemployment compensation law to cover state and local government employees (HB 1589). The compromise bill also increased benefit

maximums by 7.5 percent and slightly reduced the penalty for employees who quit jobs without good cause or who are fired with cause. The law changed the definition of wages from \$4,200 to \$6,000, provided an optional one percent employment tax for state and local political subdivisions, and increased the filing period for appeals.

The minimum wage was increased from \$1.25 per hour to \$2 by January 1979 and expanded to domestic workers, those working a minimum of 10 weeks a year, and to 17 year olds (HB 1862).

Workmen's compensation benefits were increased, the waiting period reduced from seven to three days and other features liberalized (SB 130).

Housing facilities in migrant labor camps must be inspected prior to occupancy under SB 358.

## Health, Welfare

Overriding a veto by the governor, the session approved a bill to legalize the use and manufacture of Laetrile for cancer patients and the artificial sweetener saccharin (HB 1405).

New medical malpractice law provisions include a change in procedures for review panels of malpractice complaints, a requirement that licensing boards report to the insurance commissioner on action taken on his report of claims, and extension of the medical malpractice study commission to January 1979 (HB 1637).

A legal advocacy service was created for the developmentally disabled (SB 452).

Maximum payments for Aid to Families with Dependent Children were increased and the department of public welfare was empowered to regulate Medicaid payments (HB 1052).

A law which extends Medicaid coverage to mentally retarded persons in intermediate care facilities transfers some of the cost to the federal government (HB 2081).

Major changes in the poor relief program include requiring persons receiving aid to reapply every 180 days, clarify conditions under which recipients can be required to work, and give recipients the right to notice and appeal before termination of aid (HB 2081).

## Other

To aid the handicapped, curb ramps were mandated statewide in new or replacement sidewalks (HB 1767).

The commission on the aging was continued (HB 1206).

The general assembly appropriated \$3.6 million to the Chicago, South

Shore and South Bend Railway Capital Improvements Fund to maintain and improve passenger service (HB 2083).

Physician assistants were defined and allowed to practice (HB 1427). A loan fund was established for medical students to improve the supply of doctors in underserved areas of the state (HB 1114).

An affirmative action office was established in the department of administration (HB 1689).

The session appealed to the federal government to drop two proposed water projects and adopted a measure that the state would not cooperate in the planning or construction of the proposed Lafayette and Big Pine reservoirs.



# West Virginia seeks safe mines

Executive reorganization recommended by the governor and coal mine safety were passed by the 1977 West Virginia Legislature. The regular session met from January 12 to April 9.

A record budget of \$1.4 billion was passed by the legislature June 22. The legislature had recessed a special session in May to resolve a deadlock over spending nonhighway taxes for roads. It finally agreed on appropriating \$53 million from general and federal revenue sharing funds and a total highway budget of \$557 million. Pay raises for teachers and state workers were also provided.

## Reorganization

The Department of Mental Health was abolished and incorporated into a restructured Department of Health (SB 585).

The Department of Commerce was abolished and its responsibilities were transferred to a new and expanded Office of Economic and Community Development in the governor's office (SB 563).

The Department of Public Institutions was abolished. A new Department of Corrections was created with responsibility of prisons, corrections and juvenile offender facilities (SB 570). Hospitals, formerly under the Department of Public Institutions, were transferred to the new Health Department and the Children's Home was transferred to the Department of Welfare.

During the special session, action was completed to create a new Department of Culture and History, consolidating various related commissions, departments and agencies (HB 1668).

In addition, as a result of a leg-

islative study over several years and the appointment of a new superintendent, the superintendent of the Department of Public Safety was authorized to reorganize the organizational structure of the Department and a new procedure was established for selection of state troopers and to process hearings and appeals regarding transfer, suspension, demotion and discharge (HB 1008).

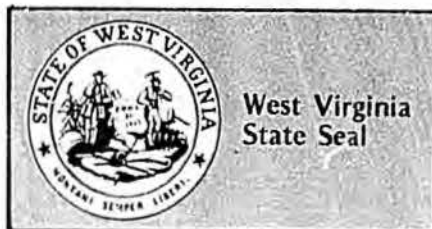
## Mining

For the first time procedure was established for the adoption of rules and regulations governing coal mine health and safety. This new responsibility was assigned to a seven-member board consisting of the Director of the Department of Mines, three coal operator representatives and three representatives of coal miners. This act also made substantial revisions in current health and safety laws (SB 285).

In connection with surface mining, the disturbed land must be restored to the approximate original contour and all highwalls are to be eliminated (HB 1382).

## Flood relief

Because of a flood disaster in southern counties in April 1977, the legislature appropriated \$1.5 million during the regular session and \$4.5 million additional during the special session for emergency flood relief. A special appropriation of \$10 million also was made during the special session and the governor was authorized to distribute these funds for the benefit of persons or families actually deprived of or dispossessed from residen-



West Virginia State Seal

tial housing, which funds are for replacement or site acquisition for residences destroyed by the April flood.

## Environment, Health

The West Virginia Resources Recovery-Solid Waste Disposal Authority was created to develop a statewide plan for collection and disposal of solid waste. Authority was also granted for counties to create solid waste authorities to operate disposal projects.

A certificate of need must be obtained from the State Health Planning and Development Agency for new construction and other changes by health care facilities (SB 277).

Prepaid health care service organizations may be formed (SB 389). The health department is required to provide home health services to persons living where they are not otherwise available (HB 918).

## Education

A \$60.3 million bond is authorized to be issued by the Board of Regents to finance, among other facilities, a new West Virginia University stadium and an outdoor sports arena at Marshall. The sale will be repaid by tuition fees which will be pooled by the colleges and universities along with about \$2 million in tax revenues diverted from the state general revenue fund (HB 1751).

## Domestic

No-fault divorce was authorized, and child abuse or neglect was added as grounds for divorce (HB 806).

Juveniles incarcerated in detention facilities may not be physically punished, deprived of food or family visits, or placed in solitary confinement. The State Supreme Court is given authority to regulate policies governing operation of state, county and local juvenile facilities (SB 200).

## Other

The ceiling on life insurance policy loans is increased from 6 to 8 percent (SB 268).

Low and moderate income families may borrow money at low interest rates to install energy conservation ma-

terials and equipment such as insulation. Up to \$2,000 per home at interest of no more than 3 percent for up to 36 years is allowed (SB 328).

A new method is established to provide for the appointment and payment of an attorney for needy persons who are involved in a serious crime, either a felony, misdemeanor or other specified offense. Compensation of attorneys is increased and provision is made for payment of limited expenses of the attorney.

Except for nonprofit hospitals, veterans' organizations, educational institutions and certain organizations receiving less than \$7,500 per year, charitable organizations soliciting contributions must be registered and file financial reports. Professional solicitor fees are limited to 15% of moneys collected and professional solicitors are required to register and be bonded.

The civil service laws were generally revised and the Civil Service Commission was authorized to assist in classifying noncivil service positions. This act nullified inclusion of a number of state employees within civil service by executive orders of the previous governor. It also exempts from civil service all state employees in policy-making positions.

Authority is granted to inspect and copy public records of a public body (HB 838).

Congress was requested to call a constitutional convention for the purpose of proposing an amendment to the U.S. Constitution to abolish the Electoral College for presidential elections.

(Contact: Legislative Services, E-132 State Capitol, Charleston, WV 25305).



# Nebraska boosts school aid

Increased education funding and a new criminal code were among actions taken by the 1977 Nebraska Legislature.

## Criminal Justice

After seven years of effort, the Nebraska Unicameral Legislature revised the state criminal code which will become effective on July 1, 1978 (LBs 38, 38A, 39, 40 and 41).

## Education

State aid to public schools was boosted to \$115 million from \$55 million through \$20 million annual increases (LB 33).

In higher education, a post-secondary education advisory committee was established (LB 459) and the University of Nebraska Medical School was required to offer vacancies in its freshman and sophomore classes to Nebraskans that have completed two years of medical training elsewhere (LB 317). Also, the Agriculture and Environment Committee was asked to study the issue of a regional veterinary school in Nebraska (LR 40).

## Fiscal

The legislature eliminated most of the personal property tax, shifting the revenue burden to income and sales taxes (LB 518). It set a January 1, 1978, deadline for counties to revalue all real property and required annual updates thereafter (LB 131). The unicameral also approved an increase in the gas tax (LB 139) and boosted the credit for sales tax on food from \$16 to \$20 (LB 30).

## Business and Labor

The statute of limitations for claims under workmen's compensation was increased to two years (LB 144). The maximum weekly benefit under workmen's compensation was set at \$140 (LB 275).

Banks which are members of the Nebraska Electronic Transfer System were given protection from criminal prosecution by the state in the event of federal anti-trust action against the system (LB 524).

Estate planning for heads of family farm corporations or small businesses was aided by legislation allow-

ing corporate nonvoting stock (LB 264).

## Government

Sunset legislation which, beginning July 1, 1978, annually eliminates some agencies unless reinstated by the legislature was approved (LB 257). Portions of Nebraska's sunshine laws were also revised (LB 4).

In order to speed determination of the constitutionality of new laws, the justice department will be required to initiate court action on a new law in the event an agency does not implement it on the advice of the justice department (LB 46).

## Human Resources

Aid to dependent children (ADC) was increased to \$250 per month for mother and child and \$60 per month for each additional child (LBs 179 and 179A). Investigation procedures for ADC applications were revised (LB 425).

Homemakers displaced by a husband's death or by divorce will receive help through two pilot multiservice

centers approved this session (LBs 389 and 389A). Minimum age limits for welfare benefits were removed (LB 311). However, welfare payments to those who move to Nebraska to live in rest homes were eliminated (LB 480).

Discrimination in employment on account of marital status (LB 161) or by private employment agencies on account of age (LB 162) was prohibited.

Pharmacists were permitted to substitute less expensive drugs equivalent to those prescribed by a physician as long as the physician does not object (LB 103).

An emergency medical health care program was authorized (LB 138).

### Natural Resources, Energy

The unicameral indicated its support of a 2600 mile pipeline proposal that would bring natural gas from Prudhoe Bay in Alaska and the Mackenzie River Delta in Canada to the Lower Forty Eight (LR 79). Tax incentives for the production and use of grain alcohol as an additive to gasoline (Gasohol) were approved (LB 52).

The legislature established a state energy office which had previously been operating from the governor's office (LB 232). It approved a resolution encouraging solar energy planning for state buildings (LR 39).

Landowners were encouraged to establish small water conservation programs (LBs 450 and 450A).



Nebraska  
State Seal

### Other

Off-track betting messenger services were banned (LB 273).

Color photos will soon be on Nebraska driver licenses (LB 90).

Odometer repair procedures were outlined in a new law designed to protect the public in automobile transactions (LB 227). The law mandating motorcyclists to use helmets was repealed (LB 314).

Public intoxication was decriminalized and treatment services authorized (LB 204).

(By Peter A. Creticos, *Midwestern Office, CSG*).

## Health

### STATES KEEP MEDICAID FUNDS

States threatened with loss of \$142 million in federal Medicaid funds have received a reprieve.

Legislation preventing the Department of Health, Education and Welfare (HEW) from withholding the funds until October 1 was signed by President Carter July 1 (HR 1404). The delay will allow Congress time to change the Medicaid law.

States were told by HEW Secretary Joseph A. Califano on June 8 that he would enforce a federal law penalizing the states one-third of their Medicaid funds for failure to review all their nursing home patient cases by a March 31 federal deadline.

Several states went to court and obtained restraining orders against the fund withholding before Congress acted.

Pennsylvania filed suit in U.S. District Court in the District of Columbia in late June charging that loss of funds would result in the state being forced to cut back on programs which are mandated by law. The suit claimed that Califano was imposing the sanctions even though the state had completed reviews of 96 percent of the cases.

Maryland and Michigan filed similar actions in the same court, while seven other states filed in their own states. In all, restraining orders were issued for Iowa, Missouri, Maryland, Pennsylvania, and Michigan.

States which also brought suits against HEW were New York, Colorado, Massachusetts, Tennessee, and California.

Other states faced with the possibility of losing funds were Alabama, Indiana, Kansas, Montana, Nebraska, New Jersey, North Carolina, North Dakota, Ohio, and Wisconsin.

Secretary Califano defended his actions, saying he was attempting to enforce the law, but that he would urge Congress to change it to make compliance less difficult and penalties less harsh.

There has been no decision on the possibility that 27 states may have to pay back \$377.6 million in Medicaid funds they received in 1975, also for failing to meet the monitoring requirements.



### MEDICAL MALPRACTICE INSURANCE UPHELD

Nebraska's 1976 medical malpractice insurance law was upheld by a divided state supreme court July 20. At issue were a \$500,000 ceiling on claims and a medical review panel to screen claims. Four of seven judges dissented, but the constitution requires five judges to strike down any state statute.

### HEALTH TESTING CENTERS REGULATED

Florida Governor Reubin Askew has signed into law a bill which regulates and defines licensing procedures for multiphasic health testing centers. According to Representative David J. Lehman, this bill allows an individual to decide whether he wishes to spend \$25 or \$30 for a battery of tests in lieu of or prior to seeing a physician.

### MENTAL HOSPITAL REFORMS BEGUN

Standards of care for New Jersey mental patients are contained in settlement of a 30-month-old lawsuit involving the Department of Human Services and the State Public Advocate. The reforms apply to minimum staff-patient ratios and individualized patient care, including psychological and occupational therapy. The settlement applied specifically to one psychiatric hospital but was expected to be extended to other state hospitals.



# Top court rules on busing, lawyer ads, church schools

A number of significant decisions were handed down by the U.S. Supreme Court in June. Among them were:

\*A June 27 decision that lawyers may advertise fees for routine services such as uncontested divorces. The decision came in an Arizona case, but most states now ban lawyer advertising.

\*A June 27 ruling that upheld a court-ordered school desegregation plan in Detroit and a lower court order for Michigan to pay part of costs for remedial programs to compensate for past discrimination.

\*A June 24 decision that upheld portions of an Ohio law providing state aid to church-run schools for textbooks, academic testing, speech and hearing diagnostic testing, and remedial reading and speech help. It struck down state aid for field trips and certain classroom equipment.

\*Also in June, the justices refused to review a December 30 California Supreme Court decision in *Serrano vs. Priest* invalidating the school finance system's reliance on local property taxes.

\*A June 13 opinion that struck down a New York law that denied college tuition aid to aliens. Even though the law allowed aid to aliens who were seeking citizenship, the court said the ban discriminated against aliens as a class.

\*A June 27 ruling that voided an Alabama law which required prison guards to be at least 5 feet 2 inches tall and weigh at least 120 pounds. While finding that the requirements discriminated against women, the court said state officials failed to demonstrate that the standards had some real relationship to the ability to handle the job.

\*A June 9 decision that affirmed an Illinois obscenity law which had been amended by the state courts to reflect the high court's 1973 landmark decision *Miller vs. California*.

\*A June 9 opinion that invalidated a New York law which outlawed the sale of nonprescription contraceptives to mi-

nors, restricted the distribution of contraceptives and banned advertising of contraceptives (*Carey vs. Population Services International*, No. 75-443).

\*A June 9 ruling that consumers cannot sue a manufacturer for price fixing unless they purchased the product directly from the manufacturer. The court reversed a U.S. court of appeals decision that Illinois could sue the manufacturers of concrete blocks used in government buildings (*Illinois Brick Co. vs. Illinois*).

\*A June 17 decision that upheld a New York law that required a person in a murder trial raising a defense of extreme emotional disturbance to prove this defense (*Patterson vs. New York*, No. 75-1861).

## DEATH PENALTY VETOED

A bill to restore the death penalty as punishment for all murders was vetoed by New York Governor Hugh L. Carey, who has repeatedly stated his moral opposition to capital punishment. It is not believed there are enough votes to override the veto.

## PRISON CROWDING SUIT APPEALED

Oklahoma is appealing a June 14 order by a U.S. district judge to begin in August a systematic reduction of inmates to a maximum of 800 at the McAlester prison and to 450 at Granite prison. On July 5 the judge denied the state's request to delay implementation of his order for prison reductions. He ruled that overcrowding constituted cruel and unusual punishment.

## SOUTH CAROLINA JUDICIARY MESSAGE GIVEN

In his second annual address to the South Carolina Bar Association, Chief Justice J. Woodrow Lewis praised the dedication of the members of the legal profession in working toward solving many of the problems which faced

the judicial system. In efforts to eliminate backlog, the terms of the circuit court were increased and a rule was adopted permitting the filing of machine duplicated records.

The court established the Judicial Standards Commission to enforce compliance with the Judicial Code of Ethics. It also approved the idea of mandatory continuing legal education for members of the bar.

The chief justice announced the implementation of a statewide family court system which will have exclusive jurisdiction over domestic relations and juvenile matters.

## CONCORDE BAN CONTINUED

The ban against the supersonic Concorde airliner landing at Kennedy airport was continued by the Port Authority of New York and New Jersey July 7, pending a noise study. The authority's power to ban the Concorde was upheld by a federal appeals court which also directed a federal judge to determine if the ban was arbitrary and unreasonable.

## COUNTER-OFFER MADE GM IN CHEVY ENGINE CASES

Under a counter-offer by 38 state attorneys general, General Motors could refund the full purchase price or make a \$500 cash adjustment to customers who bought more expensive GM cars containing Chevrolet engines.

The attorneys general simultaneously announced the counter proposal July 15. In May, GM had offered to let customers trade in their cars minus an eight-cent-per-mile adjustment plus some additional costs the attorneys general said made the deal "very undesirable."

The counter-offer made by the states' chief legal officers to settle the lawsuits would permit customers to:

1. Return their cars for the full purchase price less a five-cent-per-mile adjustment to a maximum of \$500 (GM would pick up the cost of paying off the installment contracts early), or
2. Keep their cars and receive a \$500 adjustment plus an extension of GM's vehicle drive-train warranty from 12 to 36 months.

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