POPULAR GOVERNMENT

October / 1969

PUBLISHED BY THE INSTITUTE OF GOVERNMENT
UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

This month

The

Legislative

Issues

Number 2

Contents

This month's cover ought to be in color. It's an earth-sky view of the Outer Banks taken on the Apollo 9 mission last spring. (Photo courtesy of NASA.)

VOLUME 36 OCTOBER 1969 NUMBER 2

Published monthly except January, July, and August by the Institute of Government, the University of North Carolina at Chapel Hill. Change of Address, editorial business, and advertising address: Box 990, Chapel Hill, N. C. 27514. Subscription: per year, $3.00; single copy, 35 cents. Advertising rates furnished on request. Second-class postage paid at Chapel Hill, N. C.

CRIMINAL LAW

By Douglas R. Gill

Not counting those bills intended to regulate motor vehicles, to protect wildlife, and to regulate the use of intoxicating liquors through the use of prohibitions sanctioned by criminal penalty (discussed in other articles in the legislative issues of *Popular Government*), the 1969 General Assembly considered over 100 different bills that would have introduced new crimes into the North Carolina General Statutes, affected the penalties applicable to existing criminal laws, or substantially altered existing criminal laws. Of those bills, over 40 were enacted into law.

PUNISHMENT

Capital Crimes

As usual, a number of bills were introduced to abolish or substantially amend the death penalty or the circumstances under which it could be administered. The only successful one was Chapter 117 (H 135), which repeals G.S. 15-162.1[1] This section permitted a person charged with a capital crime to plead guilty to the crime and, if the plea was accepted, required the court to impose a sentence of only life imprisonment upon the defendant. The effect of this statute had been to permit a defendant to avoid the risk of the death sentence at the price of pleading guilty to the offense. The repeal of this statute was a response to the decision of the United States Supreme Court in *United States v. Jackson*, which held that a guilty plea exacted from a defendant attempting to avoid the risk of the death penalty was invalid.

Under present law, the jury in a capital case may, after finding the defendant in a capital case guilty, recommend life imprisonment for him (otherwise he is sentenced to death). Bills that would have removed this power from the jury, thus making the death sentence mandatory upon conviction, were reported unfavorably. H 136 would have made this change for rape, arson, and first degree burglary. H 137 would have made the change for first degree murder and further would have raised the maximum penalty for second degree murder from thirty years to life imprisonment.

The biennial effort to abolish or ameliorate the death penalty again met with failure. H 160, intended to abolish the death penalty, was tabled. Two other bills intended to give greater discretion in the use of the death penalty to judges and solicitors were reported unfavorably. H 824 would have permitted the judge presiding at the trial of a person convicted of a capital crime to have entered a sentence of life imprisonment even if the jury recommended the death penalty. H 1336 would have established procedures whereby solicitors, with the approval of the court, would have been able to try a defendant for a capital crime without seeking the death penalty.

Reduction in Misdemeanor Penalties

Many believe that decisions of the United States Supreme Court requiring that counsel be made available to indigent defendants in criminal cases do not

1. In this article, the effective date of legislation is mentioned only where it is later than July 1, 1969.

Chapter numbers given in the articles appearing in this issue of Popular Government *refer to the 1969 Session Laws of North Carolina. Numbers preceded by the letters H or S are the numbers of bills introduced in the House and Senate, respectively. G.S. refers to the General Statutes of North Carolina.*

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apply in cases in which the penalty upon conviction cannot exceed a fine of $500, six months' imprisonment, or both. The North Carolina Supreme Court, in *State v. Morris*, has joined in this judgment. In an attempt to avoid the necessity for appointing counsel for various crimes that were judged to be relatively minor, the General Assembly enacted Chapter 1224 (H 1337), which reduces the penalty for over 100 violations, effective October 1, 1969, to a fine up to $500, imprisonment up to six months, or both. Table I indicates the sections affected by this change.

Special problems arise as to four of the above statutory sections because of prior amendments by other bills to sections of the General Statutes amended by the act. The sections which were previously amended are: (1) G.S. 14-107 (worthless-check offense—check for more than $50); (2) G.S. 14-110 (obtaining hotel accommodations without paying); (3) G.S. 14-132 (disorderly conduct in public buildings); and (4) G.S. 14-431 (glue-sniffing provisions), which by previous amendment was moved to an entirely different chapter of the General Statutes. Both the "hotel accommodation" and "glue-sniffing" sections will retain punishment as general misdemeanors if Chapter 1224 is interpreted as not affecting them. In the case of G.S. 14-132, however, the prior amendment incorporates the same reduction in penalty. Chapter 1224 expressly stated that it was to apply to G.S. 14-107 as it might be amended by 1969 legislation. A separately introduced act, Chapter 1014 (H 1260), however, duplicated the punishment reduction, but did not include a similar provision making it applicable if G.S. 14-107 were amended. The effect of this act is treated in the section of this paper dealing with crimes against property.

A few other bills similarly reducing misdemeanor punishments were ratified. Chapter 1045 (H 1259) provides that first offenses of several nonsupport provisions (G.S. 14-322—Abandonment by husband or parent; G.S. 14-325—Failure of husband to provide adequate support for family; G.S. 14-326.1—Parents: failure to support) may be punished by imprisonment not exceeding six months or fine not exceeding $500, or both. Several bills, working more general changes in the law and thus reported later in this article, also incorporate the $500/six-month limitations on misdemeanor punishments.

CRIMES AGAINST THE PERSON

Chapter 1134 (H 66) creates a new section (to be codified as G.S. 14-34.2) providing that a person who commits assault with a deadly weapon on a law enforcement officer or a fireman in the performance of his duty is guilty of a felony punishable by fine or imprisonment up to five years.

Chapter 341 (S 361) created a new G.S. 14-34.1, "Assault by Discharging a Firearm into an Occupied Dwelling." This new enactment was in turn amended by one portion of the Omnibus Riot and Civil Disorder Act, H 321 (described in greater detail in a later section of this article), to broaden and clarify its provisions. This enactment, as amended by the Omnibus Riot and Civil Disorder Act, now provides that

Table 1

Penalty Reduction by Chapter 1224

G.S. §14-	Penalized Conduct	Former Maximum Penalty
35	Hazing of students	2 years, fine, both
40	Enticing minors out of state for employment	$500-$1,000 fine
47	Communicating libelous matter to newspaper	2 years, fine, both
48	Slandering innocent woman	2 years, fine, both
78.1	Corn-trading without permission of owner	2 years, fine
82	Temporary taking of horses or mules	2 years, fine, both
86	Destroying or taking soft-drink bottles from bottler	2 years, fine
105	Failing to apply security to advance to which it was pledged	2 years, fine, both
107	Drawing or passing worthless check	(See note below)
108	Obtaining property from vending machines with false coins	2 years, fine, both
109	Manufacture or sale of devices for cheating vending machines	2 years, fine, both
110	Obtaining benefits at hotels without paying and with intent to defraud	2 years, fine
111	Fraudulently obtaining credit at hospitals and sanatariums	2 years, fine
111.1	Obtaining ambulance service without intending to pay (applicable in certain localities	2 years, fine
111.2	Obtaining ambulance service without intending to pay (applicable in certain localities)	2 years, fine
112	Fraudulently obtaining merchandise on approval	2 years, fine, both
113	Obtaining money by false representation of physical defect	2 years, fine, both
113.6	Obtaining property or services by false credit devices	2 years, fine, both
114	Fraudulent disposal of mortgaged personal property	2 years, fine, both
115	Secreting property to hinder enforcement of lien	2 years, fine, both
118.2(b)	Assisting another in obtaining academic credit by fraudulent means	2 years, fine, both
118.3	Obtaining information about hospital patient for fraudulent purposes	2 years, fine
129.1	Selling or bartering Venus fly trap	2 years, fine
132	Disorderly conduct in public buildings	2 years, fine, both
133	Erecting artificial islands in eastern, public waters	2 years, fine, both
134	Trespassing on land after being forbidden	2 years, fine, both
142	Injuring dams or water channels of mills or factories	2 years, fine, both
143	Taking unlawful possession of another's house	2 years, fine
144	Injuring houses and other structures	2 years, fine, both
157	Felling trees on telephone and electric power lines	2 years, fine, both
158	Interfering with telephone lines	2 years, fine
160	Willful and wanton injury to personal property causing damage of $200 or less	2 years, fine, both
163	Injuring livestock not enclosed by lawful fence	2 years, fine
164	Injuring hired personal property	2 years, fine, both
166	Subletting hired property	2 years, fine, both
167	Willful failure to return hired property	2 years, fine, both
168	Hiring animals or vehicles with intent to defraud	2 years, fine, both
184	Unlawful fornication and cohabitation	2 years, fine, both
186	Occupying hotel room for immoral purposes or false registration as husband and wife	2 years, fine, both
188	Keeping a disorderly house (under common law)	2 years, fine, both
190	Indecent exposure; presentation of immoral shows	2 years, fine, both
193	Exhibiting obscene or immoral pictures	2 years, fine, both
194	Circulating publications barred from the mails	2 years, fine, both
199	Obstructing way to places of public worship	2 years, fine, both
200	Disturbing religious assemblies by certain exhibitions	2 years, fine, both
223	Obstructing a public officer in discharging duties	2 years, fine, both
224	Failing to aid police officers after lawful command	2 years, fine, both
225	Making false reports to police radio broadcasting station	1 year, $500 fine, both

Table I (Continued)

G.S. §14-	Penalized Conduct	Former Maximum Penalty
227.3	Secret listening to jury deliberations or prisoner-lawyer conference	2 years, fine, both
235	Speculating in claims against towns, cities, and state	2 years, fine
238	Soliciting during school hours without permission of school head	2 years, fine
251	Violation of provisions preventing abuse of publicly-owned vehicles	2 years, $1,000 fine
269	Carrying concealed weapons	2 years, fine
270	Sending, accepting, or bearing challenges to fight duels	2 years, fine, both
272	Disturbing gatherings and meetings	2 years, fine
273	Disturbing schools and temperance meetings	2 years, fine, both
275	Disturbing religious congregations	2 years, fine
281	Operating trains and streetcars while intoxicated	2 years, fine
284.1(e)	Violation of regulations on sale, reporting, and storage of explosives	2 years, fine, both
286	Giving false fire alarms or tampering with fire alarm system	2 years, fine, both
287	Leaving unused well open and exposed	2 years, fine
313	Selling cigarettes to minors	2 years, fine
314	Aiding minors in obtaining cigarettes	2 years, fine
314	Refusal by minor to identify one assisting him in obtaining cigarettes	2 years, fine, both
319	Marrying a female under sixteen years old	2 years, fine, both
327	Adulterating liquors	2 years, fine, both
331	Giving intoxicants to unmarried minors under seventeen	2 years, fine
332	Selling intoxicants to unmarried minors	2 years, fine, both
336	Vagrancy (second or subsequent offense)	2 years, fine, both
339	Entering house, kindling fire, or carrying weapon by tramp	12 months
343	Unauthorized dealing in railroad tickets	2 years, fine, both
344	Selling athletic tickets for more than printed price	2 years, fine
345	Buying or selling cotton at night	2 years, fine, both
346(b)	Selling convict-made goods unlawfully	2 years, fine, both
346.1	Unauthorized selling of bay rum	2 years, fine, both
346.2	Selling nonessential merchandise on Sunday	2 years, fine, both
348	Hiring servant who has unlawfully left employer	2 years, fine, both
353	Influencing agents and servants in violating duties to employers	2 years, fine, both
360	Cruelty to animals	2 years, fine, both
361	Promoting cruelty to animals	2 years, fine
362	Bearbaiting and cockfighting	2 years, fine
363	Conveying animals in a cruel manner	2 years, fine
365	Failing to show hide and ears of livestock killed running at large	2 years, fine, both
366	Molesting or injuring livestock	2 years, fine, both
368	Placing poisonous shrubs and vegetables in public places	2 years, fine
369	Wounding, capturing, or killing homing pigeons	2 years, fine, both
380.1	Bribery of officials or judges of horse shows	2 years, fine, both
380.2	Failure by officials or judges of horse shows to report bribe attempts	2 years, fine, both
383	Failure to remove trimmings from trees cut within 400 feet of town watershed	2 years, fine, both
386	Erecting signals in imitation of railroad signals	2 years, fine
389	Selling Jamaica ginger	2 years, fine, both
393	Failing to keep records of ginseng purchases	2 years, fine, both
397	Using name of denominational college in connection with a dance hall	2 years, fine
400	Tattooing a minor	2 years, fine
401.1	Tampering with examination questions	2 years, fine, both
401.2	Collecting claims by private detective	2 years, fine, both
401.3	Erecting a gravestone charging someone with commission of crime	2 years, fine, both
401.5	Practicing phrenology, palmistry, fortune telling, or clairvoyance	1 year, $500 fine, both
401.6	Possession of tear gas	2 years, fine
401.10	Failing to disclose name of law enforcement association for whose publication advertisement is being solicited	2 years, fine

Table 1 (Continued)

G.S. §14-	Penalized Conduct	Former Maximum Penalty
408	Failing to keep records of weapons sale or to list weapons for taxes	2 years, fine
415	Violation of regulations on sale of fireworks	2 years, fine, both
422	Violations of laws prohibiting handling of dangerous reptiles	2 years, fine, both
424	Engaging in the business of debt adjusting	2 years, fine, both
431	Violation of laws prohibiting glue sniffing	2 years, fine, both

Note: Chapter 1224 expressly stated that it was to apply to G.S. 14-107 as it might be amended by 1969 legislation. A separately introduced act, Ch. 1014 (H 1260), however, duplicated the punishment reduction, but did not include a similar provision making it applicable if G.S. 14-107 were amended. The effect of this act is treated in the section of this paper dealing with crimes against property.

discharging or attempting to discharge a firearm into an occupied building or into any conveyance or enclosure while it is occupied is a general felony.

A new offense of "assault on emergency personnel" is discussed in the section on civil disorder and campus disruption.

Another portion of the Omnibus Riot and Civil Disorder Act rewrites the present statutes (G.S. 14-49, -49.1, and -50) making a felony of the use of various explosives against persons or property to include within the proscriptions of those statutes the use of any incendiary devices or material as well as the use of explosive devices and materials already covered by these sections. A new section 14-50.1, defining "explosive or incendiary device or material," is also added.

A revision of the present assault laws was accomplished by two acts, Chapter 602 (H 681) and Chapter 618 (H 682). Formerly, G.S. 14-32 provided that an assault was felonious only when done with a deadly weapon with intent to kill and when serious injury not resulting in death was inflicted. The rewrite accomplished by H 681 provides that assault with a firearm or other deadly weapon per se inflicting serious injury is a felony punishable by fine or imprisonment up to five years or both, as is assault with a firearm with intent to kill. The felony assault that had existed (with a deadly weapon with intent to kill inflicting serious injury) was made a general felony; it had been punishable by imprisonment between four months and ten years. In tidying up the language of the old section, the new bill refers to a person who assaults with a deadly weapon ". . . with intent to kill and inflict serious injury. . . ." The bill was intended to read ". . . a person who assaults . . . with intent to kill and inflicts serious injury. . . ." (italics added), thus retaining the old meaning, but an error apparently was made in the engrossing process.

G.S. 14-33, the section establishing levels of punishment for different kinds of misdemeanor assaults, was rewritten by Chapter 618 into G.S. 14-33 and G.S. 14-33.1. The theme of the restructuring was the creation of a new distinction between simple and aggravated assault and the isolation in a new G.S. 14-33.1 of the provisions dealing with the impact of evidence of former threats by the victim upon defendant's plea of self-defense.

In essence, the old G.S. 14-33 had provided that all assaults were to be punishable by a fine not exceeding $50 or imprisonment not exceeding thirty days except when serious damage was done, a deadly weapon was used, there was intent to kill, or it was done by a male over 18 on a female or by a person over 18 upon a person under 12, in which cases it was punishable as a general misdemeanor.

The new statute preserves the basic pattern, but changes somewhat the definitions of, and punishments applicable to, the more serious offenses. The provision that the assaulter be over 18 for the more serious punishment to apply in case of assaults on children under 12 or on women is dropped, and the punishment becomes a fine not exceeding $500 or imprisonment not exceeding six months, or both. Assaults in which serious damage is done are similarly punished. Assault with any kind of force likely to inflict serious injury, and not only with a "deadly weapon," is made one of the more serious assaults, and assaults on public officers attempting to discharge official duties becomes a wholly new category of more serious assaults (formerly, the victim's being a public officer was irrelevant to the determination of the appropriate level of punishment). The changes in G.S. 14-33 are charted in Table II.

CRIMES AGAINST PROPERTY

Burglary and Breaking and Entering

Chapter 543 (H 475) is aimed at clarifying the provisions defining the crimes of burglary and breaking and entering. It rewrites G.S. 14-54, -55, -56, and -57 with the primary effect of defining the crimes

established in each section (burglary, breaking or entering, preparation to commit burglary, breaking or entering railroad cars, and burglary with explosives, respectively) as occurring if the breaking or entering referred to in each was accompanied by intent to commit a felony *or larceny* (regardless of whether the larceny, standing alone, would have been felonious). Formerly, there had been no explicit reference to intent to commit *larceny*. These changes do not greatly affect the substance of the law, since G.S. 14-72 had already dictated that any larceny by breaking and entering of certain buildings was a felony, but the change does reduce the unnecessary complexity of these provisions. This bill also makes a couple of minor substantive changes. The provision on breaking or entering a railroad car has been expanded to also include breaking or entering a truck or trailer containing goods.

Larceny

Chapter 522 (H 474) rewrote G.S. 14-70 and -72, the basic larceny statutes. The changes in G.S. 14-70 are mainly technical; the most important change was to make applicable to felony larcenies the general provisions of law as to accessories before and after the fact.

G.S. 14-72 had provided that larceny of goods worth $200 or less was a misdemeanor unless the larceny was from the person or was done by breaking and entering certain listed buildings. These latter types of larceny were interpreted to be felonies punishable under G.S. 14-70. The 1969 change retains this pattern but alters somewhat and expands the three categories of larcenies that are felonious without regard to the value of the property stolen: (1) larceny from the person (thus retaining this category unchanged); (2) larceny committed pursuant to violations of G.S. 14-51 (first and second degree burglary), G.S. 14-53 (breaking out of dwelling house), G.S. 14-54 (breaking or entering dwelling house), or G.S. 14-57 (burglary with explosives); and (3) larceny of an explosive or incendiary device or substance.

Fraudulent Practices

Chapter 947 (S 754) rewrites G.S. 14-110 (a misdemeanor of obtaining accommodations in a hotel or boarding house without paying for them and with intent to defraud) to make any of the following actions prima facie evidence of its violation: using false pretenses, making false pretense of having baggage or property, refusing or neglecting to pay on demand for the accommodations, absconding without paying or offering to pay or surreptitiously removing or attempting to remove baggage. The act provides, however, that these provisions for prima facie evidence do not apply when a written agreement to delay payment for more than ten days has been made. Formerly, the section had made no provisions for prima facie evidence, but obtaining credit by false pretenses and absconding and surreptitiously removing baggage without paying for the accommodations had been offenses in themselves.

Chapter 876 (H 888) applies statewide the provision that when the amount due on a worthless check does not exceed $50 the punishment for the offense, of writing a worthless check may not be greater than a $50 fine or 30 days' imprisonment. (That provision had applied only to 87 counties, the last county, Brunswick, having been added in the 1969 session by Chapter 157 [H 357]). It is possible that there may be some confusion about the effect of this act since H 1260 (changing the basic punishment for worthless-check violations) was ratified later but was drafted in terms of amending G.S. 14-107 as it existed before Chapter 876 was enacted. This act goes on to add a new subsection permitting a magistrate to hear without a jury and enter judgment in worthless-check cases when the amount of the check is $50 or less. (Generally, magistrates cannot hear cases to which the defendant does not plead guilty.)

Local legislation embodied in H 915 would have permitted courts in Wake County to suspend judgment in cases of writing a worthless check not over $250 on the condition that the defendant pay the check and then pay into the court for the use of the county school fund a fine of between $10 and $200 per check. This bill was reported unfavorably.

Chapter 753 (S 702) extended to one more county, Stanly, the provisions of G.S. 14-111.2 prohibiting the obtaining of ambulance service without intending to pay. Violation of this section is now (as discussed earlier) a misdemeanor subject to imprisonment not exceeding six months or a fine not exceeding $500, or both.

Trespass

Chapter 22 (S 45) raises the penalties for two types of trespass committed upon the lands of others, effective October 1, 1969. It raises the penalty for a violation of G.S. 14-128, prohibiting the injury or removal of any material or plant on the land of another from $50 fine or 30 days' imprisonment to $500 fine or six months' imprisonment, and raises the penalty for a violation of G.S. 14-134.1, prohibiting the deposit of any trash or other debris upon the land of another without the owner's written consent or the deposit of any of those materials in a river or stream, from a fine of $50 or 30 days' imprisonment to a fine not exceeding $500 fine or six months' imprisonment, or both.

H 156, which was reported unfavorably, would have included political advertising among the kinds of advertising which G.S. 14-145 prohibits from being posted on private property without the owner's permission.

A provision in S 689, aimed generally at clarifying

the potential liability of building inspectors, would have introduced an element of willfulness and unlawfulness into the offenses of trespass on land after being forbidden (G.S. 14-134) and injuring buildings or fences (G.S. 14-159). These provisions were deleted from the bill by amendment (leaving the bill without any effect on criminal law). S 797 would have prohibited the flashing of artificial lights upon the property of another so that the light illuminated a dwelling, building, or person on the land without the permission of the owner. This bill died in committee.

A new offense of "trespass during emergency" is discussed in the section on civil disorder and campus disruption.

CIVIL DISORDER AND CAMPUS DISRUPTION

Legislation dealing with criminal laws occurred most prominently in the area of civil disorder and campus disruption. A dozen bills were introduced which would have contributed some criminal laws focused upon the problems of civil and campus disorder. Only four of those were finally enacted, partly because the substance of some of them was encompassed within the Omnibus Riot and Civil Disorder Act, Chapter 869 (H 321), which won approval of the General Assembly, thus sidestepping the demand for much of the other legislation. In addition to the criminal offenses specifically discussed in the following paragraphs, the Omnibus Riot and Civil Disorder Act also granted to local governments specific ordinance-making authority to deal with problems of civil disorder. Violation of any of these ordinances, which might deal, for example, with curfews and sale of gasoline, would also of course be a criminal offense. The details of this ordinance-making authority are presented in the article on criminal procedure in the next issue of *Popular Government*.

Disruption of Public Buildings

The Omnibus Riot and Civil Disorder Act rewrote G.S. 14-132 to broaden it to apply to disorderly conduct in and defacing of public buildings and facilities generally, rather than only publicly owned buildings. The major effect of this change is to apply the prohibition to buildings that are used publicly as well as to buildings that are actually owned publicly and to include facilities that are not buildings. Chapter 740 (H 134) raises the penalty for sit-ins in public buildings (G.S. 14-132.1) from $50 or 30 days or both to a fine up to $500 or imprisonment up to six months, or both. Chapter 1129 (S 832), to be codified as G.S. 14-288.19, provides that the willful violation of an order to leave buildings by the Governor (a power established by this section and described in more detail in the article on public education in the September issue of *Popular Government*) is a misdemeanor punishable by a fine not exceeding $500 or imprisonment not exceeding six months, or both.

Riots

The Omnibus Riot and Civil Disorder Act attempted to create a comprehensive range of coverage of the kinds of acts that might occur in a civil disorder, graduated so as to permit the punishment to be matched with the severity of the act.

At the first level is "disorderly conduct," established by a new G.S. 14-288.4. Disorderly conduct is a public disturbance caused by a person acting or behaving violently, making offensively coarse utterances, gestures, or displays that would alarm or disturb anyone present, or willfully or wantonly creating a hazardous or physically offensive condition, or behaving in any of the other ways described in the preceding paragraphs dealing with trespass in buildings. (A public disturbance is defined elsewhere as "any annoying, disturbing or alarming act or condition exceeding the bounds of social toleration normal for the time and place in question which occurs in a public place or which occurs in or affects persons in or is likely to affect persons in a place to which the public or a substantial group has access.") Disorderly conduct is punishable by a fine not exceeding $500 or imprisonment not exceeding six months.

The provisions relating to the offense of riot are codified as G.S. 14-288.2. "Riot" is made a general misdemeanor (punishable by up to two years' imprisonment) and is defined as "a public disturbance involving an assemblage of three or more persons which by disorderly and violent conduct or the imminent threat of disorderly and violent conduct results in injury or damage to persons or property or creates a clear and present danger of injury or damage to persons or property." This definition of riot is based on the common law offense, but is somewhat broadened and simplified in its scope. One feature of this definition is that a riot may occur even when there is only "the imminent threat of disorderly and violent conduct" resulting in "a clear and present danger of injury or damage to persons or property." An important distinction between the offense of disorderly conduct and the offense of riot is that the former may be committed by a single person acting alone while the latter requires an assemblage of at least three persons.

A person's participation in a riot may be a felony under three major circumstances: (1) if, in the course and as a result of the riot, property damage in excess of $1,500 occurs; (2) if, in the course and as a result of the riot, serious bodily injury occurs; or (3) if the participant has in his possession any dangerous weapons or substance. Of particular importance for the application of the felony-level punishment to a participant is the provision that injury or $1,500 worth of damage need only *occur* in the riot in which the

person was participating, not that the person himself be directly responsible for the damage.

Inciting to riot, covered in the same section, is made a general misdemeanor by this act if, as a result of the inciting or urging, a riot occurs or a clear and present danger of a riot is created. Inciting or urging another to engage in a riot is a felony, punishable by up to ten years' imprisonment, if it is a contributing cause of a riot in which there is property damage in excess of $1,500 or serious bodily injury.

A provision closely related to those of disorderly conduct, riot, and inciting to riot is failure to disperse when commanded. Under the provisions of a new G.S. 14-288.5, anyone failing to comply with a lawful order to disperse (authority for which is given to any law enforcement officer when he reasonably believes the riot or disorderly conduct by three or more persons is occurring) is guilty of a misdemeanor punishable by a fine not exceeding $500 or imprisonment for not more than six months. Also, remaining at the scene of a riot or disorderly conduct following a command to disperse after a reasonable time for dispersal has elapsed becomes prima facie evidence that the person remaining is willfully engaging in the riot or disorderly conduct.

Looting

The Omnibus Riot and Civil Disorder Act creates the offenses of "looting" and "trespass during emergency" (to be codified as G.S. 14-288.6). Before the enactment of this law, any larcenous activity during a riot or civil disorder was punishable only as a particular instance of the more general prohibitions against larceny, breaking or entering, or any of the other generally applicable provisions of the criminal law. This new law provides that anyone entering upon the premises of another without legal justification under circumstances when the usual security of property is ineffective because of a riot, insurrection, storm, or other disaster or calamity is guilty of the misdemeanor of trespass during emergency, a general misdemeanor. Such a trespass during emergency coupled with the taking, damaging, ransacking, or destruction of another's property is looting, a felony punishable by a fine not exceeding $10,000 or imprisonment for not more than five years or both. A separate bill, S 126, creating statutory crimes of riot and inciting to riot, had been introduced but, probably in light of the introduction of the Omnibus Riot and Civil Disorder Act, was never reported out of committee.

Control of Weapons During Civil Disorders

The Omnibus Riot and Civil Disorder Act includes a new G.S. 14-288.7, making the transportation or possession off one's premises of any dangerous weapon or substance during emergencies a misdemeanor. For purposes of this provision, an emergency is said to exist in any area in which there is a *declared* state of emergency, or within the immediate vicinity of a riot (whether an emergency has been declared or not). This statute exempts persons who are exempt from the concealed weapons law, including military men and federal, state, and local law enforcement officers when on duty.

Assault on Emergency Personnel

The Omnibus Riot and Civil Disorder Act creates a new G.S. 14-288.9 specifically prohibiting an assault on emergency personnel when a declared state of emergency exists in the area or is imminent. Several distinctive features of this act should be noted: (1) it applies only when a declared state of emergency exists or where a riot is occurring or is imminent; (2) it is normally a misdemeanor but is a felony if the assault is committed with or through the use of a dangerous weapon or substance; and (3) "emergency personnel" includes not only law enforcement officers but also "firemen, ambulance attendants, utility workers, doctors, nurses and other persons lawfully engaged in providing essential services during the emergency."

Occupation of Educational Facilities

Within the definition of disorderly conduct in the Omnibus Riot and Civil Disorder Act are several provisions dealing specifically with disruptive behavior that may arise at educational institutions. Specifically, disorderly conduct is defined to include a public disturbance caused by a person who "takes possession of, exercises control over, seizes, or occupies any building or facility of any public or private educational institution without the specific authority of the chief administrative officer of the institution or his representative." Disorderly conduct also occurs if a person refuses to leave a building or facility of an educational institution upon an order by the chief administrative officer of the institution or by a fireman or public health officer acting within his authority or, if a state of emergency is occurring or imminent, upon an order given by a law enforcement officer acting within the scope of his authority. Disorderly conduct is also defined to include obstructing the entry into an educational building or facility by a person entitled to use it and to include interfering with the operation of such a building or facility after being forbidden to do so by the chief administrative officer of any public or private institution or his authorized representative. Related bills such as S 101, prohibiting various kinds of obstructive activity at colleges, and S 614, attaching a criminal penalty to the obstruction of other students' "civil right to pursue school studies without hindrance," died in committee.

Trespassing On School Grounds

Two bills were introduced which dealt with trespass upon the grounds of educational institutions. H 986 would have made it a misdemeanor for any student expelled or suspended from a state-supported institution of learning to enter the campus while expelled or suspended. It was reported unfavorably. H 280 would have prohibited the possession of various weapons upon school grounds or school facilities or the remaining in school buildings or on school property in defiance of orders to leave by someone in authority. This bill would also have made unlawful various other disruptive activities that might be carried out by students on school grounds. This bill died in committee. A related act, Chapter 860 (H 802), to be codified as G.S. 116-212, -213, was successful. It permits the chief administrative officer of any state-supported institution of higher learning to proclaim curfews during which time it is unlawful for anyone other than university personnel, students, and a few other designated individuals to appear on the campus or designated buildings or facilities. The act also prohibits the unlawful use of sound-amplifying equipment without the permission of the administrative head of the institution during the curfew. An offense is a misdemeanor punishable by a fine of up to $500 or imprisonment up to six months, or both.

WEAPONS REGULATION

This session of the General Assembly introduced several bills aimed specifically at the control of the use and the purchase of firearms, both in general terms and in special circumstances.

Weapons at Schools and Colleges

A local act applicable only to Forsyth County, Chapter 1187 (H 674), makes unlawful the carrying or possession of any weapons including various guns, knives, and blackjacks, either concealed or unconcealed, at the public schools of Winston-Salem or Forsyth County, either on the grounds, in the buildings, or on any other school property used for the administration of the school system. The punishment for a violation of this provision is a fine of $50 to $500 or imprisonment from thirty days to six months, or both. The prohibition against carrying weapons on the school grounds does not apply to various military or law enforcement officers performing duties, to ROTC students carrying weapons in the performance of official class duties, or to anyone else carrying a weapon with proper permission.

An unsuccessful bill, S 554, would have prohibited the possession of deadly weapons on the campuses of colleges, universities, and public schools in North Carolina and would have prohibited others from going on the campuses with weapons or delivering them to students.

Gun Purchasing

G.S. 14-402, makes unlawful the sale or transfer of certain weapons, including pistols, unless the purchaser has obtained from the sheriff a permit to receive the weapon. Many counties, however, provide that the permit shall be obtained instead from the clerk of superior court. Four counties changed their provisions from sheriff to clerk as the one who issues that permit: Haywood (Ch. 6, H 40); Jones (Ch. 109, H 261); Vance (Ch. 396, H 834); Mecklenburg (Ch. 1305, H 1414). The Mecklenburg change is not effective until January 1, 1970. One county, Clay, changed from the clerk to the sheriff as the issuer of the permit (Ch. 276, H 504).

Chapter 73 (H 21) amends this section generally. The section had provided that no permit was required if the purchaser was an officer authorized by law to carry firearms. The amendment specifies that he is exempt from the permit requirement only if he identifies himself to the seller as such an officer.

Chapter 101 (S 103), codified as G.S. 14-409.1 and -409.2, affirmatively permits North Carolina citizens to purchase rifles, shotguns, and ammunition for them in states contiguous to North Carolina and defines "antique firearm."

Crimes with Firearms

A bill, H 191, that would have punished the use of firearms in crimes, was never acted upon in the Senate. The House committee substitute would have imposed an additional sentence of up to six months on one convicted of a first offense of misdemeanor assault and an additional sentence of six months to two years on a subsequent offense. One who used a firearm in committing a felony would have been subject to an extra sentence of one to five years for a first offense and five to ten years for a second offense.

G.S. 14-288.7, a portion of the Omnibus Riot and Civil Disorder Act, controls the possession of weapons during civil disorders. It is discussed in the earlier section on civil disorder and campus disruption.

Weapons of Mass Death and Destruction

G.S. 14-288.8, included within the Omnibus Riot and Civil Disorder Act, makes it a misdemeanor to manufacture, assemble, possess, store, transport, sell or offer to sell, purchase, offer to purchase, deliver or give to another, or acquire any weapon of mass death and destruction. The definition of the phrase "weapon of mass death and destruction" is substantially based upon a definition in the Federal Gun Control Act of 1968, and includes bombs, bazookas, cannons, machine guns, grenades, sawed-off shotguns, and so on. This section exempts a number of persons from its prohibitions if they have any legitimate reason for dealing with these weapons.

CRIMES AGAINST PUBLIC ADMINISTRATION

The Electoral Process

The only successful bill dealing with the electoral process introduced in this session of the General Assembly was Chapter 1039 (S 13), which expanded the prohibition of G.S. 163-147 on loitering or electioneering near a voting place from 50 feet to 500 yards on the day of a primary or election. One other was unsuccessful. H 37 would have made it a felony for any presidential elector to vote for the presidential candidate of a party other than the one for which the elector was nominated unless that elector had been released from his obligation by the presidential and vice-presidential candidates of his party.

Interfering with the Court Process

Chapter 1128 (S 831) creates a new G.S. 14-227A making a misdemeanor of the violation of any injunction, restraining order, or other court order issued for the purpose of providing public safety or order or of preventing disorderly conduct. This act provides that it is not to affect the contempt powers of the courts and that the offense is punishable by a fine not exceeding $250 or imprisonment for not more than thirty days or both. H 753 was reported unfavorably by a Senate committee. It would have raised the penalty for intimidating or interfering with jurors and witnesses from a general misdemeanor to a felony with a fine up to $5,000 or imprisonment up to ten years or both.

Self-Dealing

Chapter 1027 (S 837) seems intended to clarify the application of G.S. 14-234 to public assistance programs. That section generally prohibits directors of public trusts from making contracts in that capacity for their own benefit. The provision added by Chapter 1027 makes clear that a member of a public assistance board can furnish direct public assistance to needy individuals under the terms of a program the board administers if the program in which he participates as a contractor is open to all members of his profession or occupation and so long as the board itself does not control which providers of assistance are selected by the beneficiaries of the assistance. The act also provides that in any such case the remuneration paid to the board member must be the same as would have been paid to any other provider and that the board member may not participate in deciding any claim for his own remuneration.

CRIMES AGAINST THE FAMILY

Two acts passed by this session of the General Assembly are aimed at promoting family stability. Chapter 81 (S 48), codified as G.S. 14-320.1, forbids anyone from taking a child under sixteen from within to outside the state or from keeping him outside the state with intent to violate a court order awarding custody of the child. The act provides that keeping a child outside of the state in violation of a court order for over seventy-two hours is prima facie evidence of intent to violate the court order at the time of taking and that violation is a felony punishable by imprisonment not exceeding three years or fine, or both.

Chapter 807 (H 20) adds a new G.S. 14-322.2 making it a misdemeanor for the parent of a physically handicapped child or a mentally retarded child who becomes eighteen years of age and is unable to be self-supporting willfully to fail and refuse to provide support for that child. The bill provides that failure to provide the support is a continuing offense after the eighteenth birthday of the child until the child is able to become self-supporting.

CRIMES AGAINST PUBLIC MORALITY

Drug Abuse

Four bills were introduced concerning the laws relating to drug abuse. Two of them were successful. Chapter 970 (S 468) makes wide-ranging amendments in G.S. Chapter 90 relating to narcotic, barbiturate, and stimulant drugs. Probably the most significant of these is a provision that in certain cases the first offender for possession of some kinds of drugs will be punished as only a misdemeanant instead of as a felon, as formerly provided. More specifically, this provision applies when the defendant is charged with possession of one gram or less of dried cannabis flowers or marijuana or one-tenth of a gram or less of other forms of cannabis. Other changes made by this act include a more detailed definition of "narcotic drugs" and a new definition of "opium poppy." Among other features of the act are a series of new subsections placing conditions upon the circumstances under which some preparations may be sold commercially when they contain small amounts of narcotics or similar substances. These new subsections include provisions that the person making the purchase under these circumstances must be doing it for the purpose of using the preparation as medicine and not in order to skirt the provisions of the drug-abuse law, that the purchaser shall not receive more than one fluid ounce of paregoric during any consecutive 24-hour period without a prescription, and that any preparation sold shall have affixed to it by the pharmacist or physician a label showing the name and address of the doctor or pharmacy. The new law also adds a section making it unlawful (and thus, under the punishment provisions of the article of which the section becomes a part, punishable by a fine not over $1,000 or imprisonment up to two

years for a first offense and punishment as a general felony on subsequent offenses) for a person to represent himself in any way as a licensed practitioner entitled to receive drugs. An apparent oversight in the statutory section relating to the sale of barbiturate or stimulant drugs has now been corrected by making sale of those drugs a specific offense. Formerly, only the possession of them for the purpose of sale was an offense. In addition, the act also makes a minor change whereby the growing of opium poppy becomes illegal as well as the growing of marijuana.

Chapter 970 also transfers several sections that were formerly codified elsewhere to Chapter 90 of the General Statutes. Those sections have varying degrees of relevancy to the other content of the chapter. Two of the sections, G.S. 14-390 and -390.1, prohibit the furnishing of intoxicants, barbiturates, stimulant drugs, poison, narcotics, deadly weapons, cartridges, or ammunition to inmates of charitable or penal institutions. Apparently it was the inclusion of drugs among the much broader range of articles forbidden to be transferred to prisoners which justified its inclusion in the Chapter 90. The other transfer of existing sections was of those provisions formerly in Chapter 14 relating to glue-sniffing—Article 57, consisting of G.S. 14-427 to -431. The thrust of those sections is the prohibition of inhaling glue fumes for the purpose of causing intoxication, using or possessing glue for that purpose, or the sale of glue to be used for that purpose. Although the content of the sections was transferred without any apparent change in the wording, it nevertheless seems that the transfer had a fairly substantial effect on the punishment relating to the glue-sniffing offenses. An amendment previously introduced had reduced the penalties for these offenses to a fine of $500 or imprisonment not exceeding six months, or both. When, however, the sections were transferred to Chapter 90, the offenses seem to have returned to their former status as general misdemeanors.

The transfer of sections to Chapter 90 also has the effect of giving the State Bureau of Investigation original (though not exclusive) jurisdiction over crimes described by the transferred sections, since it has that jurisdiction over offenses set out in Articles 5 and 5A of Chapter 90.

Res. 74 (S 567) creates a Study Commission on the Illegal Use of Drugs. The general charge to this legislative study commission is to make a comprehensive and thorough study of the traffic in and use of harmful drugs in North Carolina, with "drugs" defined broadly. The study is to include consideration of present facilities used not only in detection but also in prevention and treatment of the use of illegal and harmful drugs and is to make recommendations for their improvement. The Commission is specifically charged to include within its considerations the laws relating to the use of illegal and harmful drugs. The Commission is an eleven-member body with two members appointed by the Lieutenant Governor from the Senate, two appointed by the Speaker of the House from the House, and seven members named by the Governor, including a faculty member of a public high school, a faculty member of one of the medical schools in the state, a student in a North Carolina college or university, a representative of a local law enforcement agency, a member of the State Bureau of Investigation, and two other members chosen at the discretion of the Governor. The Commission will choose its own chairman and vice-chairman and is authorized to employ professional and clerical staff and to seek gifts or grants for carrying out its work. The Commission terminates upon filing its final report and recommendations with the 1971 General Assembly.

H 822 and H 823, which attempted to raise the penalty for the use of narcotics and barbiturates, respectively, were both unsuccessful. H 822 would have raised the penalties for violations of the law relating to unlawful use and distribution of narcotics. The proposed heavier punishment are set in parentheses: for a first offense, imprisonment up to five years and fine up to $1,000 (imprisonment for five to ten years and a fine of a least $3,000); for a second offense, five to ten years' imprisonment and a fine up to $2,000 (10 to 20 years' imprisonment and at least a $5,000 fine); and for a third and subsequent offense, 15 years to life imprisonment and up to $3,000 fine (life imprisonment and a fine of at least of $10,000). H 823 would have raised the penalties for violations relating to unlawful use and distribution of barbiturates to imprisonment between two to five years or a fine between $1,000 and $3,000, or both. The punishment is now set at a fine up to $1,000 or imprisonment up to two years, or both.

Respect for the Dead

Chapter 987 (S 812) amended G.S. 14-148 to make clear that its provisions prohibiting the unlawful removing or defacing of monuments of tombstones were not to prevent cemetery operators from exercising their powers to use and care for cemeteries. H 830, reported unfavorably in the Senate, would have made it a misdemeanor (punishable by a fine up to $50 or imprisonment not exceeding thirty days) to park a motor vehicle in a public or private cemetery between sunset and sunrise without permission of the cemetery owner. The prohibition would have applied to both occupied and unoccupied vehicles.

Gambling

H 1218, which remained in a House committee, would have amended G.S. 14-290, dealing with lotteries, to make clear that any consideration sufficient to support a contract would be a subject matter the lottery of which was illegal.

Table II

Changes in Misdemeanor Assault

Type of Assault in Old G.S. 14-33	*Punishment Under Old G.S. 14-33*	*Corresponding Type of Assault in New G.S. 14-33*	*Punishment Under New G.S. 14-33*
By person 18 or over on child under 12	Fine, imprisonment up to 2 yrs., both	On child under 12	Fine up to $500, imprisonment up to 6 mos., both
By male over 18 on female	Fine, imprisonment up to 2 yrs., both	By male on female	Fine up to $500, imprisonment up to 6 mos., both
Inflicting serious damage	Fine, imprisonment up to 2 yrs., both	Inflicting serious damage	Fine up to $500, imprisonment up to 6 mos., both
With deadly weapon	Fine, imprisonment up to 2 yrs., both	With deadly weapon or other means or force likely to inflict serious injury or serious damage	Fine, imprisonment up to 2 yrs., both
With intent to kill	Fine, imprisonment up to 2 yrs., both	With intent to kill	Fine, imprisonment up to 2 yrs., both
[No such separate classification in old law]		Inflicting serious injury	Fine, imprisonment up to 2 yrs., both
[No such separate classification in old law]		On a public officer discharging or attempting to discharge	Fine, imprisonment up to 2 yrs., both
Other misdemeanor assault	Fine up to $50, or imprisonment up to 30 days	Other misdemeanor assault	Fine up to $50, or imprisonment up to 30 days

Creating Offensive Conditions

Chapter 457 (S 451) creates a new Article 1A (G.S. 110-20.1) entitled "Exhibition of Children" in Chapter 110 of the General Statutes. This new article prohibits the exhibition of a child under eighteen years of age who is mentally ill or retarded or who gives the appearance of having a deformity or unnatural physical formation or development. It generally prevents such an exhibition for any purpose if the exhibition is public and prohibits it even in private if the purpose of the exhibition is for entertainment or primarily for the satisfaction of the curiosity of an observer. The act specifically prohibits anyone to make such exhibitions or to employ, have custody of, or in any way be associated with such a child for one of those purposes. It also forbids one who has the care, custody, or control of such a child to neglect or refuse to restrain the child from participating in such an exhibition, and the law forbids the procuring or arranging for or participating in the arrangement of anything otherwise made unlawful by the act. The major exception to these provision is a subsection that exempts from the prohibitions of the act a transmission of images by a licensed television station, exhibitions by federal, state or local governments; or exhibitions by charitable, religious, or educational organizations whose shareholders do not benefit from the net earnings of the exhibition. The article provides that any violation is a misdemeanor punishable by a minimum fine of $5 and a maximum of $50 or imprisonment for not more than thirty days, or both. Each day during which a violation of the article continues after notice to the violator from a county welfare director is regarded as a separate and distinct offense.

NUISANCES

Littering

Chapter 22 (S 45) raises the penalty for several offenses (mentioned elsewhere), including depositing trash or debris in a river or stream, from a fine of $50 or thirty days' imprisonment to a fine not exceeding $500 or six months' imprisonment, or both. Two other provisions relating to littering failed. H 555 would have amended G.S. 14-399, prohibiting littering upon rights of way, to add a provision that a person who was proved to be operating a motor vehicle at the

time at which trash or refuse was thrown or dropped from it would be regarded as a prima facie violator of the section. H 969 would have amended the same section of the General Statutes to raise the minimum fine for violation from $10 to $20 and the maximum from $50 to $100.

Drunkenness

S 334, which failed second reading in the Senate, would have changed the penalty for a first offense of public drunkenness under G.S. 14-335 from a fine or imprisonment in jail for not more than 20 days to a fine of not more than $50 or imprisonment for the time confined while awaiting trial. The bill also would have required that a conviction of a subsequent offense of public drunkenness be punishable by a fine of not more than $50 or by a commitment to the Department of Correction for an indeterminate sentence of 30 days to six months. The law now is that a subsequent conviction may result in either such a fine or in such a commitment to the Department of Correction or in a jail term of not more than 20 days. Thus, the effect of the amendment would have been to remove from the judge the discretion to grant a local jail term upon a subsequent conviction.

False Ambulance Requests

H 341 was a local bill unfavorably reported. It would have included Catawba County under the provisions of G.S. 14-111.3, which prohibits making willful attempts to obtain unneeded ambulance service or false requests for ambulance service.

MISCELLANEOUS CRIMINAL OFFENSES

H 210, which would have substantially rewritten G.S. 14-256 with the primary effect of raising most escapes from misdemeanors to felonies, was reported unfavorably in the House. H 1088 would have rewritten the same section in a somewhat different way to accomplish the same end. It died in committee.

S 610, an effort to provide legislation to deal with cigarette bootlegging, was reported unfavorably by a Senate committee. This bill would have made unlawful the purchase, transportation, or possession of cigarettes in North Carolina for the purpose of selling or reselling them illegally in another state and would have made the sale or purchase in North Carolina on six consecutive days of more than 5,000 cigarettes by anyone other than a duly licensed retail dealer in the state prima facie evidence of violation of the act. It also would have made transportation in North Carolina in any conveyance of more than 5,000 cigarettes at one time or the possession of that number at one time by anyone other than a licensed cigarette dealer or common carrier prima facie evidence of a violation. The bill would have required law enforcement officers who discovered these violations to seize all the cigarettes in the conveyance used and to arrest the violators (making provisions for the return of the conveyance to the suspect upon the posting of a bond). The bill also made provisions for the disposition of seized cigarettes and other property and provided that a violation would be a felony punishable by a fine up to $5,000, imprisonment up to five years, or both.

H 1140, reported unfavorably by a Senate committee, would have forbidden the publishing of the names of many crime victims. The names forbidden to be published by this bill would have been those of victims of rape, nonconsensual intercourse, intercourse with a child, sexual perversion, or indecent behavior with a child. Violation of the act was to have been a misdemeanor punishable by a $500 fine, imprisonment for up to a year, or both, but publications or communications necessary to official investigation, prosecution, or defense of a civil or criminal proceedings were exempted from its provisions.

REGULATORY OFFENSES

As invariably occurs, the General Assembly passed a number of regulatory bills that relied in part upon criminal penalties to enforce some of their provisions. Table III lists these enactments.

Table III

New Regulatory Offenses

Bill No.	*Penalized Conduct*	*Max. Punishment*
H 521	Practicing landscape architecture without required registration	2 years, fine, both
H 810	Violating provision relating to poultry quarantines	6 months, $500, both
H 970	Violating provision relating to registration of mining operators	30 days, $50, both
S 385	Violation of provision governing hatcheries and chick dealers	6 months, $500, both
S 642	Practicing nursing home administration without license or violating provisions governing nursing home administration	2 years, fine, both
S 657	Operation of unregistered passenger tramway	2 years, $50 per day, both
S 792	Selling artificially colored bread or rolls	First offense: $25; subsequent offense: 2 years, fine, both

HEALTH

By David G. Warren

Health legislation enacted in the 1969 General Assembly cut across a number of state agencies and affected the practice of several health professions. Measures affecting health were considered primarily in the two health committees, one chaired by a senator who is a medical doctor and the other by a representative who is a woman, but several other Senate and House committees also dealt with significant health matters.

Of critical importance to governmental health programs every session are the appropriations requests of the State Board of Health, the State Department of Mental Health, the Medical Care Commission, universities, and others engaged in various health services and education efforts. In a session faced with rising costs and expanded programs and with finding new sources of revenue to meet the higher budget, not all of the requests for health money were met.

Other significant legislation enacted affects some of the licensing laws (particularly osteopaths and physical therapists), environmental health (air pollution and solid wastes), alcoholism, ambulances, hospitals, and vital statistics.

APPROPRIATIONS

The most notable of the appropriations measures enacted seem to be in the area of personal health: funding of the state portion of Title XIX (Medicaid) so that increased medical assistance to the needy can begin on January 1, 1970; financial assistance for the first time to the two private medical schools in the state and continuation of the financial support of all diploma schools of nursing, first given in 1967; funding of expansion projects and programs at the UNC school of medicine to permit more medical students; and appropriations to strengthen the children's programs of the state's mental health program and to establish a fourth alcoholic rehabilitation center in the state. There were also funds for the State Board of Health to begin a matching financial assistance program for fluoridation of municipal water supplies.

Some of the appropriations requests which were not met included state aid to counties for local health department work ($3.2 million requested in the State Board of Health budget), another $5 million item for counties which would have provided their portion of the Title XIX program, money to provide new staff personnel at state mental hospitals, and a day care center licensing program.

PERSONAL HEALTH

Doctor Shortage

The report of the Legislative Research Commission on its study of the physician shortage included a number of recommendations that were acted upon. In recognition of the critical need for more health manpower input, resolutions were passed which (a) urged the Boards of Education and Higher Education actively to pursue the strengthening of science and other facets of premedical education in schools (Res. 103, S 200); (b) asked the medical societies, guidance counselors, and others to promote interest in medical careers (Res. 43, S 198); (c) requested all three of the state's medical schools to increase their output of practicing physicians by increasing the classes, accelerating the educational process, and orienting medical education toward practice (Res. 104, S 199);

and (d) directed the 1969-71 Legislative Research Commission to make a broad study of health manpower supply and distribution problems and potential solutions, including changes in the health care system (Res. 55, H 306).

Medical Schools

The Commission report generated considerable discussion about the needs of medical schools, resulting in the restoration of $10 million in capital appropriations for preclinical, clinical, and hospital facilities needed at Chapel Hill to expand the medical school classes to 100 or more. Also for the UNC medical school, $400,000 was given to new programs for special teaching of North Carolina medical students and teaching of outpatient or ambulatory care (Ch. 1107, H 300) and for training physicians for family and community medicine (Ch. 1108, H 307).

The focus on medical schools brought about two other important developments. There was a special appropriation (Ch. 1273, H 653) for grants to the Duke and Bowman Gray medical schools based on $2,500 for each North Carolina student enrolled, provided that the school increases the number of entering North Carolina students each year. A stated purpose of that act is to encourage the schools to orient students toward personal health care in the state and to foster family and community medicine, but the grant is tied only to the residency factor. Another special appropriation of $375,000 (Ch. 1189, H 1199) is to be used for planning and developing a two-year curriculum for a medical school at East Carolina University; this act revived the 1965 legislation (G.S. 116-46.4) authorizing a medical school upon certain conditions that had not been met.

Nursing Practice

Over a dozen bills were introduced dealing in various ways with nursing education, credits, certification, and organization. Several passed in somewhat revised form. Two were resolutions urging the State Board of Nursing to encourage establishment of more diploma schools of nursing and to assist existing ones (Res. 58, S 341) and reaffirming that students in practical nursing schools be given credit for any registered nurse courses they had taken (Res. 50, S 365). One act (Ch. 547, S 185) directs that diploma nursing training be credited toward the B.S. degree; another (Ch. 518, S 454) provides for LPN's to receive up to nine months' credit toward an R.N. diploma for previous training and experience. Two others provide that experienced diploma school nurses can be instructors in any nursing school (Ch. 524, S 211), and that general hospitals shall not be required to have any specific number of beds to support an approved nursing school (Ch. 1079, S 369). Another measure (Ch. 1219, S 842) authorized the Medical Care Commission to encourage nonpracticing nurses to return to their profession.

Perhaps the most significant measure was the *doubling* of the state aid to diploma nursing schools, first begun in 1967, from $100 to $200 per student (Ch. 1138, H 278). And finally, one week in May was designated as Nurses Week (Ch. 520, S 542).

Licensing Laws

Two licensing acts were amended significantly. A change in the medical license law (Ch. 612, H 468; Ch. 929, H 1274) for the first time authorized graduates of osteopathic colleges approved by the American Osteopathic Association to take the examination for full medical licensure and authorized reciprocity for D.O.'s with medical licenses issued by other states. A proposal in the original bill to put an osteopath on the Board of Medical Examiners was not accepted; nor was a grandfather clause. The existing osteopathic licensing act was left on the books to allow those osteopaths not qualifying for medical licensure to continue practice. These compromises settled a long-standing controversy and added North Carolina to the list of forty-two other states that allow qualified osteopaths to practice medicine.

Second, the Physical Therapy Practice Act was rewritten (Ch. 556, S 500) to require a license for the practice of physical therapy (formerly, those who called themselves physical therapists had to be "registered") and to add a license for physical therapy assistants.

The dentistry licensing act was also amended to allow provisional licensing of out-of-state dentists until the next examination (Ch. 804, S 701).

In other changes in licensing laws, license fees were raised for both medical doctors (Ch. 929, H 1274) and optometrists (Ch. 624, S 373), and a requirement was added for continuing education courses for optometrists starting in 1970 (Ch. 354, S 372). Also, the Board of Pharmacy was directed to adopt a Code of Professional Conduct (Ch. 533, S 345).

Two new licenses were established, one for fitters and sellers of hearing aids (Ch. 999, H 965) and one for nursing home administrators (Ch. 843, S 642). Nursing home administrators must be licensed in order to qualify for federal medical assistance funding programs.

Medical Matters: Transplants, Autopsies, Examinations, etc.

The swirl of publicity about heart transplants highlighted some problems about the legal authority to use the spare parts of one human body to treat another. Many states have had some form of cadaver-bequest statute, but most of these statutes were inadequate for the advancing state of the medical art. North

Carolina's 1951 bequest law was generally suitable only for eye bank purposes. But to anticipate new developments, North Carolina became one of about 25 states this year to pass the Uniform Anatomical Gift Act (Ch. 84, H 60). This act clarifies and expands the authorization to use cadavers and parts of dead bodies for research, teaching, and transplant purposes. It provides that surviving relatives may make the gift, and also provides that any person 18 or older can give his own body by will or otherwise (including a simple card that could be carried in a wallet). Interestingly, another act (Ch. 39, H 181) changed the legal age for making wills from 21 to 18. What effect these two acts have on the legal age for giving consent to medical treatment, or for other purposes, is debatable.

A related measure (Ch. 444, S 61) revised the autopsy law. Under the new law coroners no longer have the authority to order autopsies, but the following persons do: medical examiners, prosecutors and solicitors, the decedent himself or his personal representative, and the nearest available next of kin (conveniently, in the same listed order as is provided in the anatomical gift act) or other person responsible for burial.

Nonresident physicians of adjacent states are now authorized to conduct certain examinations for workmen's compensation purposes (Ch. 135, H 155). Also, out-of-state physicians are allowed to sign the health certificates (as to absence of venereal disease) required for marriage licenses.

The physician-patient privilege in G.S. 8-53 was modified (Ch. 914, H 1134) so that any trial court, rather than only the presiding superior court judge, may compel disclosure of medical information either at the trial or prior thereto.

The immunity from civil or criminal liability was expanded to cover all persons (not just physicians) who make official reports of cancer diagnosis (Ch. 5, H 24).

ENVIRONMENTAL HEALTH

Solid Wastes Program

Garbage and refuse disposal has become a problem of increasing magnitude and concern in many localities as old-fashioned methods and unsanitary dumps have come to public attention. The State Board of Health has now been designated the agency responsible for developing a statewide solid wastes disposal program and for providing standards for the establishment, location, operation, use, and discontinuance of solid wastes disposal sites and facilities (Ch. 899, S 714). A unit of the Board was directed to make studies and surveys in order to design a comprehensive program that will include the distribution of funds under the Federal Solid Wastes Disposal Act (P.L. 89-272) to local governments.

A significant amendment was made (Ch. 1003, H 55) to the authority of counties to regulate the removal and disposal of trash and garbage outside of municipalities; it extended the application of G.S. 153-10.1 to all 100 counties.

Air Pollution

Air pollution is another new concern of government. In 1967 the Department of Water and Air Resources was established to deal with the problem on a statewide basis. Initiative in this field had been provided during the last four years by county health departments, with federally supported programs of monitoring and control. Problems of regionalism and ineffective enforcement prompted amendments (Ch. 538, S 184) to the 1967 legislation to provide new authority to city and county governing bodies to establish comprehensive air pollution control programs, including the power to prescribe and enforce regulations and orders with a possible $250 fine and daily violations as separate offenses. In many areas the program will be left in the health department but, significantly, the program can be administered directly by the county commissioners or city council or by a separate air pollution control board, or the local board of health can act as the air pollution control board, exercising the new powers in G.S. 143-215.3(a)(11). A regional program embodying contiguous counties may be set up on approval of the State Board. This allows effective regional regulation for the first time and recognizes that air pollution is not simply a local matter nor solely a health problem.

Nuisances, Safety, Inspections

Counties were also given new powers to deal with nuisance and safety problems (Ch. 36, H 57). While the local boards of health continue to have responsibility for health matters, the county commissioners can now make ordinances for the abatement and prevention of nuisances, public safety and comfort, public morals, and "better government" generally. County authority in this area had been very limited in the past.

A proposed occupational health bill (S 664, H 1091), which would have permitted the inspection and enforcement of standards in industry, did not pass. Another act (Ch. 1050, H 1329) that requires students and teachers in all schools, private and public, to wear safety goggles in all programs involving milling, welding, etc. did pass. Also passed was a new compulsory inspection act (Ch. 893, S 544) for the slaughter of animals and the preparation of meat and meat food products for distribution in the state. Other Department of Agriculture bills revised the brucellosis testing program (Ch. 465, S 386) and the quarantine authority for diseased poultry (Ch. 693, H 810). Bottle-cleaning requirements were clarified to reflect the widespread use of single-service containers (Ch. 1068, S 791).

Environmental Studies

The State Board of Education was directed to conduct a study of the feasibility of introducing instruction in the environment and natural resources into the public school curriculum (Ch. 1103, H 118).

The Legislative Research Commission was directed to study several environmental health matters: revision and recodification of the drainage and small watershed laws; local and regional water supplies; the legal framework for delivery of stored water; any other legislation concerning water and air resources, as appropriate (Sen. Res. 875); and the use, effect, monitoring, and control of agricultural and other pesticides (House Res. 1392). Also, the Commission was directed to study the cost and feasibility of teaching first aid courses in high schools (House Res. 1432).

PUBLIC HEALTH MATTERS

Vital Statistics

The vital statistics laws of the state (originally enacted in 1913) were extensively revised along the lines of a model act in use in several states (Ch. 1031, H 1060). Obsolete provisions and practices were eliminated and a number of procedures simplified. Registration will be consolidated under the local health department in all the counties (all but four counties were already so operating; burial-transit permits are no longer required simply for transporting dead bodies across county lines but still must be obtained; all live births must be reported regardless of gestation period; military deaths outside the county are no longer registered by the State Registrar of Vital Statistics but rather by the U. S. Department of State; the medical examiner's duty for signing death certificates is clarified (only a physician or the medical examiner can sign a death certificate); casket sales are no longer reportable; new fees are set out; and a restriction is added on the issuance of birth certificates for use by unauthorized persons or for unauthorized purposes. A proposed restriction on the public inspection of birth and death certificates in the registers of deeds' offices was not included. Another act (Ch. 977, S 747) provided that the place of birth of a child adopted by the spouse of a natural parent should be the actual place rather than the county of the parents' residence, if the adoptive parent so requests.

Drug Laws

An amendment (Ch. 970, S 468) to the narcotic and barbiturate drug laws slightly enlarged the definition of "narcotics"; added a user good-faith condition to "exempt narcotics"; limited the purchase with a prescription to one fluid ounce of paragoric; required the dispenser's name to be affixed to exempt narcotics; specifically prohibited impersonation of a licensed practitioner to secure drugs; incorporated the 1967 glue-sniffing law into the drug laws; and, after considerable public controversy and debate, made the possession of small amounts of marijuana a misdemeanor for the first offense rather than a felony, as it had been.

Following up the increased public concern about the drug-abuse problem, an eleven-member study commission was created (Res. 74, S 567) to study the trafficking and use of illegal and harmful drugs and to make recommendations as to the improvement and implementation of the drug laws.

Local Boards of Health

Authority was given (Ch. 719, S 479) for the expansion of county and district boards of health by two members, appointed by the ex officio members, upon request of the county commissioners.

Ambulance Service

The problem of adequate and continuing ambulance service in nearly all parts of the state was faced by the 1967 General Assembly, which enacted a law providing state standards for drivers, vehicles, and equipment and authorizing local government to deal with the problem in a variety of ways: franchising, contract, subsidy, direct governmental operation. But the problem of cost still remained, and several acts were passed this session in an attempt to improve the business aspect of ambulance service. One act made assigned-risk policies available to county and municipal ambulance services or rescue squads (Ch. 744, H 1109). Three acts added new collection procedures: ambulance services were added to the medical and hospital lien law in G.S. Art. 9, Chapter 44, by which a lien attaches to any sums received for personal injuries (Ch. 450, S 407); a general lien on real property was created in favor of counties and cities for unpaid ambulance bills (Ch. 684, S 409); and the garnishment and attachment proceedings usually available only for taxes were made available for unpaid ambulance services furnished by cities or counties in forty-two named counties (Ch. 708, H 672).

Another act authorized county commissioners to establish a five-member county ambulance commission to operate an ambulance service (Ch. 147, H 237). An appropriation of $40,000 was made to the North Carolina Association of Rescue Squads for a mobile communications center (Ch. 1136, H 227).

Laboratories

Although a broader study of clinical laboratories was proposed, the resolution that was adopted (Res. 116, S 739) directed the Legislative Research Commission to study only the possible licensing of commercial donor blood banks and related laboratory personnel.

Medical Examiner System

The state medical examiner system, created by the 1967 legislature, was given increased funding for personnel and a $720,000 laboratory in Chapel Hill. The system, still being implemented under the direc-

tion of the Chief Medical Examiner, originally permitted the temporary replacement of coroners with medical examiners in some counties. An act was passed (Ch. 299, H 611) providing that if a county had removed the office of coroner prior to June 30, 1969, under the now-expired authority of G.S. Chapter 152A, the office would be permanently abolished and replaced in whole by the county medical examiner system. There has been some confusion about this in a few counties, but a recent Attorney General's letter stated that the coroner's office must have been actually vacated prior to June 30 for this act to apply. Two defeated bills (H 184 and H 734) would have expressly allowed certain local officials to hold the office of medical examiner by ex officio provision, thus avoiding the double-officeholding question which now prevents the appointment of health directors, coroners, and other physicians already holding public office.

Cigarettes and Health

The national controversy about the effect of cigarette smoking on health did not seem to be a factor in the decision to tax cigarettes for the first time; the need for additional revenue was the overriding consideration. The economic health of the cigarette industry and tobacco farmers was cited in opposition to the tax, and a resolution was adopted (Res. 15, H 103) opposing the FCC's proposed regulation that would prohibit cigarette advertising on radio and TV. An appropriation of $300,000 was made to the University Agricultural Experiment Station to conduct research on producing tobacco products with a reduced nicotine and tar content, a lower burning temperature, or other characteristics "likely to make the products more readily commercially marketable" (Ch. 1141, H 421).

MENTAL HEALTH MATTERS

State Programs

Besides appropriations to the State Department of Mental Health for ongoing programs, new funds were given for program research and evaluation, additional children's services, and establishment of eleven new community mental health centers (in addition to the thirteen authorized by 1967 legislation). The legislative interest in mental health engendered by the late Representative John Umstead in the 1950s continues to flourish, particularly as to children. A study commission was created on emotionally disturbed children and the mental health needs of all the children of the state, including measures for prevention, educational intervention, and treatment (Res. 75, S 629).

Alcoholism

While the recommendations of the Jail Study Commission for the detention of inebriates and mentally ill "pick-ups" in public hospitals (rather than jails) were killed (S 325 and S 328), an act was passed giving clerks of superior court new options in handling such persons (Ch. 1127, S 827). When judicial hospitalization has been commenced by affidavit or court order, and the two examining physicians have found the person in need of treatment, the clerk can order outpatient treatment for up to 180 days at a local facility or program with clinical services approved by the State Department of Mental Health in lieu of sending the inebriate to a state hospital. Another act (Ch. 469, S 317) clarifies the 1967 chronic alcoholic law that authorizes the presiding judge to order hospitalization proceedings commenced for an acquitted "public drunk." Some courts had been sending such persons directly to state hospitals without the required medical examination and hearing conducted by the clerk of court.

Three acts stressed the need for more study on alcoholism: one appropriated $80,000 for a Center for Alcoholic Studies, utilizing the facilities and personnel of the University at Chapel Hill and state agencies (Ch. 1111, H 379); another created an Alcoholism Advisory Council for the Department of Mental Health, composed of representatives of the legislature, bench, bar, and alcoholism programs (Ch. 676, S 318); and another made clear that local ABC boards may give up to 5 percent of profits to nonprofit corporations and agencies engaged in alcohol education, research, or rehabilitation (Ch. 902, S 784).

One of the most publicized pieces of legislation was the Implied Consent Law (Ch. 1074, H 5), which provides that persons arrested for drunk driving may be required, subject to license revocation and right to a hearing, to submit to a chemical test of their breath or blood to determine whether it exceeds the .10 percent alcohol level. The State Board of Health was directed to establish standards for testing and to expand the Breathalyzer program, established four years ago and originally a permissive testing program, to include blood.

Other Mental Health Measures

The authority of the Department of Mental Health to require a license for private mental hospitals was clarified (Ch. 954, S 757). County commissioners were authorized to render assistance to nonprofit organizations (sheltered workshops) for the physically or mentally handicapped (Ch. 802, S 663). The titles of the Mental Health Council members were updated (Ch. 900, S 756). The Secretary of the Eugenics Board was specified to be an employee of the Department of Social Services (Ch. 677, H 437).

HEALTH FACILITIES, SERVICES, AND INSURANCE

Hospitals and Facilities

A number of county hospitals have been changed to nonprofit corporations by county commissioners.

To facilitate this transfer of operations, local governing bodies have been given authority to donate hospital property to the nonprofit corporation, even if the property was acquired and constructed from bond sale proceeds (Ch. 1119, S 717). The state income tax laws were amended to expressly permit gifts to nonprofit hospitals to be deductible (Ch. 1082, H 827).

Health Services; Medicaid

The appropriations act provided for implementation of Title XIX of the Social Security Act in North Carolina on January 1, 1970. The plan is being developed and will be administered by the Department of Social Services. It will provide medical assistance to all persons eligible for public assistance as well as for the medically indigent on a broader basis than the existing assistance plans. An advisory committee was created to advise the Department on Medicare, Medicaid, and other health and medical assistance programs (Ch. 1040, S 806).

Health Insurance

A commission was created to study various hospitalization and medical benefit plans for state employees (Res. 80, H 460). An act (Ch. 745, H 1110) provided that individual health insurance policies on mentally retarded or physically handicapped children shall continue coverage regardless of age limitations, so long as the child remains unemployable and chiefly dependent on the policyholder. Another act provides that accident and health insurance policies must provide for payments for chiropractic services (Ch. 679, H 626). Amendments to the workmen's compensation act increased the maximum weekly compensation rates for total or partial incapacity from $42 to $50 and the maximum total compensation for total incapacity or death from $15,000 to $18,000 (Ch. 143, S 173).

New Facilities and Better Use of Existing Ones

The State Board of Education was directed to develop plans for comprehensive vocational rehabilitation centers across the state which would provide medical, psychological, social, and vocational assistance to the physically handicapped (Ch. 1169, H 1320). Two separate study resolutions were adopted which directed studies to be made of unused medical facilities and the better utilization of the Eastern North Carolina Sanatorium (Res. 107, H 853) and the schools for the blind and deaf and other state health facilities (Res. 108, H 1245).

One final resolution (Res. 112, S 857) asked the Governor to study state programs relating to public and mental health, particularly as to the organization and administration of such programs. Near the end of the session, the formulation of a citizen's Committee for Better Health was announced, with former Governor Luther Hodges as chairman.

Thus, with considerable focus on health laws by this legislature, the creation of numerous study commissions relating to health, and the noticeable activity of various private efforts, the health of the state has received much public attention and promises to get more in the immediate future.

Higher Education

BY ROBERT E. PHAY

At the beginning of the 1969 session, Clarence Leatherman, Chairman of the House Higher Education Committee, said he expected that there would be major conflicts in higher education and that they would end up resembling the shoot-out at the O. K. Corral. Looking back at the session, we can say that Representative Leatherman was right. The 1969 General Assembly, like its 1967 predecessor, faced major policy decisions concerning the structure of higher education in North Carolina—most of them hotly contested. They included naming five new regional universities and adding two new campuses to the Consolidated University, enlarging and strengthening the Board of Higher Education, and authorizing doctoral programs at regional universities. Decisions on these and other issues have permanently altered the system, and how these changes will influence the direction and development of higher education in North Carolina is a matter that only time will tell.

APPROPRIATIONS

Financially, the 1969 General Assembly did reasonably well by higher education, although many requests went unfulfilled. Substantial increases over the 1967-69 biennium were made in operating (A and B) budgets for the sixteen senior public institutions of higher education, but capital improvement funds (C budget) were cut back substantially. The total increase in state money for all budgets of the sixteen senior public institutions and the Board of Higher Education is $34 million, or a 14 percent increase over the preceding biennium.

Higher education received appropriations of $267,402,000 for operating costs during the 1969-71 biennium (Ch. 807), which includes for the first time $32 million in matching state social security and retirement funds. This appropriation represents an increase of 35 percent over the preceding biennium.[1] Appropriations for capital improvements, however, were substantially reduced. A total of $76,754,500, as compared with $135,691,850 for the 1967-69 biennium, was authorized for construction of facilities (Ch. 755). Of this $77 million, $41 million is state money, while $36 million will come from nonstate sources such as revenue bonds to be liquidated by student fees and receipts, federal funds, and private grants and gifts. The $41 million in state money represents a 40 percent reduction from the $68 million in state money appropriated in 1967-69 (For a breakdown of current operating and capital outlay appropriations by individual institution, see the Board of Higher Education's publication *Higher Education in North Carolina*, Vol. IV, No. 8 [July 28, 1969].)

1. Matching social security and retirement appropriations are included in the $267,402,000 total figure, but the salary increase for state employees subject to the State Personnel Act is not included. Appropriations for social security and retirement purposes were not included in computing the percentage increase because these appropriations were not considered as part of the higher education budgets in the 1967-69 biennium. They were accounted for separately.

THE BOARD OF HIGHER EDUCATION

The North Carolina Board of Higher Education received a biennial appropriation of $4,240,396, a substantial increase over the preceding biennium, particularly in the Board's administrative budget. The Board will reallocate most of this appropriation ($3 million) to the sixteen public institutions of higher education for research and study, in carrying out the Board's statutory responsibility for planning and promoting a "sound, vigorous, progressive, and coordinated system of higher education. . . ." Included in the money to be reallocated are $1.3 million in catch-up funds for predominantly Negro colleges, $.65 million for institutional research and development, $.54 million for work-study programs, and $.35 million for Duke University and Wake Forest University (Bowman Gray) medical schools. The Board will also advise on the allocation of $8,268,210 by the Advisory Budget Commission. This sum includes $1.25 million to strengthen administrative staffs and equalize faculty salaries, $4 million to strengthen library funds, $2.3 million for new degree programs, and $.68 million for the operation of computer services.

A major influence in shaping higher education legislation this session was the State Board of Higher Education's special report, *Planning for Higher Education in North Carolina*. Two and a half years in the making, this report represents—according to the Board—the most comprehensive long-range planning study of higher education ever undertaken in this state. Based on more than 70 studies, the report made 118 specific recommendations.

The most controversial of these was that a central agency plan and coordinate higher education with responsibility for reviewing all institutional budgets and then preparing a single budget request for all institutions of higher education. Governor Scott may have gone a long way in accomplishing this recommendation in his adopted reorganization plan of the Board. In an attempt to strengthen the Board and establish the basis for more orderly planning in higher education, the Governor recommended and the General Assembly enacted a reorganization plan that increased the Board's membership from 15 to 22 (Ch. 400). Seven ex officio members were added to the present membership. They include the Governor, as Chairman of the Board, and the chairmen of the Senate and House Committees on Appropriations, Finance, and Higher Education. With two-thirds of the Advisory Budget Commission added in the new membership, probably neither the Board nor the Commission will be the same. The restructured Board of Higher Education will have a new look and possess a political clout not enjoyed before. The Advisory Budget Commission—which has served much like a super-board of higher education in finances, with its line-by-line control over college and university budgets—will have a majority of its members serving on the Board, with new perspectives and a better understanding of higher education as a likely result. It will be interesting to see how the Board and the Commission will be affected by this dual membership arrangement.

A number of actions were taken in the area of medical and nursing education, including the General Assembly's urging that the Board find ways to strengthen science and premedical education in both the public schools and institutions of higher education. The article on health legislation in this issue discusses this body of legislation.

THE UNIVERSITY OF NORTH CAROLINA

Two new branches were added to The University of North Carolina by the 1969 General Assembly. Asheville-Biltmore College and Wilmington College were redesignated as The University of North Carolina at Asheville and The University of North Carolina at Wilmington (Ch. 297). These colleges, following the statutory procedures outlined by G.S. 116-2.1 for the addition of new campuses to the University, had asked on more than one occasion and as far back as 1962 to become part of the University. After studying the University's long-range goals, the UNC Board of Trustees recommended to the State Board of Higher Education that the two colleges be made campuses of the University. The Board, in a special report on the UNC proposal, recommended to the General Assembly that these state colleges be so designated, but limited primarily to undergraduate education, and with doctoral programs for these new campuses not to be considered before 1975-76.[2] The General Assembly, without placing statutory restrictions on program, made the colleges the fifth and sixth institutions of the Consolidated University, so that it now has campuses in the far western and far eastern parts of the state.

The medical school at Chapel Hill received approximately $10 million to expand its operation and increase its enrollment. An increase from 75 to 85 students has been announced for the incoming fall class, with an expected increase to 160 per class by 1976. A new Department of Family Medicine was also funded (Ch. 297), along with special teaching programs for North Carolina medical students and family physicians to improve community medical care (Ch. 1107). These programs and appropriations reflect the considerable concern about medical care in North Carolina. This subject is discussed more fully in the article on health legislation.

Other acts that have particular significance to the University include (1) the proposed constitutional amendment that property accruing to the state from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons no longer be ex-

2. Report on the Proposal of the University of North Carolina to Add Campuses at Asheville and Wilmington, North Carolina Board of Higher Education, March, 1969.

clusively appropriated to The University of North Carolina but be used to assist needy students attending any public institution of higher education in the state (Ch. 827); (2) the extension for two years of the authority of the UNC Board of Trustees to issue revenue bonds for service and auxiliary facilities and the increasing of the maximum interest rate on revenue bonds from 6 percent to 7.5 percent (Ch. 1236); (3) the amendment of G.S. 116-44.1 to authorize the trustees to lower speed limits and provide for removal of cars on the campuses of the University (Ch. 1011); (4) the exemption of trustees from having their positions declared vacant because of temporary service in the national guard (Ch. 1126).

REGIONAL UNIVERSITIES

The regional university was created by the 1967 General Assembly as a new tier of institutions between The University of North Carolina and the senior colleges. After A & T University, Appalachian State University, East Carolina University, and Western Carolina University were designated regional universities in 1967, only eight public senior colleges remained. This arrangement was not destined to last. Two of the eight became new branches of the Consolidated University, as already described. Of the remaining six colleges, all but the North Carolina School of the Arts obtained redesignation as regional universities. They are: Elizabeth City State College, which became Elizabeth City State University (Ch. 801); Fayetteville State College, which became Fayetteville State University (Ch. 801); North Carolina College, which became North Carolina Central University (Ch. 608); Pembroke College, which became Pembroke State University (Ch. 388); and Winston-Salem State College, which became Winston-Salem State University (Ch. 801). Since the School of the Arts is in a special category, the result of these changes is to eliminate the state's public colleges and leave North Carolina with fifteen universities. (See the map of public institutions of higher education below.)

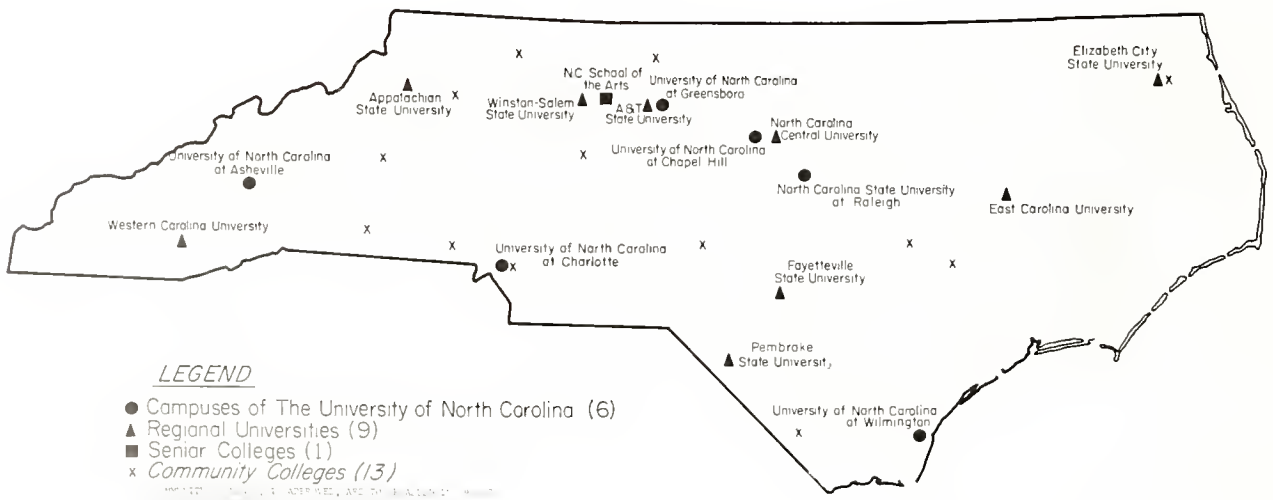
Besides establishing these colleges as regional universities, the General Assembly rewrote G.S. 116-44.10(b) to authorize regional universities to confer doctoral degrees and marks of distinction and eliminated the provision in G.S. 116-15 that only The University of North Carolina may award the doctor's degree (Ch. 532). Before it was passed, safeguards were added to the bill to provide both that no doctoral program shall be offered before the Board of Higher Education finishes its study of the proper role of regional universities in the state's system of higher education (to be completed no later than July 1, 1972) and that no public senior educational institution shall request the General Assembly, Advisory Budget Commission, or other state agency to approve or fund new degree programs or educational functions until such a request has been approved by the institution's board of trustees and acted upon by the Board of Higher Education.

CAMPUS DISRUPTION

Public concern over disruptions in the public schools and on college campuses was reflected in the large number of bills introduced on this subject. More than twenty were introduced dealing with various aspects of the problems of riots, civil disorders, and campus unrest. Among the enacted bills that higher education administrators will need to be familiar with are these:

• *Omnibus Riots and Civil Disorders Act.* This act clarifies the powers of local governments to impose

PUBLIC COLLEGES AND UNIVERSITIES IN NORTH CAROLINA
1969



curfews and take riot-control measures (Ch. 869). It enacts G.S. 14-288.4, which defines a statutory offense of disorderly conduct. It prohibits disruptive acts relating to buildings and facilities of public or private educational institutions such as unauthorized occupation. Also enacted is G.S. 14-288.18, which authorizes the chief administrative officer of any public or private educational institution, or his authorized representative, to apply for an injunction "if a state of emergency exists or is imminent within his institution."

• *Disorderly Conduct and Injuries to Public Buildings.* G.S. 14-132 was rewritten to make it a misdemeanor to engage in disorderly conduct or commit a nuisance in or near a public building or unlawfully deface a public building or facility. Such an offense is punishable by a fine of up to $500, imprisonment up to six months, or both (Ch. 869, Ch. 1224).

• *Public Building Evacuation.* A new G.S. 14-288.19 authorizes the Governor to order public buildings evacuated during public emergency or imminent threat thereof in order to maintain public order or afford adequate protection for lives or property (Ch. 1229). Violation of the order is a misdemeanor punishable by a fine of up to $500, imprisonment up to six months, or both.

• *Sit-ins in Public Buildings or on Highways and Streets.* The punishment for sit-ins in public buildings as prohibited by G.S. 14-132.1 was increased to a fine of up to $500, imprisonment up to six months, or both (Ch. 740). The same punishment now applies to a violation of G.S. 20-174.1, which provides that "no person shall willfully stand, sit or lie upon the highway or street in such a manner as to impede the regular flow of traffic."

• *Curfews on Campuses of State-Supported Institutions of Higher Education.* A newly enacted G.S. 116-212 authorizes the chancellor or president of any state-supported institution of higher learning to declare a curfew on his institution as to all persons who are not faculty members, staff personnel, currently enrolled students, or certain designated persons including the news media. The statute omits any requirement that the chancellor or president in question find that a state of emergency exists or is imminent before imposing a curfew. Unauthorized persons coming on to or remaining on a campus in violation of the curfew may be punished by a fine not to exceed $500 or imprisonment not to exceed six months, or both.

• *Prohibiting Sound-Amplifying Equipment During Curfews.* A newly enacted G.S. 116-213 prohibits the use of sound-amplifying equipment on a campus subject to a curfew "in an educational, administrative building, or in a facility owned or controlled by the State or a State institution of higher learning, or upon the campus or grounds of any such institution, without the permission of the administrative head of the institution or his designated agent. . . ." Violation of this statute is a misdemeanor punishable by a fine of up to $500, imprisonment up to six months, or both.

• *Revoking Student Scholarships.* The newly enacted G.S. 116-174.2 requires the revocation of all state-financed scholarships and grants to students enrolled in a state-supported college, university, or community college who are convicted or enter a plea of guilty or nolo contendere or who forfeit an appearance bond on an indictment or charge for "engaging in a riot, inciting a riot, unlawful demonstration or assembly, seizing or occupying a building or facility, sitting down in buildings they have seized, or lying down in entrances to buildings or any facilities, or on the campus of any college, university, or community college. . . ." Students who have had scholarships or loans revoked may be considered for state financial assistance in subsequent academic terms (Ch. 1019).

• *Scholarships for Children of War Veterans.* G.S. 165-22.1 was amended to provide that if the recipient of a scholarship granted by the Department of Veterans Affairs "engages in riots, unlawful demonstrations, seizure of educational building, or otherwise engages in disorderly conduct, breaches of the peace or unlawful assemblies," the scholarship may be suspended or revoked (Ch. 741).

A number of highly publicized campus-disorder bills failed or died in committee. They include:

S 101—Would have made it a misdemeanor to refuse to vacate a college building or facility.

S 126—Would have prohibited a person convicted of rioting or inciting a riot from attending or being employed by a state institution of higher education.

S 554—Would have made the possession or ownership of deadly weapons on a college campus a misdemeanor.

S 614—Would have given a student a civil action against a student whose disruptive conduct interferes with the other's schooling.

H 530—The "Mohn" bill; the 1969 version of the speaker ban.

H 551—The "Watkins" bill; would have required a mandatory six-months-to-four years' expulsion for students and dismissal of faculty who disrupt operations of educational institutions.

H 808—Would have required students enrolled in institutions of higher education to sign a contract that they will refrain from engaging in unlawful activities calculated to disrupt the institution. Violation of the contract would have constituted grounds for immediate suspension or expulsion. Failure of the institution to apply the act would have been grounds for immediate withdrawal of state funds.

H 986—Would have made it a misdemeanor for students expelled or suspended from state-supported institutions of higher education to reappear on campus.

In reviewing the disruption-control bills the General Assembly chose to enact or reject, one can say that despite the substantial public pressure upon the General Assembly to solve problems of school unrest through new statutory law, the legislature was fairly selective in its enactments in this emotion-charged area. Governor Scott must be given considerable credit for alleviating legislators' fears over campus disruptions by means of the strong stand and quick action he took in handling crisis situations. In the end, the opinion expressed by many legislators that adequate legislation already existed to handle this problem prevailed.

STUDENT SCHOLARSHIP PROGRAMS

Eight student financial aid programs are financed in whole or in part by state appropriations. They are: (1) prospective public school teacher scholarship-loan program; (2) scholarships for students planning to become teachers of mentally retarded children; (3) scholarships for physically handicapped students; (4) scholarships and loans for medical, dental, and paramedical students; (5) scholarships for students in certain mental health fields; (6) scholarships for children of veterans; (7) the college work-study program; and (8) the guaranteed student loan program. These eight student financial aid programs were funded for the coming biennium with a few changes. The scholarship program for children of war veterans was extended to include children of Vietnam veterans (Ch. 720) and to permit a recipient to attend a private North Carolina educational institution. Heretofore, scholarships in this program were granted only to students enrolled in state institutions. G.S. 116-174.1, which authorizes minors of seventeen and older to borrow for post-secondary education, was rewritten to remove the 6 percent interest ceiling and to clarify its language (Ch. 1073).

A legislative commission to study student financial aid was established to consider the creation of a statewide student assistance program for North Carolina residents attending public or private institutions in the state. The Commission will have twenty-one members—five senators, five representatives, nine gubernatorial appointees, and the chairmen of the Board of Higher Education and the Board of Education. The Board of Higher Education is to provide the Commission's staff. The Commission is to report its findings to the 1971 General Assembly.

PUBLIC SUPPORT OF PRIVATE INSTITUTIONS OF HIGHER EDUCATION

The 1969 General Assembly took a major step in providing state financial support for private education. Several substantial appropriations were made that will provide assistance to private institutions in the field of medical education. Some may be surprised to know that this is not the first time North Carolina has given direct financial assistance to private higher education, nor is this assistance all that is being given at the present time. Direct financial assistance dates back to 1841, when the state made a $10,000 loan to Wake Forest College.[3] Today the states provides financial support to private higher education in numerous ways, including: (1) payment to out-of-state private institutions for North Carolina residents to study medicine, dentistry, veterinary medicine, social work, and special education; (2) seven different student financial aid programs available to students attending private North Carolina institutions; (3) income tax deductions of $600 for parents of college students; (4) income tax deductions for gifts to colleges; and (5) money payments to diploma schools of nursing.[4]

Medical care, a primary concern of the state at this time, was the basis for most of the state assistance to private educational institutions. An appropriation of $350,000 was made for the biennium for the education of physicians at the Duke and Wake Forest (Bowman Gray) schools of medicine in the hope that more North Carolina residents will be admitted as students and that the two medical schools will orient their students toward personal health care and family and community health medicine in this state. Funds are to be disbursed to these schools if they admit more students who are North Carolina residents. An allocation of $2,500 for each North Carolina resident in the classes admitted during the 1969-71 biennium will be made, with $250 of this amount to be credited to the annual tuition of those students. The Board of Higher Education will operate this program and allocate the funds.

The legislature also appropriated $650,000 to assist three-year hospital programs of nursing education leading to a nursing diploma. Most of these programs are based in county or church-related hospitals. This program is administered by the State Board of Education. The money will be allocated on the basis of $200 per student to accredited nursing programs. This appropriation continues a program established by the 1967 legislation and increases the per-pupil grant from $100 to $200.

In its financial assistance to private educational institutions, North Carolina joins a national trend in increased public support for private educational institutions. The constitutional problem in state assistance to sectarian institutions is that it may constitute an "establishment of religion" in violation of the U. S. Constitution's First Amendment. The prohibited "establishment" does not appear to exist in the types of assistance now authorized, but this is a possible

3. See William S. Powell, *Higher Education in North Carolina* (1964), p. 8.

4. See North Carolina Board of Higher Education, *Planning for Higher Education in North Carolina* (1968), p. 254.

basis for challenging existing or future state assistance programs. It is interesting to note that a bill (H 926) was introduced that proposed an amendment to the State Constitution to prohibit the appropriation or expenditure of public funds to aid a sectarian or private educational institution. This bill garnered little support and was tabled by the House.

The general question of state assistance to private higher education in North Carolina is being studied by the Board of Higher Education, and a report with recommendations is expected for the 1971 General Assembly.

CONSTITUTIONAL PROPOSALS

The General Assembly approved seven changes to the State Constitution that will be voted on at the general election in November, 1970. Two of these proposals have particular significance to higher education. The first is a proposed revision of the present Constitution that eliminates obsolete and unconstitutional provisions and modernizes the language. In the proposed revision, the education article, Article IX, rewrites sections 6 and 7, two of the three sections dealing specifically with higher education, and renumbers them as sections 8 and 9. These rewritten sections will provide for the maintenance and management of *all* state institutions of higher education and selection of their trustees and provide for the extension of institutional "benefits" free of expense, to the extent practicable. In the existing Constitution, these sections provide only for The University of North Carolina, the only extant state institution of higher education when the present Constitution was written.

A separately proposed constitutional amendment deals with escheats—property coming to the state as sovereign by reason of the death of an owner who left no heirs or will making other disposition of the property (Ch. 827). Since 1789, escheats have been assigned to The University of North Carolina. For almost a century, this was the only continuing state support of the University and was used for a variety of purposes. More recently it has been used for scholarships. With a principal of approximately $5,500,000, the annual net income of approximately $180,000 was distributed to the campuses of the Consolidated University on a per capita student basis. Under the proposed constitutional amendment, after June 30, 1971, all escheats will be used to aid worthy and needy students of the state who are enrolled in any North Carolina public institution of higher education, except that the present principal of $5,500,000 will remain with the University. If the amendment is approved by the people, the General Assembly must set up the machinery for handling this scholarship system.

OTHER LEGISLATION

Other important enactments in the area of higher education include:

- *E.C.U. Medical School.* A total of $375,000 was authorized by special appropriation for East Carolina University to plan and develop a two-year school of medicine curriculum as authorized by G.S. 116-46.4 (Ch. 1189). East Carolina University received another special appropriation to its school of allied health professions. A sum of $237,605 was appropriated for the school's operating budget (Ch. 1299).

- *Faculty Retirement Study.* The Legislative Research Commission is directed to study the state's retirement system as it relates to faculty members and administrators in public institutions of higher education. The Commission is to determine whether changes in the system should be made to help the institutions recruit personnel. The Commission is to report its findings and recommendations to the 1971 General Assembly (Res. 76). Numerous liberalizing changes were made in the State Retirement System and a commission created to study the system. They are discussed in the article on state personnel in this issue of *Popular Government.*

- *Department of Administration Approval of Nonstate-Funded Projects.* G.S. 143-34.2 requires state-supported institutions to submit to the Department of Administration information concerning requests for nonstate funds of projects imposing obligations on the state. This statute was amended to require state institutions to submit to the Department of Administration a statement "of participation in any contract, agreement, plan, or request for nonstate funds (including federal funds)" (Ch. 1210).

COMMUNITY COLLEGES

The community college system continued to receive very good treatment from the General Assembly. A total of $84,460,260 was appropriated for the operation of the state system of community colleges and technical institutes, an increase of $29 million over the 1967-69 appropriations.[5]

The community college system also continues to grow in number of institutions. In the 1967-69 biennium, one technical institute was converted to a community college and seven technical institutes were added to the system, to give a total of fifty institutions. This legislature authorized the creation of four new technical institutes and the conversion of three existing ones to community colleges. The technical institutes that were authorized to expand their curricula to include the two-year college-parallel program are those in Caldwell, Onslow, and Pitt counties. All three changes are subject to the approval of the State Board of Education, the Governor, and the Advisory Budget Commission. If they are approved, the number of community colleges in North Carolina will

5. The total appropriation figure includes matching state social security and retirement funds. Because they were accounted for separately in the 1967-69 biennium they are not included in the $29 million-increase figure.

increase from 13 to 16. The new technical institutes approved by the General Assembly are for Henderson, Johnston, Person, and Vance counties. Funds for the Person unit were appropriated for the second year of the biennium. If the addition of these units is approved, the total number of institutions in the community college system will increase from fifty to fifty-four.

An amendment to G.S. 115A-5 gives the State Board of Education new authority to provide financial support to extension units for matching capital outlay purposes. Heretofore, financial support was available only for operating and equipping extension units. New authority also was given to institutional boards of trustees in the disposition and handling of property. Subject to the approval of the State Board of Education, boards of trustees may sell, exchange, or lease real or personal property owned or held by the local board when they find the property to be unnecessary or undesirable for the purposes of the institution. The procedure is to be in "the same manner as is provided by law for the sale, exchange, or lease of school property by county or city boards of education." Thus boards of trustees will use the procedure set out in G.S. 115-126 or—in the case of sale, exchange, or lease with a governmental unit—the new procedure set out in G.S. 160-61.2. Proceeds from the sale or lease must be used for capital outlay purposes.

Another important statutory change was an amendment to G.S. 115A-1 providing that the major purpose of both community colleges and technical institutes is and shall continue to be the offering of vocational and technical education and training and a basic high school-level academic education needed to profit from vocational technical education for students who are either high school graduates or beyond the compulsory age limit of the public school system and have left the public schools.

Besides the legislation just reviewed, several local acts applying to particular institutions were also passed, plus a number of enactments with statewide significance in such areas as retirement and campus disruption that affect the community college system. These have been discussed either in the first part of this article or in other articles in these legislative issues.

The Institute Calendar for December

D.C.P. Short Course	1- 3 8
City and County Planners	5- 6
Court Reporting Seminar	5- 6
Superior Court Judges Seminar	5- 6
Soil Conservation Seminar	8
University Trustees Conference	10-11
M.P.A. Seminar	11-12
District Court Prosecutors and Assistant District Court Prosecutors	12-13
Driver License Hearing Officers	15-17
Mayors and Councilmen School	16-18
Magistrates School	19-21

Continuing Schools

Police Administration	9-11
Municipal and County Administration	11-13

Motor Vehicles

AND HIGHWAY SAFETY

By George M. Cleland

Most of the motor vehicles-highway safety legislation to pass the 1969 General Assembly and become law works to clarify existing law and make the enforcement of existing law more certain. Several of the new laws—Implied Consent, Safe Tires, and Habitual Offenders—indicate the determination of highway safety forces within the General Assembly. Before the General Assembly convened, even the most optimistic persons and agencies professionally concerned with highway safety would not have predicted the passage of these measures.

Statistically, the 1969 legislature came in behind its most recent predecessors by passing 45 percent (52) of the 115 bills and resolutions introduced affecting Chapter 20 of the General Statutes. Comparable figures for recent sessions are: 53 percent, 124 introductions/66 passed in 1967; and 48 percent, 123 introductions/59 passed in 1965. But in terms of substance with respect to motor vehicles and highway safety, the 1969 General Assembly compares favorably with any of its predecessors.

This General Assembly enacted two pieces of legislation that will have a direct influence on highway safety while not affecting Chapter 20. Both the appropriations measure that provides fifty more highway patrolmen and the gasoline tax measure, which will generate funds to eventually upgrade the state's highways, should have a decided effect on the highways and their safe use.

UNIFORM DRIVER'S LICENSE ACT

Definitions

G.S. 20-6 was affected by two bills. The first (Ch. 1000, H 1165) changes the definition of "chauffeur" to exempt from the term drivers of farm buses and activity buses for nonprofit organizations when such buses are being used for nonprofit purposes. Previously, only the drivers of church or school buses were exempted from the definition "chauffeur." Like church or school bus drivers, farm and activity bus drivers must hold a valid operator's license. The legislation also adds the requirement that all persons exempted from the definition of chauffeur by reason of the type of busing activity, and who are under twenty years old, must be certified and licensed to operate a North Carolina school bus.

A definition of "resident" was added to G.S. 20-6: "Resident—any individual who resides within the state for more than a temporary or transitory purpose for more than six months shall be presumed to be a resident of this state; but absence from the state for more than six months shall raise no presumption that the individual is not a resident of the state" (Ch. 561, H 348).

Although G.S. 20-6 has always contained a definition of "non-resident," the determination of residency for purposes of the Uniform Driver's License Act was usually accomplished administratively by using general case law in other areas as a guide.

Operators' and Chauffeurs' Licenses

The portion of G.S. 20-7(f) dealing with renewal of licenses by persons serving in the Armed Forces on active duty (paragraph 2) was rewritten (Ch. 183, S 73) to include, besides servicemen serving on active duty, any resident who holds a North Carolina operator's license and who is temporarily residing outside of North Carolina. "Temporarily" is defined to mean "not less than thirty days continuous absence." For either the serviceman on active duty or the licensed resident temporarily residing outside of North Carolina, the Department may waive the examination and color photograph ordinarily required for license renewal. In both cases, however, the Department may now impose, in lieu of examination and photograph, such conditions as it thinks appropriate for each application. Before this legislation was passed, the Department could require only statements as to the physical condition of the serviceman-applicant and his ability to operate a motor vehicle safely. The new legislation also provides that licenses issued under this special privilege shall be designated as temporary and are to expire thirty days after the licensee returns to North Carolina.

G.S. 20-7(i)(1) was added to provide a fee of $10 for restoration of operators' or chauffeurs' licenses to persons whose privilege to operate a motor vehicle in North Carolina has been suspended, canceled, or revoked (Ch. 783, H 1217). The restoration fee is in addition to any and all other fees required for licensing. The basic licenses fees [as per G.S. 20-7(i)] remain $3.25 and $4.75 respectively for operators' and chauffeurs' licenses.

G.S. 20-7(1-1) deals with the issuance of restricted instruction permits effective on a school-year basis or shorter trial periods for applicants enrolled in driver training programs. Though the applicants under the section have not yet reached legal age to be eligible for an operator's license, they may receive the permits for professionally supervised instruction. Driver training programs contemplated by this section must be "approved by the State Superintendent of Public Instruction" (Ch. 865, H 1126). Previously programs of driver training as provided for under G.S. 20-88.1 ("criteria and standards approved by State Board of Education") qualified without provision for qualitative evaluation of any sort. Approval of a driver education program was not required, and the authority of the Superintendent of Public Instruction to organize and administer such programs was imprecise. The new legislation shifts authority for driver training programs to the Superintendent.

Minor's License Application

The G.S. 20-11(b) restriction that learners operating under a temporary learner's permit (minors between 15½ and 16 years of age) may operate only "during daylight hours" has been deleted (Ch. 37, H 84). Now such learners may drive at any hour of day or night provided that they have their temporary learner's permit in their immediate possession and are accompanied by a parent or guardian who is licensed to operate a motor vehicle in North Carolina and who is actually occupying the seat beside the driver-learner.

Duplicate Licenses

The fee for duplicate licenses (G.S. 20-14) was raised from 50 cents to $1 (Ch. 783, Sec. 2, H 1217). In 1967 the fees for operators' and chauffeurs' licenses were raised 75 cents each to their present levels ($3.25 and $4.75 respectively) to offset the increased cost of processing licenses with color photographs, which were authorized by the 1967 General Assembly. The fee for issuing duplicate licenses to replace lost or destroyed licenses or to reflect address change was overlooked in 1967. The old 50-cent fee did not cover the cost of producing the new license.

Implied Consent

The 1963 General Assembly enacted what is commonly known as an "implied consent" law (G.S. 20-16.2). The basis of so-called implied consent laws is that when a person elects to use the highways of a state, by implication he gives his consent to chemical testing of his person to determine the alcoholic content of his blood if he is suspected of driving under the influence of intoxicating liquor. In North Carolina this boiled down to breath testing for drunk driving. Enforcement of the implied consent law suffered from the fact that suspected drunk drivers (driving under the influence) could refuse to submit to chemical testing of their breath. Evidence of a defendant's refusal to submit to breath testing was admissible at his trial, but while this was coercive, it was not compelling.

This past legislature sought to make enforcement of the implied consent law more certain. Accordingly, the implied consent law was rewritten to provide mandatory (administrative) sixty-day license revocations for refusal to submit to chemical testing of breath or blood where driving under the influence of intoxicating liquor is suspected (Ch. 1074, H 5). While the rewriting incorporates much of the language of the earlier implied consent statute, the addition of both the mandatory revocation concept and the blood-testing option brings it more nearly into line with implied consent statutes generally. Basically, the law provides that when a person operates a motor vehicle on North Carolina highways, or virtually any other public area (see G.S. 20-139.1), he consents to chemical testing of his breath or blood for purposes of determining the alcoholic content of his blood. When he is arrested for any offense arising out of acts alleged to have been committed while he

was driving under the influence, chemical testing is to be administered at the request of a law enforcement officer who has reasonable grounds to believe the person was driving while intoxicated.

Unlike its predecessor, the new implied consent statute makes provision for more than a single test: "test or tests." The law enforcement officer designates the type of chemical testing to be administered. As a matter of practice, the "Breathalyzer" will be the means most often used to accomplish the chemical testing. The Breathalyzer is a relatively inoffensive and accurate device which measures blood alcohol on the basis of a breath sampling.

A person arrested for driving under the influence and requested to submit to chemical testing must be advised of his right to have an attorney present and to select a witness to view the testing procedures on his behalf. However, the law gives the accused only thirty minutes from the time he is notified of these rights to execute them; otherwise the test will proceed without further delay. If a person is unconscious or otherwise incapable of refusal, he will not be deemed to have withdrawn his consent to chemical testing.

Clearly no person will be required to submit to chemical testing over his willful refusal to comply with the request of a law enforcement officer. But the Department of Motor Vehicles, upon proper notice of the refusal of a person arrested for drunk driving to submit to the test, is summarily to revoke his driving privilege for sixty days. This mandatory revocation is tempered somewhat by the fact that if the person arrested is acquitted of the charge, his driving privilege is restored immediately on notice to the Department. The law also establishes a procedure for administrative hearing at the timely request of the accused on issues pertinent to the revocation. Appeal from the Department of Motor Vehicles hearing may be made to superior court.

The implied consent statute applies to nonresidents as well as residents, and when a nonresident's driving privilege has been revoked in North Carolina by virtue of this law, the Department is required to forward information of the action taken to the motor vehicle administrator of the state of the person's residence and any state from which he holds a license.

The act rewriting the implied consent law makes various changes having to do with testing and methods of testing as established in G.S. 20-139.1. These will be dealt with later in this article.

The whole issue of implied consent was fought long and hard in this General Assembly and probably prompted as much debate and controversy as any issue to confront it. The resulting law is a compromise between those favoring a strong implied consent law featuring absolute and irrevocable license suspension for chemical test refusal and those who feel uneasy about any encroachment into the area of a person's private rights, privileges, and liberties.

Revoking Licenses of Mental Incompetents, Alcoholics, and Habitual Users of Narcotic Drugs

G.S. 20-17.1 was rewritten to authorize the Commissioner of Motor Vehicles, on receipt of notice that a person has been legally adjudged incompetent or has been admitted to an institution for treatment of mental illness, alcoholism, or drug addiction, to make inquiries as to the person's competence to operate a motor vehicle. Upon finding that the person is unable to operate a motor vehicle competently, the Commissioner is to revoke his license (Ch. 1125, S 817). The old G.S. 20-17.1 provided for automatic revocation of a license of a mental incompetent, alcoholic, or habitual user of narcotic drugs. The new law provides that any driving privilege revoked under this section is not to be restored unless the Commissioner is satisfied that the person can drive safely. The new law retains the Commissioner's lines of communication for discovering mental incompetence, alcoholism, or habitual use of narcotic drugs and enlarges somewhat upon them by providing that he may make agreements with various institutions to carry out the reporting function required in cases involving persons so afflicted. An important aspect of the act is that it provides immunity for institution heads releasing the information contemplated by this section and allows the physician/patient privilege (G.S. 8-53 and G.S. 8-53.2) to be circumvented in order to provide the Commissioner with essential information. The act further provides that information of this nature supplied to the Commissioner is to remain confidential and grants the same protection to the Department of Motor Vehicles regarding the information as the agency or individual that submitted it had. The protection precludes criminal or civil action against the person submitting the information required by the act. New G.S. 20-17.1 provides for administrative review of revocations made under it as under G.S. 20-9(g)(4).

Probation on Restoration of License

G.S. 20-19(e), which deals with the restoration of licenses permanently revoked because of a third or subsequent conviction for driving under the influence of intoxicating liquor or narcotic drugs after three years of good behavior, was amended to add the provision that when a license is issued under the provisions of this section it may be issued upon such terms and conditions as the Department of Motor Vehicles may see fit to impose. (Ch. 242, S 237). It does, however, limit the time for which conditions may be imposed by the Department to three years.

Surrender of Revoked or Suspended Licenses

G.S. 20-20 was amended to require that chauffeurs' licenses (and duplicates) be surrendered to the Department of Motor Vehicles when they are re-

voked or suspended (Ch. 182, H 111). This section formerly applied only to operators' licenses. The change therefore merely puts chauffeurs and operators on the same footing for purposes of turning in revoked and suspended licenses.

Recognizing Federal Convictions for Drunk Driving

G.S. 20-23.2 was added this session to provide that when the Department of Motor Vehicles receives notice of conviction in a federal court sitting in North Carolina of the offense of driving while under the influence of intoxicating liquor, the Department may treat the conviction precisely as if it had been handed down in a North Carolina court (Ch. 998, H 1034). On the basis of such a conviction, the Department may revoke the driving privilege of the person convicted in the same manner as it would for a state conviction. The application of the act is limited to offenses committed on highways in federal parks located in North Carolina.

Cost of License Record

The cost of obtaining a limited extract copy of the license record (for up to three years), as set out in G.S. 20-26(c)(1), for persons, firms, and corporations other than the various state officials was increased from 50 cents to $1.00 (Ch. 783, H 1217). This change makes the cost of the limited extract copy of license record and the complete extract of license record the same, that is, $1.00.

Driving While License Is Suspended or Revoked

G.S. 20-28.1 was rewritten to make various clarifications, none of which affect the penalty provision. Whereas G.S. 20-28.1 had spoken of convictions for "moving violations" committed during a period of suspension or revocation of "drivers or chauffeurs licenses," now the section speaks only in terms of "moving offenses." New G.S. 20-28.1 provides that upon conviction for driving while the driving privilege is suspended or revoked, the Department of Motor Vehicles shall revoke the offender's driving privilege for an additional time period: one year for the first offense, two years for the second, and permanently thereafter (Ch. 348, S 222). The old law provided that the Department was to revoke the offender's license as provided in the section effective on the termination date of the previous suspension or revocation.

MOTOR VEHICLE ACT OF 1937

Definitions

The definition of "resident" as it appears in G.S. 20-38(26) was changed to conform exactly with the definition of resident added to the Driver's License Law (G.S. 20-6). The result is that for purposes of the Motor Vehicle Act, residency is presumed when a person resides in North Carolina for other than a temporary or transitory purpose for more than six months, but absence from the state for more than six months raises no presumption that the individual is no longer a North Carolina resident (Ch. 561, H 348). The old definition of residence for purposes of this section of the Motor Vehicle Law was imprecise and dealt with who continued to be a resident rather than who was a resident.

Registration and Certificates of Title

- *Security Interests on Titles.* G.S. 20-58 through G.S. 20-58.9 represented the North Carolina law with respect to security interests on certificates of vehicle title. This area of the law was entirely rewritten to conform to the Uniform Commercial Code (Ch. 838, S 85). While the essential rights, duties, and obligations of the various parties with respect to security interests in motor vehicles remain unchanged, the details are precise and exacting. The act itself should be consulted when questions arise.

- *Registration Plates under Commission Contracts.* G.S. 20-63(h) deals with the issuance by the Department of Motor Vehicles of registration plates and certificates of title locally throughout the state through contract arrangements entered into with local persons, firms, corporations, or governmental subdivisions. The commission paid in compensation to the local contract outlet was increased to 27 cents per registration plate (Ch. 1140, H 380). The previous rate was 22 cents per registration plate.

Issuance of Special Plates

- *Legislators' Plates.* By virtue of a joint legislative resolution, the registration plates assigned to members of the North Carolina House and Senate will bear the words "House" and "Senate" as they now do, but the numbering scheme to follow these designations will begin at 1 (Res. 44, S 255). Previously the numbering scheme began at 100. The registration plate number actually assigned to each legislator will correspond to his seat number within his chamber. The legislator desiring a second special registration plate will be issued another one to bear the House or Senate designation plus his seat number followed by the letter A.

- *Disabled Veterans' Plates.* G.S. 20-81.4 was added to provide free registration plates to disabled veterans beginning on and after January 1, 1970. Each veteran with a wartime or service-connected disability will be entitled to one free registration plate for either an automobile or a pickup truck (Ch. 461, H 788). The act sets out limitations and defines disabled veterans.

- *Highway Patrol Plates.* G.S. 20-84 was clarified by the addition of a paragraph providing for the assignment of a sufficient number of registration plates to

the State Highway Patrol on payment of $1 per registration plate. The addition provides for regular registration plates of the same letter prefix in numerical sequence beginning with the number 100 to meet all the requirements of the State Highway Patrol (Ch. 800, H 655). The act also provides indexing and disclosure requirements with respect to patrol plates.

Titles and Registration Fees

• *Registration Costs and Fees Generally.* As part of the Governor's tax package to provide additional revenue for the State Highway Fund, a series of increases in vehicle registration costs and fees was enacted. The increases were specific and spread over a considerable number of Chapter 20 sections, but for convenience's sake they will all be grouped here (Ch. 600, H 297).

The fees for registration of vehicles to be used in limited operation facilitating the business of foreclosure or repossession of such vehicles was increased from $15 to $19 for each registration, plus an increase from $5 to $6 for each additional set of plates issued under this section [G.S. 20-79.2(3)]. The fee for special plates for historic vehicles (G.S. 20-81.2) more than thirty-five years old—e.g., "Horseless Carriage N.C. 1934"—was increased from $5 to $6 per year in addition to other annual registration fees. G.S. 20-87.1, relating to the annual taxation of common carriers of passengers, was increased as follows: The annual license tax of common carriers of passengers is to be 56 cents (previously 45 cents) per 100 pounds of weight of each vehicle unit, plus 1.9 percent (previously 1½ percent) of the gross revenue derived from such operation. The remainder of this section was changed to conform to the new 56-cent and 1.9 percent rates. G.S. 20-87(2), relating to the taxation on U-Drive-It passenger vehicles, was increased for one-passenger motorcycles from $12 to $15, from $15 to $19 for two-passenger motorcycles, and from $18 to $23 for those with three-passenger capacity. The tax for U-Drive-It automobiles of less than nine-passenger capacity was increased from $30 to $38 per year, and those with over nine-passenger capacity (classified as buses) had the tax increased from $1.90 per 100 pounds of empty weight to $2.40 per 100 pounds of empty weight. G.S. 20-87.3, relating to "contract carrier" and "exempt for hire passenger carrier vehicles," was increased from $60 to $75 per vehicle for each vehicle of nine-passenger capacity or less, and from $1.90 to $2.40 per 100 pounds of empty weight of each vehicle of over nine-passenger capacity. G.S. 20-87(5) was changed to raise the registration fee for private passenger vehicles to $13 per passenger vehicle and $16 per private passenger vehicle of over nine-passenger capacity. Previously, the rates on private passenger vehicles ranged from $10 to $15, depending on vehicle weight. G.S. 20-87(6) was changed to increase the tax on private passenger motorcycles from $5 to $6 and to increase the tax from $10 to $13 when the motorcycles are equipped to transport additional persons or property. G.S. 20-87(7) was changed to increase the fee for license and one set of dealer's plates for manufacturers and dealers of motor vehicles, trailers, and semi-trailers from $25 to $35. Extra sets of "dealer plates" remain at $1 each. G.S. 20-87(8), which deals with the registration plates for persons, firms, corporations engaged in the business of driving new motor vehicles from the place of manufacture to the place of sale in North Carolina, was changed to increase the rate for registration and one set of plates from $100 to $125 and to increase from $5 to $6 the cost of each additional set of plates. G.S. 20-87(9) increases the registration and license fee for house trailers from $3 to $4 per year. The G.S. 20-87(10) tax for special mobile equipment was increased from $3 to $4 per license year except for vehicles on which are permanently mounted feed mixers, grinders, and mills and which carry molasses or other similar type feed additives for use in feed mixing, grinding, or milling. These are to be taxed $30 (was $25) per license year. G.S. 20-88(b), which deals with licensing property-hauling vehicles, had rate increases determined by weight as indicated in Table I.

Table I
Schedule of Weights and Rates

Rates per Hundred Pound Gross Weight	*Farmer*		*Private Hauler*		*Contract Carriers Flat-Rate Carriers, Common Carriers, Exempt Carriers*		*Common Carrier of Property (Deposit)*	
Not over 4,500 lbs.	$0.20	($0.15)	$0.40	($0.30)	$0.95	($0.75)	$0.75	($0.60)
4,501 to 8,500 lbs.	.25	(.20)	.50	(.40)	.95	(.75)	.75	(.60)
8,501 to 12,500 lbs.	.32	(.25)	.63	(.50)	1.25	(1.00)	.75	(.60)
12,501 to 16,500 lbs.	.44	(.35)	.88	(.70)	1.45	(1.15)	.75	(.60)
Over 16,500 lbs.	.50	(.40)	1.00	(.80)	1.75	(1.40)	.75	(.60)

(Figures in parentheses indicate old rates)

G.S. 20-88(b)(1) was changed to increase the minimum fee for a vehicle licensed under G.S. 20-88 (b) (property-hauling vehicles) to $12.50 at the farmer rate (was $10) and $16 at the private hauler, contract carrier, and common carrier rates (was $12). G.S. 20-88(b)(6) was changed to increase the fees for wreckers from $50 to $62.50 per vehicle weighing 7,000 pounds or less fully equipped, and from $100 to $125 for wreckers weighing over 7,000 pounds. G.S. 20-88(c) was changed to increase from $3 to $4 the fee for registration and licensing of trailers or semitrailers. G.S. 20-88(e) establishes the percentage of gross revenue derived from common carriers of property operations to be paid as tax in addition to the annual license taxes set out in G.S. 20-88; it was amended to increase this percentage uniformly throughout from 6 percent to 7½ percent. The same change was made to G.S. 20-89, which relates to the method of computing gross revenue of common carriers of passengers and property, and to G.S. 20-90, which deals with the due date of the franchise tax on common carriers of passengers and property.

Anti-Theft and Enforcement

• *Disobeying Officer Directing Traffic.* G.S. 20-114.1 deals with willful failure or refusal to comply with lawful orders or directions of law enforcement officers directing, controlling, or regulating traffic. Under the old law, uniformed regular and volunteer firemen were permitted to direct traffic and enforce traffic laws and ordinances at the scenes of fires in connection with their duties as firemen. Now uniformed regular and volunteer members of rescue squads have similar authority when they are attending accident scenes in connection with their duties (Ch. 59, H 75). The act clearly provides that firemen and members of rescue squads shall not be considered law enforcement officers for any other purposes, but equally clear is the fact that disobeying firemen and members of rescue squads when they are lawfully directing traffic or enforcing traffic laws and regulations is a criminal offense. The old G.S. 20-114.1 was permissive only and did not deal with failure to comply.

Size, Weight, and Equipment

• *Truck Length and Extension.* G.S. 20-116(d) now sets the maximum length of a vehicle having two axles at 35 feet measured from bumper to bumper and a vehicle having three axles at 40 feet (Ch. 128, H 158). For purposes of this section, a truck-tractor and semitrailer are to be regarded as two vehicles, both for determining length and for application of license taxes. Previously, all vehicles were limited to 35 feet in length, except where used in tandem, and only passenger buses having three axles were allowed a 40-foot over-all length.

• *102-Inch-Wide Passenger Buses.* G.S. 20-116(k) was added to permit the operation of passenger buses with an over-all width of 102 inches, exclusive of highway safety equipment, on North Carolina primary highways that are 20 feet wide or wider or municipal streets when federal law and regulations permit the operation of such buses on the National State Highways System (Ch. 880, H 1104).

• *Shifting Axle Weights.* G.S. 20-118(5)(b) governs cases in which vehicle owners are permitted to shift load weights over vehicle axles in order to conform with maximum weight limitations. It was changed to permit the shift of vehicle load weights that exceed the maximum allowable axle weights but do not exceed 40,000 pounds for two-axle combinations, or 60,000 pounds for any three-axle combination (Ch. 537, H 166).

• *Axle Weights.* G.S. 20-118(6) was rewritten to define single and tandem axle weights as follows: "Single axle weight—The total load on all wheels whose centers are included within two parallel transverse planes less than 48 inches apart; tandem axle weight —The total load on all wheels whose centers are at least 48 inches apart, but not more than 104 inches apart and are equipped with a connecting mechanism designed to equalize the load on all axles except that as to any vehicle equipped with tandem axles prior to July 1, 1969, the portion of this definition concerning a connecting mechanism designed to equalize the load on all axles shall not apply" (Ch. 537, H 166).

• *Safe Tires.* G.S. 20-122.1 was added to the statutes to provide that every motor vehicle subject to safety equipment inspection in North Carolina and operated on North Carolina streets and highways must be equipped with tires that are safe for the operation of the motor vehicle and do not expose the public to needless hazard (Ch. 378, S 218). The act specifies that tires are unsafe if they are cut, cracked, or worn so as to expose tire cord; if there is a visible tread separation or chunking; or if the tire has less than 2/32-inch tread depth. The act defines chunking, cord, tread, and tread depth. The new section specifies that tread depth is to be the distance, measured near the center line of the tire, from the base of the tread design to the top of the tread. Under the new legislation, the driver who is charged with a violation of the safe tires requirement is allowed a grace period of fifteen calendar days within which to bring the tires on the vehicle into conformity with the safe tire requirements; by bringing tires into conformity, the driver is provided a defense to the charge of violating the section. He is also provided with a defense to the charge by showing that the vehicle on which the unsafe tires were found has been sold, destroyed, or permanently removed from the highways. In any event, violation of the safe tire section does not constitute negligence per se.

Toward the end of the session the section was modified and some vehicles were exempted from its provisions: The 2/32-inch tread depth requirement

does not apply to dual-wheel trailers. Nor does the section apply to more than one wheel in each set of the dual wheels (Ch. 1256, S 862) on trucks owned by farmers and operated exclusively in carrying and transporting the owner's farm products, when the vehicles are approved for daylight use only and are equipped with dual wheels.

• *Brake Lining Approval.* G.S. 20-124(h) was amend- to add that after January 1, 1970, no person shall sell or offer for sale in motor vehicle brake systems any brake lining of a type or brand other than those approved by the Commission of Motor Vehicles (Ch. 787, S 602). Previously, there was no requirement that brake linings be held to any standard. Since 1955, however, G.S. 20-124(h) has required brake fluids to be of a type or brand approved by the Commissioner.

• *Small Trailer Lighting and Signals.* Recognizing that small trailers are no longer licensed by weight in North Carolina, the legislature set about standardizing the types of small trailers required to have various lighting and directional equipment. G.S. 20-125.1, which establishes the requirement for directional signals on various motor vehicles, was changed to exclude small trailers whose loaded weight does not exceed 4,000 pounds; however, the requirement that the trailer and load is not to obscure the towing vehicle's directional signals was not disturbed (Ch. 622, S 579). Likewise, G.S. 20-129 was changed to exclude from its provisions, which requires motor vehicles to have rear lamps, trailers weighing less than 4,000 pounds (Ch. 389, S 265). These sections had applied to trailers licensed for not more than 2,500 pounds. G.S. 20-129.1(4), (5), and (6), which relate to additional lighting equipment required of certain trailers, were changed to conform to the uniform 4,000-pound requirement (Ch. 387, S 274). Previously, this section had applied to the various trailers weighing more than 3,000 pounds.

Rules of the Road

• *Implied Consent—Chemical Test.* G.S. 20-139.1 was changed to accommodate the new basic implied consent law (G.S. 20-16.2) by providing for blood tests for blood alcohol content as well as for breath testing (Ch. 1074, H 5). G.S. 20-139.1 deals primarily with admissibility of evidence gained by chemical testing, testing procedures, and presumptions in driving-under-the-influence situations. The section provides that when blood testing is submitted to, the testing shall be done by a physician, registered nurse, or other qualified person. While the act provides persons legally withdrawing blood for testing purposes with immunity from criminal and civil liability for assault or battery, it does not relieve them of normal negligence liability. The presumption of driving under the influence from the presence of 0.10 percent or more by weight of blood alcohol was not disturbed. Added to G.S. 20-139.1 (apparently transferred from old G.S. 20-16.2) was a clear statement that refusal to submit to chemical test under the provisions of the implied consent law shall be admissible as evidence in any criminal action arising out of the drunk-driving situation. In this transfer, the special provision for non-jury determination of the facts of the character of chemical test refusal was lost.

• *Stopping at Railway Crossings.* G.S. 20-143, which makes provision for requiring vehicles to stop at railway crossings, was amended to delete its provision specifically requiring school trucks and passenger buses to come to a complete stop at all railroad crossings—all crossings, whether or not designated or marked (Ch. 1231, S 794). The act also establishes a new section, G.S. 20-143.1, requiring the driver of every school bus and every property-hauling motor vehicle licensed in excess of 10,000 pounds and carrying explosives or any dangerous article as cargo to stop the vehicle within fifty feet of, but not less than ten feet from, the nearest rail of any railroad crossing. While crossing the tracks, the driver of the vehicle is required to cross in a gear that will make it unnecessary to change gears, and he is not to change gears while crossing. The act excludes certain rail-crossing situations from its provisions, defines various dangerous articles of cargo in detail, and establishes the somewhat unrelated requirement that any motor vehicle transporting dangerous articles must conspicuously display a placard on each side and on the rear of the vehicle with the word "Dangerous" or the common generic name of the article (e.g., "dynamite," "explosives") transported or its principal hazard (e.g., "flammable"). Also, the rear of each such vehicle is to be conspicuously marked with the words "This Vehicle Stops At All Railroad Crossings." Specifically excluded from the provisions of the act are taxicabs and various vehicles subject to the rules and regulations of the North Carolinas Utilities Commission and the United States Department of Transportation.

Pedestrians' Rights and Duties

• *Lying on Highways.* G.S. 20-174.1, which makes it unlawful for a person willfully to stand, sit, or lie on the highways or streets in a way that impedes the regular flow of traffic, was amended to make the punishment for the violation specific: a fine not exceeding five hundred dollars ($500) or imprisonment not exceeding six months, or both in the discretion of the court (Ch. 1012, H 1270). Previously, the punishment for violation of this section had been fine or imprisonment, both at the court's discretion. Apparently the fact that specific limitations were not placed upon the punishment for violation of the section put violations of the section within that category of crimes for which, under recent North Carolina Supreme Court holdings, an indigent defendant

would be entitled to court-assigned counsel. Under current North Carolina statutory law—which is a recent and direct reflection of the disposition of the Court—the maximum punishment now specified for these "lying-in" types of violations would not fall within the category for which indigents must be assigned free counsel [G.S. 7A-501(a)(1); *State v. Morris*, 275 N.C. 50 (1968)].

Penalties

• *Drunk-Driving Penalty.* This General Assembly set maximum penalties for the first and second offense of driving under the influence of intoxicating liquor or narcotic drugs. G.S. 20-179 had previously established the minimum penalty for first-offense driving under the influence at not less than $100 or thirty days' imprisonment or both, and for the second conviction for the same offense a fine of not less than $200 or imprisonment for not less than six months or both. The General Assembly added to these provisions maximum penalties of not more than $500 nor more than six months' imprisonment, or both—for both first and second convictions of driving under the influence (Ch. 50, H 97). The minimum penalties were not changed. Here again, apparently the rationale was that under current North Carolina Supreme Court holdings, the fact that no maximum sentence was established entitled the persons arrested for first and second offenses of driving under the influence to have assigned free counsel if they could not afford counsel from their own resources. With the maximum fine and penalty at $500 or six months or both, counsel need not, under present North Carolina law, be assigned in these situations. [G.S. 7A-501(a)(1); *State v. Morris*, 275 N.C. 50]. By a later act of the legislature redesignated G.S. 20-179 as G.S. 20-179(a) (Ch. 1283, H 581).

• *Limited Driving Licenses.* The General Assembly further amended G.S. 20-179 by adding a new section (b) to permit judges to issue limited driving permits to persons convicted of a first violation of G.S. 20-179(a) (driving under the influence). By virtue of this new section, on a first conviction only, the trial judge may, when feasible as a condition of a suspended sentence, allow a limited driving privilege to be retained. The judge may issue this limited privilege for purposes relating to the health, education, and welfare of the convicted person or his family. The judge may impose upon such limited driving privilege any restrictions he wishes—including, but not limited to, conditions as to days, hours, types of vehicles, routes, geographical boundaries, and specific purposes for which the limited driving privilege is allowed. The act sets out that any limited driving privilege allowed and the restrictions imposed upon such privilege are to be specifically recorded in a written judgment and made a part of the court's official records. A copy of the judgment is to be sent to the Department of Motor Vehicles along with any operator's or chauffeur's license possessed by the person when convicted and a notice of conviction. The permit issued by the judge by virtue of this section is to be valid for the length of time determined by the trial judge, but the limited privilege period probably should not exceed the one-year time period of the general driving-privilege revocation. The permit will constitute a valid license to operate motor vehicles upon the streets and highways of North Carolina or any other state in accordance with the restrictions noted on its face, and it is subject to all the provisions of law relating to operators' or chauffeurs' licenses generally. The act sets out the specific form for the restrictive license that the judge may order. It also provides that when a person is convicted for the first offense of driving under the influence outside of North Carolina, the person convicted may apply to the resident judge of the superior court of the district where he lives for the limited driving privileges established in the act. Violations of restricted driving privileges are to be treated precisely as if they constituted the offense of driving while one's license is suspended or revoked (see G.S. 20-28). Whenever a person is charged with operating a motor vehicle in violation of the restrictions established, the limited driving privilege is to be suspended pending final disposition of the charge. This act is self-terminating and is to expire on June 30, 1971, unless continued by the 1971 General Assembly. But should the act not be continued, orders or judgments of courts issued under the act prior to expiration are to remain in force. The purpose of this self-termination provision is clearly to provide that the act be trial in nature.

MOTOR VEHICLE LAW OF 1947

Safety Equipment and Inspection

• *Safety Equipment—Small Trailers.* G.S. 20-183.2(a) was changed to increase from "2,500 pounds or less" to "less than 4,000 pounds" the gross weight standard which distinguishes between those trailers that must be annually inspected for safety requirements (the heavier ones) and those that need not (Ch. 386, S 223).

• *Self-Inspectors.* G.S. 20-183.2(c)—which required that all motor vehicle dealers in North Carolina, prior to the sale of any new or used motor vehicle at retail, have the vehicle inspected by an approved inspection station—was changed by adding a provision that the purchaser of a motor vehicle who is licensed as a self-inspector may conduct the required inspection after a written agreement with the dealer to follow such a procedure. Also added was an exclusion providing that any new and unregistered vehicle sold to a nonresident is exempt from the safety inspection requirement if the vehicle is not required to be registered in North Carolina (Ch. 219, S 214).

• *Safe Tires.* G.S. 20-183.3, which specifies the equipment to be inspected during the annual motor vehicle safety inspection, had tires added as a seventh item, so that now tires along with brakes, lights, horn, steering mechanism, windshield wipers, and directional signals are required to be in safe operating condition before the annual safety approval certificate is to be issued for a vehicle (Ch. 378, S 218).

• *Inspection Fee.* G.S. 20-183.7 was changed to increase the fee for the annual safety inspection of motor vehicles from $1.50 to $2 (Ch. 1242, H 931).

• *Automobile Inspection—Thirty-Day Grace.* A new subsection (d) was added to G.S. 20-183.8 which provides that no person shall be convicted for failing to display a current annual safety inspection certificate if he produces in court at the time of his trial a receipt from a licensed motor vehicle inspection station showing that a valid inspection certificate was issued for the vehicle involved within thirty days after expiration of the vehicle's previous inspection certificate (Ch. 179, H 330). In essence, this provides a thirty-day grace period. The same act went on to amend G.S. 20-183.2 by adding a new subparagraph (6) empowering the Commissioner of Motor Vehicles to grant special one-way permits to operate motor vehicles without current inspection certificates solely for the purpose of moving such vehicles to an authorized inspection station to obtain the required inspection certificates (Ch. 179, H 330).

• *Safety Inspection Reciprocity.* G.S. 20-183.8 was further amended by adding a subsection authorizing the Commissioner of Motor Vehicles to enter into reciprocal arrangements with other states whereby the safety and equipment inspection required in North Carolina may be waived with respect to vehicles that have undergone substantially similar safety equipment inspections in the reciprocating jurisdictions, and for which valid inspection certificates have been issued by the other jurisdiction. The act requires that the other jurisdictions reciprocate (Ch. 629, H 940).

MISCELLANEOUS PROVISIONS RELATING TO MOTOR VEHICLES

• *Passing Horses.* G.S. 20-216, which deals with passing horses or other draft animals by motor vehicles, was first enacted in 1917 and has not been materially tampered with since. The section for many years lay dormant, but essentially it gave the right of way on the highways to animals over automobiles and required of motor vehicle operators somewhat extraordinary precautions designed to avoid frightening horses and various draft animals. G.S. 20-216 has now been changed to ease the burden on motorists by requiring only that persons operating motor vehicles use reasonable care when approaching a horse or other draft animal being ridden or otherwise under control (Ch. 401, H 71).

• *Stopping for School Buses.* G.S. 20-217, which requires motor vehicles to stop for stopped school buses, was clarified considerably (Ch. 952, H 1241). Under the old law the requirements of G.S. 20-217 were specifically limited to North Carolina roads and highways and the streets of incorporated towns and cities. Now the law applies to towns and cities generally as well as state roads and highways; the distinction between incorporated and unincorporated towns has been deleted. The application of the old G.S. 20-217 was limited to school buses plus church and Sunday school buses transporting children to or from church or Sunday school. This distinction too has been removed so that now the section applies to "any school bus or privately-owned bus transporting children to or from any school, church or Sunday school. . . ." The legislation also provides that the mechanical stop-sign device of school buses is to control whether a stopped school bus may be passed. Previously, stopped school buses could not be passed until both the "stop signal" had been withdrawn and the passengers had been received or discharged.

• *Private and Parochial School Buses.* G.S. 20-218.1 was added to specify that the term "school bus" as used throughout Chapter 20 includes public, private, and parochial school buses, and further that the term "school activity bus" shall include public, private, and parochial school activity buses. This was necessary because there had grown up a distinction between public school buses and school activity buses on the one hand and private and parochial school buses and school activity buses on the other. The distinction previously made between the two meant that public school buses and activity buses were held to one standard and private and parochial school buses to another; the result was that private and parochial school buses and school activity buses came to enjoy looser qualifications for drivers and vehicles and higher speed limits. This General Assembly recognized that whatever distinctions may exist between public schools on the one hand and private and parochial schools on the other, there is no policy in North Carolina to distinguish between school children or their safety. It did away with the distinction (Ch. 264, H 251).

HABITUAL OFFENDERS

One of the more controversial highway safety undertakings of the 1969 General Assembly was the establishment of Article 8 of Chapter 20 as a first step toward recognizing the public indignation against persons who consistently demonstrate their indifference to the safety and welfare of other users of the highways and a disrespect for the laws of North Carolina. Article 8 (G.S. 20-220 through G.S. 20-231) in essence provides that when a person is found, through appropriate judicial procedure, to be a habitual offender, he shall not be licensed to operate a motor vehicle in

North Carolina for five years from the date of judgment of the court determining him to be a habitual offender—and then only when his privilege to operate a motor vehicle in North Carolina has been restored by judgment of the Superior Court Division. A habitual offender is defined as a resident or nonresident whose record with the Department of Motor Vehicles shows that he has accumulated within a seven-year period after the effective date of the act (June 19, 1969) convictions for separate and distinct offenses as follows: three or more convictions arising from separate acts of any one or more of the following offenses either singly or in combination: (1) voluntary and involuntary manslaughter resulting from operation of a motor vehicle; (2) driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug; (3) driving a motor vehicle while his operator's or chauffeur's license is suspended or revoked; (4) any offense punishable as a felony under the motor vehicle laws or any felony in the commission of which a motor vehicle is used; (5) failure to stop and render aid as required in the event of a motor vehicle accident; (6) failure of the driver of a motor vehicle involved in an accident resulting only in damage of over $100 to an attended or unattended vehicle or other property to stop close to the accident scene and make his identity known or otherwise report the accident in violation of law; and (7) any motor vehicle moving violation committed during a period of suspension or revocation, *or* twelve or more convictions of any separate and distinct offenses in the operation of motor vehicles which are required to be reported to the Department and the conviction of which authorizes or requires the Department to suspend or revoke the privilege to operate motor vehicles in North Carolina for thirty days or more. Convictions for purposes of determining "twelve or more" include the offenses set out above when taken with or added to the offenses included in the definition of a habitual offender. Offenses for the habitual offender include offenses under valid town, city, or county ordinances which parallel and substantially conform to state statutes relating to such offenses; any federal law; and any law of another state or any valid town, city, or county ordinance of another state substantially conforming to that state's statutory provisions (Ch. 867, S 388). The act deals at length with procedural areas on which it touches.

MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAW

G.S. 20-289(a) was changed to increase the fee schedules assessed motor vehicle dealers and manufacturers. The fees are segregated into a Dealers and Manufacturers License Fund. The fund is used for the administration of Article 12 of Chapter 20—the Motor Vehicle Dealers and Manufacturers Licensing Law. The increases are as follows: for each dealer, distributor, or wholesaler, from $15 to $25; for each factory branch, from $20 to $30; for each motor vehicle salesman, from $2 to $4; and for each factory or branch representative, from $2 to $4 (Ch. 593, S 192).

Personnel

BY DONALD B. HAYMAN

Local control over salaries and statewide schedules of court and register of deeds fees were responsible for the most remarkable decline in the number of salary, fee, and personnel bills passed by the General Assembly in recent years. Furthermore, the strong support of "home rule" on salary matters may herald the beginning of an era of greater cooperation and responsible action by local officials. The real significance may be more in the different relationships that result among legislators, county commissioners, and elected county officials than in the reduced work load of busy members of the General Assembly.

The 97 personnel bills passed by the 1969 General Assembly represents the smallest percentage of all bills on that subject passed by the General Assembly in a biennial session in the 52 years for which information is readily available.

The work of the Local Government Study Commission described in the September, 1969, issue of this magazine and the salary increases described below were undoubtedly the most important legislation affecting personnel administration passed by the 1969 General Assembly.

In brief, the legislature, within rather elaborate limitations, delegated authority to all city and county governing boards to fix their own compensation and allowances and authorized all boards of county commissioners to fix the salaries and allowances of all elected and appointed officials and employees and the number of salaried deputies and assistants to be employed by the sheriff and register of deeds.

COMPENSATION

State

Chapter 807 (H 20) appropriated funds to provide public school teachers' salary increases of approximately 10 percent during the first year of the biennium and an additional 10 percent in the second year of the biennium, or a total of 20 percent. Funds were provided to pay community college and university teachers 8 percent more each year of the biennium. State employees were immediately increased an average of 10 percent, with increases ranging from 7.5 for higher paid employees to 13.9 percent to lower paid employees; a 2 percent cost-of-living increase will be effective July 1, 1970.

Most members of the judiciary received a $2,000 a year salary increase. New compensations for judges or judicial officers are as follows: chief justice of the Supreme Court, $30,000; associate justice of the Supreme Court, $29,000; chief judge of the Court of Appeals, $27,000; judge of the Court of Appeals, $26,000; judge of Superior Court, $22,000; district court judge, $17,000; district court prosecutor, $13,000; Administrative Officer of the Courts, $24,500.

The two exceptions to the $2,000 increase were the Chief Judge of each District Court, who was raised $2,500 to $18,000, and the Assistant Administrative Officer of the Court, who was raised $1,000 to $17,500.

Travel and Subsistence

Chapter 1153 (H 787) increased the mileage allowance paid state employees for use of privately owned automobiles from eight cents to nine cents per mile. The maximum in-state subsistence allowance was increased from $12 to $15 per day and the maximum out-o -state subsistence allowance was increased from $16 to $18 per day.

County Commissioner Authority Over Salaries and Fees

In the nineteenth century, all county officials except county commissioners, who were paid a small per diem, were compensated by the fees that they collected. An investigation by the Ohio legislature in 1903 revealed that the fee system provided some officials with

exorbitant incomes and that the remitting of fees was used as a political weapon. In the following year, North Carolina started to substitute salaries for fees in compensating courthouse officials. For many years local salary acts introduced by local legislators set the salaries of local officials. However, since 1953 county commissioners in 84 counties have been authorized to set some fees and in 71 counties to set the compensation of elected or appointive officials.

The fee system was dealt a severe blow by the 1962 court reform amendments to the State Constitution, which required that all fees in the General Court of Justice be uniform throughout the state. After December, 1969, (1) all clerks of superior court will be paid a salary by the state, (2) all fees collected in the General Court of Justice will be uniform throughout the state, and (3) all fees remitted by the clerk to the county will be disbursed to the county general fund rather than to the collecting officer.

Chapter 358 (H 394) authorized all 100 boards of county commissioners to fix (1) all fees except court-related fees and registers' of deeds fees, and (2) all salaries and other compensation paid to all elected and appointed officers. It expressly supersedes any local act fixing a salary, although these acts are to remain in force until action is taken by the commissioners to fix another salary figure. The commissioners' power over compensation is subject to several important limitations: (1) the salaries of elected officials may not be reduced during the term of office; (2) action fixing the salary of an elected officer in the year in which his term expires must be taken at least 14 days before the filing deadline, except for "cost-of-living" salary increments given to all officers and employees alike; (3) any action increasing salaries in any one office or department by more than 20 percent as compared with the preceding fiscal year may be taken only at the time of budget adoption, and must be published in a newspaper; and (4) no salary being paid to an elected officer by local act as of July 1, 1969, may be reduced so long as the incumbent continues to hold the office he then holds.

Chapter 358 gives the county commissioners the authority to fix the number of deputies, clerks, assistants, or other employees of the sheriff and register of deeds. However, the General Assembly specified that the elected officer has the right to hire, discharge, and supervise all deputies and assistants, except that his appointment of a relative by blood or marriage of closer relationship than first cousin or any person who has been previously convicted of a crime involving moral turpitude shall be subject to approval by the board of commissioners. The commissioners cannot make reductions in the salary or allowance of an employee of the sheriff or register, except those that apply alike to all county offices, without the approval of the sheriff or register. If the sheriff or register should disapprove such action by the board, the dispute is to be referred to the senior regular resident superior court judge of the district in which the county lies for arbitration.

Chapter 180 (H 50) authorizes every board of county commissioners to fix its own compensation and allowances, effective for all seats on the board following the next general election for seats on said board. The act provides that the action must be taken at least two weeks before the filing deadline, and both the notice of intention and the notice of the new salaries must be published in a newspaper having general circulation in the county.

These acts eliminate the necessity of further local legislation increasing the compensation of county officials. Before the effective date of the "home rule" provisions, the 1969 General Assembly increased the compensation of the chairman and/or the members of the board of county commissioners in 23 counties and of 15 sheriffs and 14 register of deeds. The raises granted the sheriffs by local acts ranged from $500 to $2,500 a year, averaging $1,456 or 16 percent. The increases granted registers of deeds ranged from $900 to $2,500 a year, averaging $1,343 or 17.7 percent.

Compensation of Municipal Governing Boards

Chapter 181 (H 52) permits the governing board of any municipality to fix its own compensation and allowance including the salary of the mayor. The action, which can be effective only following the next municipal election, must be published in a newspaper and must be taken no later than 14 days before the deadline for filing notice of candidacy for the board. This municipal "home rule" act eliminates the necessity of further local legislation regarding municipal salaries. Eight such acts were adopted by the 1969 General Assembly.

Civil Service

Several minor amendments were made to local civil service acts. The Charlotte city charter was amended to eliminate the requirement that the fire chief have been a member of the fire department for at least two years immediately prior to his appointment. Charlotte policemen and firemen who are promoted may now be required to serve a six-month probationary period in their new position and may be returned to their former position during the probationary period without prejudice.

The High Point civil service act was amended to exempt employees in the city manager's office.

The New Bern civil service act was amended to (1) delete authority to test for personality qualification, (2) permit examinations upon five day's notice, (3) permit the board of aldermen rather than the civil service board to select new policemen, and (4) allow the police chief to promote or demote employees.

The Raleigh fire and police civil service act was amended to delete suffrage as a required qualification of police and fire department applicants.

Group Insurance

Chapter 845 (S 765) amended G.S. 160-200(25) to remove the $5,000 limitation on the amount of group health, accident, disability, and life insurance that a municipality might provide for employees.

Holidays

The 1969 General Assembly amended G.S. 103-4 to fix the date of certain legal holidays on Monday, regardless of the date of the month (Ch. 521, H 48). The changes were as follows: Washington's Birthday is the third Monday in February; Memorial Day is the last Monday in May; Columbus Day is the second Monday in October; and Veterans' Day is the fourth Monday in October. Governmental units by resolution may determine which if any of these holidays shall be observed as a holiday.

Residence of Nonelective Municipal Officers

Chapter 23 (H 69) amended 160-20 and 160-115.1 to provide that the governing body of every incorporated city and town is authorized to employ police officers and members of the fire department who may reside outside the corporate limits of the municipality.

Chapter 134 (H 310) amended G.S. 160-25 to provide that residence within a city or town shall not be a qualification for or prerequisite to appointment to any nonelective office of any city or town, unless its governing body so requires by ordinance.

Construing these two acts, the Attorney General on June 10, 1969, in an opinion to Mayor J. H. Valentine of Sharpsburg, stated that they must be presumed constitutional until declared otherwise by a court of competent jurisdiction. Therefore, under the authority of these statutes, a municipality may employ a police officer who is not a resident of the municipality. But if the charter of the municipality requires that the police or other officer reside within the corporate limits, the provisions of the charter control and override the provisions of G.S. 160-20.

TRAINING

The salaries of the Transylvania sheriff and his deputies will be tied to their successful completion of a 60-hour basic training course offered by the Department of Community Colleges. Chapter 922 (H 1238) requires the sheriff and his deputies to complete the course of training at county expense by December 31, 1969. All new officers are required to complete the course within six months after entering on duty. The sheriff's salary will be increased $700 to $7,200 when he successfully completes the course. The salaries of his deputies will be increased $1,000 to $5,000 and of the chief deputy to $5,500 when they successfully complete the course. The salary of a deputy who does not complete the course satisfactorily will be cut to $3,500 a year.

RETIREMENT

Teachers' and State Employees' Retirement System

Chapter 1223 (H 409) increased the benefits to employees retiring before age 65, eliminated several inequities, and made a number of clarifying amendments to the TSERS.

A teacher or state employee 62 years of age or over and with 30 or more years of service may now retire without penalty. A reduction factor of 3 percent a year (formerly 4) will be used for members who retire with 30 years of service before 62, or retire before 65 (but after 60) with less than 30 years of service.

Disability retirement benefits will be increased for future disabled members by an amendment that bases the disability retirement allowance on a projection of the members' employment to age 65 (formerly 60).

Prior to the new legislation, a member had to have been currently "in service" to apply for a disability benefit. The new amendment permits a member no longer on the payroll to apply for a disability benefit provided that all the other conditions are met and the medical board finds that his incapacity was incurred while he was actively employed and has been continuous up to the date of his retirement application.

Periodically the Board of Trustees of the Fund has been faced with the question of discontinuing the retirement allowance of a teacher who assumes temporary or part-time state employment. A 1969 amendment provides that the retirement allowance of a person who is restored to service before 62 shall cease, and he shall again become a member of the system. The benefits of a member restored to service after 62 will be reduced only if the sum of his retirement allowance and his earnings from employment by a unit of the system exceeds his annual rate of compensation when he retired.

Members of the Local Governmental Employees' Retirement System going to work for the state have previously been given credit for earlier service if their funds are transferred even though no locally contributed funds were transferred. In the future the local system must agree to transfer the reserve funds contributed by the previous employer on behalf of the transferring employee if prior service credit is to be granted the transferring employee.

The 1967 General Assembly recognized the effect of the rise in the cost of living by increasing the benefits of retired members of the system by a minimum of $10 a month, or 5 percent, plus an additional 1 percent for each year of

retirement prior to 1966 to a maximum of 29 percent.

The 1969 General Assembly action provided some assurance that retirement benefits will be changed in the future as the cost of living increases. Increases in retirement and survivor's benefits of up to 3 percent will be granted July 1, 1970, and in every subsequent year if the Consumer Price Index has increased 3 percent during the previous calendar year. Increases will become effective only if the added liabilities that result do not require an increase in the total employer rate of contributions.

Chapter 805 (S 730) increased the size of the Board of Trustees of TSERS from eight to ten by adding a retired teacher or state employee and a representative of higher education.

Chapter 1156 (H 817) provided a 15 percent increase in pensions allowed to public school and state employees who separated with 20 years of service before July 1, 1941, and had attained the age of 65 on or before August 1, 1959, and appropriated the funds to pay the increased pensions.

Local Governmental Employees' Retirement System

Chapter 442 (S 264) made the retirement benefits provided members of the LGERS the same as those provided teachers and state employees by the 1967 and 1969 General Assemblies and permits a local governmental employee who elected not to join LGERS to become a member by making a lump-sum contribution equal to the contributions he would have made plus interest, provided that the employer pays the matching contribution.

The benefits already accorded teachers and state employees which were this year extended to local governmental employees include a death benefit, allowing one month of service credit for each 20 days of unused sick leave, and a more generous membership provision that permits a member to be absent from service for up to seven years in any period of eight consecutive years without a loss of credit for service.

The death benefit, which is optional to participating units, had by October 1 been adopted by over 200 of the 324 units. The death benefit is to be paid to survivors of employees who have had at least one year of service and who die prior to retirement. The benefit will equal the compensation earned by the member during the calendar year preceding the year in which his death occurs, but it is not to exceed $15,000. This payment is in addition to the return of the employee's contributions to the retirement system plus interest at 4 percent.

After June 30, 1969, the death benefit was not to be paid to the survivors of any employee who dies after attaining age 70. The maximum age for the payment of the death benefit will be reduced one year in each of the following four years. After 1973 only the survivors of an employee less than 65 years of age at the time of his death will be eligible to receive this payment.

Chapter 442 included four provisions described above as amendments to the Teachers' and State Employees' Retirement act. First, the act provided for employees 62 years or over with 30 years of service to retire without penalty. Second, the factor used to reduce the allowance of 30-year-service employees who retire before 62 and the allowance of employees with less than 30 years who retire before 65 (but not before age 60) was reduced from 4 to 3 percent for each year of early retirement. Third, the same cost-of-living provision applies to local government retired employees and their beneficiaries as applies to teachers and state employees. Fourth, the act permits persons no longer employed to apply for disability retirement. Fifth, the act bases the disability retirement allowance on a projection of the member's employment to age 65.

Local Retirement Funds

The General Assembly authorized the Forsyth County, Morganton, and Winston-Salem retirement funds to invest up to 50 percent of funds in common stocks.

Chapter 1076 (H 497) amended the State Revenue Act to exempt pensions paid by the Forsyth County and Winston-Salem Employees' Retirement Funds from gross income for state income tax purposes. This act provides the same tax advantages as are enjoyed by firemen and the members of the statewide retirement systems.

The General Assembly authorized Eden, Pasquotank, Roanoke Rapids, and Winterville to establish local retirement systems or to contract for retirement benefits.

Firemen Retirement

Seventeen of the personnel acts increased the retirement benefits of municipal firemen. Twelve of the acts are designed to dispose of the embarrassing accumulation of funds in the local firemen's relief funds. In 1941 High Point firemen secured legislation to divert the balance over $10,000 in the local firemen's relief fund to increase their retirement allowances. By 1953 Charlotte, Durham, Gastonia, and Winston-Salem firemen had followed suit. Other municipal firemen have since secured the transfer of the funds, which are raised by a tax on insurance premiums.

The 1969 General Assembly created or amended twelve supplementary retirement funds for firemen in Burlington, Clinton, Elkin, Fayetteville, Henderson, Mt. Airy, Newton, North Wilkesboro, Raleigh, Reidsville, Rocky Mount, and Wilson. The typical fund provides that all funds over $10,000 in the local relief fund shall be transferred to the firemen's supplemental retirement fund. Income from the invested funds shall annually be divided among the dis-

abled or retired firemen according to their years of service, with a maximum payment of $600 a year authorized.

Other firemen's retirement acts increased contributions to and benefits paid by the Winston-Salem Firemen's Retirement Fund (Ch. 94, H 222), authorized the New Bern firemen's relief fund to purchase group accident insurance (Ch. 704, H 1080), permitted the Charlotte Firemen's Board to invest 30 percent of the funds in common stock (Ch. 132, H 283), allowed the Roanoke Relief Fund to pay the city retirement contribution to the Local Government Employees' Retirement Fund so that firemen could be covered under that retirement system immediately (Ch. 481, S 396), and authorized a supplemental welfare fund for injured Forsyth County firemen (Ch. 418, H 700).

CREDIT UNION DEDUCTIONS

Chapter 625 (S 485) authorized salary deduction from the salaries of state employees to credit unions having a membership at least half composed of state employees.

TAXES

By S. Kenneth Howard

The 1969 session of the North Carolina General Assembly was taxing in length, politicking, and substance. It included several moments of high political drama, the most momentous of which surrounded the Governor's efforts to secure a package of tax revenues sufficient to balance his spending proposals. But North Carolina is not alone in the general concern and great legislative debate that fiscal matters caused in 1969. Illinois, Wisconsin, and California all had stormy sessions about taxing and spending decisions, and Texas had to call two special legislative sessions to consider taxes. Some states made significant tax changes; Maine and Illinois joined the ranks of states that tax both personal and corporate income, while Vermont became the 45th state to levy a general sales tax, at a rate of 3 percent. In point of fact, the past fifteen months have been marked by tax changes throughout the nation. Between July 1, 1968, and September 1, 1969, forty-five rate increases were effectuated or adopted by various states in general sales, cigarette, and gasoline taxes alone. Nor did states in the Southeast escape this trend: South Carolina recently raised its general sales tax from 3 to 4 percent and its cigarette tax from 5 to 6 cents per pack.

Each state must seek its own solution to its peculiar fiscal problems, and North Carolina is no exception. However, the solutions selected by the 1969 General Assembly contained great ironies. Even as it became the last state in the Union to tax packaged cigarettes, North Carolina also joined only five other states in taxing soft drinks. The General Assembly appeared disenchanted with the recommendations of the Tax Study Commission created in 1967, approving only a few of them; still it created two new commissions to study tax matters and report to subsequent sessions of the General Assembly.

LOCAL TAX SOURCES

Although most public attention focused on changes in state tax rates and sources, early in the legislative session much more attention was devoted to what the General Assembly might do to enable local units to augment their property tax revenues. The Tax Study Commission devoted virtually all of its attention and recommendations to this general question, appearing far less sure than the Governor ultimately was of the need for new state revenue sources: ". . . in the event additional State revenue should be needed, the Commission suggests that first consideration by the General Assembly be given to an excise tax on tobacco products and an increase in the gasoline tax rate."[1]

The Tax Study Commission recommended two general methods for helping local governments obtain greater revenues. The first was to improve property tax assessment procedures by centralizing the assessment of public utilities and certain public service companies in the State Board of Assessment. This suggestion had little success. (For more detail, see the article on property taxation in *Popular Government* for September, 1969.) Second, the Commission recommended that counties and municipalities be authorized to levy new broad-based taxes, noting that the sales and use tax and the individual income tax seemed suitable for this purpose.[2]

Ultimately the General Assembly adopted Chapter 1228 (S 178) which allows a local 1 percent general sales tax to be levied on a county-by-county basis against all items to which the state 3 percent tax applies. The final enactment drew from three differ-

1. *Report of the Tax Study Commission of the State of North Carolina* (Raleigh, 1968), p. 2.
2. *Ibid.*

State Tax Policy

ent measures—S 178 as originally introduced, H 293, and H 328. The statute requires that on November 4, 1969, each county hold an enabling referendum on the adoption of the tax. If the tax is favored by a majority of those voting on the issue, half of the net proceeds collected in each taxing county will be returned to that county, to be divided between the county and its municipalities on the basis of total ad valorem taxes levied by each unit. The other half of the net proceeds from all taxing counties will be pooled and apportioned among all taxing counties and their municipalities on a per capita basis. For the latter calculation, the most recent annual population estimates prepared by the Department of Administration as certified to the Commissioner of Revenue (Ch. 1287, S 907) will be used. The statute also provides that these special elections will not have the effect of repealing any local sales and use taxes adopted and levied in accordance with Chapter 1096 of the Session Laws of 1967—the act under which Mecklenburg County currently levies the state's only local sales tax. Thus, if Mecklenburg voters adopt the provisions of this new statute, the rate in Mecklenburg will be 5 percent rather than 4 percent; the additional levy will simply be added to the already existing rate. Finally, because of Rocky Mount's peculiar geographic situation, the statute requires favorable votes in both Nash and Edgecombe counties before it can be effective in either.

The adopted measure reflects the Governor's strongly stated position that the state itself should not erode one of its primary tax sources by adding 1 percent to the statewide general sales tax and redistributing the revenues thus gained to local units. He felt that local officials and the citizenry should sense more directly the pain of imposing taxes as well as the pleasure of spending tax revenues. The final enactment killed proposals to impose a statewide 1 percent sales surtax to be distributed to local units on a per capita basis (H 332 and S 258) or to be divided equally between the state's General Fund and the local units (H 353 and S 342). H 1055, which called for a statewide referendum on levying a state 1 percent sales surtax, with the proceeds divided equally between the state and the local units, was another casualty.

The final action also disposed of a number of other proposals. One (H 198) called for outright repeal of the Mecklenburg sales tax. Most of the other measures called for local-option sales taxes and were introduced as local legislation, giving the counties involved some hedge in case no general legislation was passed during the session. In all, forty such bills were introduced, each for a single county. Most of these, thirty-three, called for per capita distribution of the proceeds among county and city governments, with no limit set on the amount that might be collected from any one sale and no restrictions placed on the uses to which the money might be put. Six others called for distribution on the basis of ad valorem tax levies rather than population; two of these limited the maximum collected from any one sale to $10. The most restrictive (H 531) applied to Richmond County. It not only called for per capita distribution and a $10 limit on collection from any one sale but also earmarked the county share for education, although the municipal share was left available for any public purpose. After the general law was enacted, Richmond County obtained passage of Chapter 1277 (H 1428), which earmarks the county's share of any taxes collected under Chapter 1228 to public school capital outlay and debt service expenditures.

An extremely important step in altering basic state policy on local finances, including taxation, occurred with the adoption of Chapter 1200 (H 331), a proposed constitutional amendment that revises Article V, which sets forth the most basic aspects of state control over local finances. (For a fuller treatment, see the articles on cities and counties in *Popular Government* for September, 1969.) The portions of that act most noteworthy here are those that would abolish all poll taxes and those sections that allow the General Assembly to permit local units to levy special property taxes in areas of a city or county where services are provided that are not offered throughout the entire taxing jurisdiction. By this means it may be possible to provide different levels of service in different geographic areas and to vary the tax rate in accordance with the level of services actually provided.

One minor change in the intangibles tax will affect local revenues. Under Chapter 1114 (S 356) a credit against the North Carolina intangibles tax will be given for intangibles taxes paid elsewhere by residents who are beneficiaries of foreign trusts. Exempted from the intangibles tax under Chapter 1122 (S 803) are shares of stock owned by a corporation commercially domiciled in North Carolina, if that corporation owns more than 50 percent of the outstanding voting stock in question.

Efforts were defeated to alter the intangibles tax in more substantial ways, such as phasing it out entirely over a five-year period (S 273) with the state replacing from General Fund revenues the revenue losses incurred by the counties and municipalities (S 358), or by exempting entirely the bonds, notes, and other evidences of debt that belong to religious organizations (H 1279) or the intangible property of persons sixty-five or older (H 603).

Two other efforts to increase local tax revenues

were also defeated. The 1967 General Assembly increased the proportion of franchise tax collections allocated to municipalities; H 65 sought to accelerate by one year (from July 1, 1970, to July 1, 1969) the time when the maximum permitted allocation would become effective. An effort (H 1044) to allow counties, cities, and towns to impose a 5 percent gross receipts tax upon motels, hotels, and similar places of business was also unsuccessful.

In a few counties some change in local tax revenues may result from Chapter 1185 (S 801), which requires foundations holding timberland for the benefit of educational institutions to pay a 15 percent gross receipts tax to the county in which the timberland is located in lieu of local property taxes that would otherwise be assessed.

STATE TAX SOURCES

Public and political attention focused upon changes in state rather than local tax sources, concentrating primarily upon the Governor's tax package. In all, the Governor sought to raise during the biennium over $118 million for non-highway purposes by the following means:

Additional 10% liquor tax	$ 26 million
1.5¢ per bottle beer tax increase	15 million
5¢ per pack cigarette tax	50 million
2¢ tax on each cigar	7 million
½ of 1% increase in insurance premium rate	10 million
½ of 1% increase in sales tax on autos, boats, airplanes, locomotives	8.5 million
25% increase in tax on building and loan associations	1 million
1½% increase in bank excise tax	1 million
Total	$118.5 million

The package was introduced as H 296 and S 186; after amendment H 296 was enacted as Chapter 1075. This statute introduces cigarette and soft-drink taxation to North Carolina, alters the rate structure applied to alcoholic beverages, raises the tax on motor vehicle sales, places higher rates on banks and building and loan associations, and redefines heads of households for purposes of income taxation.

Tobacco Tax

The drive for a tobacco tax began with the Governor's statement that "it is time to destroy the myth that tobacco is king in North Carolina"[3] by imposing a 5 cents per pack tax on cigarettes and a tax of 2 cents on each cigar retailed in the state. The principle of taxing tobacco products was ultimately adopted, but the cigar tax was dropped, and the rate on cigarettes was set at 2 cents per pack. Chapter 1075 also requires that cigarette distributors pay a license fee of $25 for each place of business. Distributors will be allowed a discount of 7/24 cents per tax stamp for sales of stamps over $100 as compensation for their handling services (Ch. 1222, S 881). But freely distributed sample packages containing five or fewer cigarettes and packages customarily donated free of charge to cigarette plant employees (Ch. 1246, H 1408) are exempt from the new tax.

North Carolina has the lowest cigarette tax rate in the country. Only neighboring Virginia and Kentucky with rates of 2.5 cents per pack, and Oregon, where the rate is 4 cents, have rates that are less than twice as great as the new North Carolina tax. Throughout the nation, nineteen states besides North Carolina have increased their cigarette tax rates during the last fifteen months. Connecticut has just doubled its rate from 8 cents to 16 cents per pack, which gives it the highest rate in the nation. Nine other states have increased their rates by 4 cents or more per pack. After two special legislative sessions, Texas adopted a tax package that included a cigarette tax increase from 11 cents to 15.5 cents per pack, second highest in the nation. New Jersey's 6-cent increase (from 8 cents to 14 cents per pack) makes that state third high. If claims made by some opponents of the tobacco tax about the effect that a tax in North Carolina would have on this vital Tar Heel industry should prove correct, this onslaught by other state legislatures must surely have sounded the industry's death knell.

Several other cigarette tax measures were introduced. Identical bills, S 97 and H 151, were essentially included in the adopted measure except for the rate and changes in cigar coverage. The same was true of H 189, the original "2 and 1" proposal that first linked a 2-cent cigarette tax with a 1-cent soft-drink tax. Efforts to levy a 5-cent cigarette tax and earmark the proceeds for teacher salary supplements (H 108) went for naught. So did a proposal to levy a 3 cents per pack tax on all cigarettes sold through dispensers or vending machines, with the proceeds allocated to the Department of Mental Health (H 1396).

Soft Drink Tax

The soft-drink tax—currently utilized only in Louisiana, Missouri, South Carolina, Tennessee, and West Virginia—joined the North Carolina revenue arsenal under Chapter 1075 (H 296). The tax is not a large revenue producer elsewhere, providing less than 0.4 percent of all tax revenues in three states. South Carolina, where it constitutes 1.9 percent of all state tax revenues,[4] has the greatest reliance on this source.

The new law imposes a tax of 1 cent on each soft drink sold in a bottle, can, or like container. Syrup used to make soft drinks is taxed at the rate of $1

3. Budget Message of Governor Robert W. Scott, February 12, 1969, pp. 11-12.

4. Commerce Clearing House, *State Tax Handbook*, October 1, 1968, pp. 461-640.

per gallon, or 4/5 cent per ounce. Powders used to make soft drinks will be taxed at the rate of 1 cent per ounce. Excluded from this tax are natural fruit or vegetable juices, natural liquid milk drinks produced by farmers or dairies, and bottled soft drinks containing 35 percent or more of these products.

The North Carolina rates appear to be higher than those in any of the other states. On bottled drinks, the North Carolina rate is about twice that of Louisiana, six times that of Missouri, and more than three times that of Tennessee. The rates in South Carolina and West Virginia are closer to North Carolina's. South Carolina charges 1 cent for each 12 ounces or less of bottled soft drinks, while West Virginia charges the same rate for 16 ounces or less. For syrups, South Carolina charges 95 cents per gallon and West Virginia 80 cents, as compared with $1 in North Carolina.[5]

Under Chapter 1075, distributors and wholesalers will be subject to a $25 license fee for each place of business, while retailers pay a $5 fee. Payment of the tax will be evidenced through the use of stamps and crowns, with a 5 percent discount being given on stamp sales of $50 or more to those who apply stamps and an 8 percent discount given those who apply crowns.

Resident distributors or distributors that have a commercial domicile in North Carolina were provided an alternate method for reporting and paying the tax (Ch. 1251, S 886). Under this statute, these distributors and wholesale dealers need to apply neither stamps nor crowns but merely to report their sales in accordance with rules and regulations prescribed by the Commissioner of Revenue. These dealers will pay only 72 cents per gross of bottles for the first 15,000 gross (this is half the regular rate) and then 1 cent per bottle for everything over 15,000 gross. An 8 percent discount is to be allowed on all taxes due under this act. The soft-drink inventories held on October 1, 1969, by dealers electing this alternate system will not be taxed.

Administrative problems related to the new tax led to the adoption of Chapter 1247 (H 1409), which empowers the Commissioner of Revenue to determine how tax payments will be made and evidenced for the excises levied against soft-drink powders.

The soft-drink tax was not a part of the original tax package proposed by the Governor. It drew heavily from other measures introduced independently. One was H 189, the original "2 and 1" proposal, another was H 391, and a third was S 98. This last, however, earmarked the proceeds to provide additional revenues for public school personnel.

Highway Revenues

A third major tax change occurred when the rate on motor fuel (gasoline) was raised from 7 cents to 9 cents per gallon (Ch. 600, H 297). This increase attracted far less public attention and controversy than the tobacco and soft-drink tax enactments. The Tax Study Commission considered the gasoline tax a logical place to look for more revenues, and the Highway Study Commission had recommended a 3 cents per gallon increase.[6]

The North Carolina gasoline tax rate now equals the nation's highest, matched only by that of the State of Washington. It is noteworthy, however, that the North Carolina State Highway Department is responsible for more miles of highway than any other highway department in the nation. Furthermore, this responsibility covers all roadways except municipal streets. As a result, North Carolina places far less reliance upon property taxes to support street and road spending than other states, particularly those where a county road system is employed. Two-cent increases occurred elsewhere; Kansas went from 5 cents to 7 cents and Indiana from 6 cents to 8 cents per gallon. In all, gasoline tax rates have risen in fourteen other states between July 1, 1968 and September 1, 1969.

Besides changing the gasoline tax, Chapter 600 completely revised the schedule of vehicle registration fees. Registration fees were increased on vehicle transporters, historic vehicles, common carriers of passengers, all types of U-Drive-It vehicles, for-hire passenger vehicles, private passenger vehicles, and private passenger motorcycles. License plates costs were increased for automobile dealer plates, for persons engaged in driving vehicles from manufacturer to place of sale in North Carolina, on house trailers, on special mobile equipment and on self-propelled property-carrying vehicles. The most general effect of these provisions will be to change the registration fee on most private passenger vehicles from the current $10 or $12 per year to $13.

In a little-noted section of Chapter 600, the rate charged against the gross revenue of common carriers of property, where the tax based on gross revenue exceeds levies based upon the weight of vehicles used in the business, was increased from 6 percent to 7½ percent. Certain detailed rate schedules in Chapter 600 that applied to self-propelled property-carrying vehicles were later clarified by Chapter 1056 (H 1360).

The effort to produce more highway revenues also extended to the license fees charged vehicle dealers and manufacturers. Under Chapter 593 (S 192) fees levied against the places of business, factory branches, salesmen, and factory or distributor branch representatives were increased between 40 percent and 100 percent. However, the resulting fees—ranging from $3.50 to $21 each—were not unusually large.

The Wildlife Commission currently receives one-eighth of 1 percent of the net proceeds from the

5. *Ibid.*

6. Governor's Highway Study Commission Report and Recommendations (Raleigh, December 5, 1968), pp. 7, 33.

taxes on motor fuels. Efforts to double this allocation to one-fourth of 1 percent were unsuccessful. However, Chapter 1201 (H 413) made this one-eighth of 1 percent earmarking permanent; it had been due to expire on July 1, 1969.

Procedures for rebating gas tax collections to governments and to others who do not use the fuel in motor vehicles licensed for use on highways were clarified by Chapter 1298 (H 1411). In general, failure to file for the rebate within certain established time limits results in a sharp decrease (25 percent and then 50 percent) in the amount that will be rebated, and limits are set after which rebate requests will not be honored at all. Under Chapter 1098 (H 1359), motor carriers are entitled to a refund each quarter if the tax credits they actually pay exceed the tax due. In the past, refunds were made only to the extent that a motor carrier paid gasoline tax to another state for fuel actually purchased in North Carolina; any excess credits were carried forward to offset taxes due in the next quarter.

Several efforts were made to broaden the list of organizations exempt from the gasoline tax or entitled to refunds. All were unsuccessful. Three bills (S 148, S 189, and S 301) dealt with private schools, another (H 434) with nonprofit rescue squads, and another (H 1230) with nonprofit county fire departments.

Income Taxes

The 1967 General Assembly made several significant adjustments in the personal income tax. This year's legislature made relatively minor changes; indeed, the one bill (S 314) that proposed a complete overhauling of the personal and corporate income tax rates never got out of committee.

Chapter 872 (H 465) proposes a constitutional amendment under which the General Assembly will be empowered to fix personal exemptions for income tax purposes. Under this proposal, the maximum allowed income tax rate will remain at 10 percent, but the minimum personal exemptions currently set out in the State Constitution will be eliminated.

Exempted from personal income taxation are certain retirement benefits from the North Carolina Firemen's Pension Fund (Ch. 486, H 404), up to $3,000 of federal employee retirement income (Chapter 1272, H 433), and certain local law enforcement officers' retirement benefits (Ch. 178, H 30). Also, Chapter 1116 (S 492) abates income taxes for armed forces personnel killed in combat zones or dying as a result of wounds, injuries, or diseases incurred in such zones.

Other efforts to broaden exemptions met with defeat. These included one bill (H 1133) that would have excluded the entire basic pay of armed services personnel on active duty, and another (H 384) that would have exempted up to $3,000 of retirement benefits received by armed forces personnel. Attempts to exclude sick pay resulting from employer-financed health or accident insurance plans (H 1182) and to extend to everyone maintaining a household the basic $2,000 exemption (H 4) were also unsuccessful. However, provisions covering the latter point were included in the tax package, Chapter 1075 (H 296).

Certain tax deductions, as well as exemptions, were also considered. The definition of educational institutions to which tax-deductible contributions can be made was broadened to include foundations and other organizations established for the sole benefit of educational institutions (Ch. 1175, S 354). Gifts to nonprofit hospitals also became tax deductible (Ch. 1082, H 827).

Other proposed deductions met with less favorable treatment. These included the purchase of certain annuities (H 515) and political contributions (S 62 and H 1003). A proposal to raise from 15 percent to 30 percent the maximum deduction allowed for charitable contributions was defeated, as was the effort (H 565 and S 366) to provide special tax refunds to persons sixty-five or older who have limited financial resources.

Corporate and personal income tax changes became intermeshed in new laws relating to liquidated corporations. Under Chapter 1113 (S 355) no capital gains tax will be applied to a corporation that is liquidating its assets on a twelve-month basis in accordance with Internal Revenue Code provisions. The method for computing for individual income tax purposes the gains or losses incurred if cash dividends are paid by such liquidating corporations is spelled out in Chapter 1120 (S 749). In addition, Chapter 1124 (S 805) allows corporations domiciled in North Carolina to deduct dividends received from certain subsidiary corporations. In parallel legislation, individuals are now allowed personal income tax deductions for a portion of the dividends received from holding companies (Ch. 1123, S 804).

Sales and Use Tax

The state's second largest tax source is the general sales tax. The tax package (Ch. 1075, H 296) included one significant change in this source. As recommended by the Governor, the sales tax levied against airplanes, railway locomotives, railway cars, boats, and motor vehicles was increased from 1½ percent to 2 percent. (The maximum tax levied against the sale of any particular automobile, airplane, or other taxed item remains $120.) The Highway Study Commission had recommended that this rate be increased to 3 percent and that all proceeds be earmarked for a Highway Trust Fund rather than the General Fund.[7] Neither of these suggestions was adopted.

The refund procedures for sales tax rebates were modified by Chapter 1298 (H 1411). Portions of the

7. *Ibid.*

requested refund (25 percent and then 50 percent) will be retained as penalties for filing after certain stated times, and no refund requests will be considered if submitted more than six months after the prescribed filing date.

Certain farm chemicals, particularly ones used in cotton and tobacco production, have been exempted from the sales tax by Chapter 907 (S 603). Efforts to exempt coin-operated laundries (H 541) and meals furnished employees in eating establishments (H 831) were unsuccessful.

Alcoholic Beverage Taxes

The tax package as enacted (Ch. 1075, H 296) revised the entire schedule of alcoholic beverage taxes. (For more details, see the article on ABC laws in *Popular Government* for September, 1969.) In general, the surtax rates on all sizes of containers for beverages with 1 percent to 5 percent alcohol, primarily beer, were more than doubled. Effective July 1, 1969, the surtax on spirituous distilled liquors was increased by 5 cents for each 5 ounces or fraction thereof; beginning July 1, 1970, this additional 5-cent increase will be applied to each 3⅓ ounces or fraction. In all, this enactment killed nine other bills that altered various alcoholic beverage tax rates and earmarked the proceeds in different ways.

Under Chapter 1239 (H 1391), the discount that wholesale distributors and importers are allowed on beer and wine excise taxes was doubled from 2 percent to 4 percent. Exempted entirely from beer taxes are beverages that manufacturers furnish free of charge to customers, visitors, and plant employees for on-premises consumption (Ch. 1268, H 1398).

Inheritance and Gift Taxes

The annual child-support allowance granted from a parent's estate was doubled from $300 to $600 by Chapter 269 (H 422). Also doubled—from $1,000 to $2,000—was the allowance a surviving spouse may take from the personal property of the deceased spouse (Ch. 14, H 77). Efforts to give widowers a $10,000 exemption in calculating the inheritance tax on property of a deceased spouse (now granted only to widows) were unsuccessful (S 63). A bill that would have allowed a gift to a third person by either spouse to be treated for gift tax purposes as if it had been made half and half by each spouse (S 698) was also defeated.

Privilege License Taxes

The North Carolina Symphony has been exempted from all state and local privilege license and gross receipts taxes (Ch. 100, S 40). For purposes of privilege license taxation, certain operations of laundries were made equivalent to dry-cleaning establishments (Ch. 884, H 1127). Efforts to abolish privilege taxes on retail and wholesale dealers of automotive equipment and supplies (H 910) and on persons selling freon-powered fire protection devices (H 1421) were defeated.

Miscellaneous Changes

As enacted, Chapter 1075 (H 296) did not include the gross premium tax on insurance companies that the Governor had sought, but it did make two other significant changes. It increased the annual excise tax on the net income of banks from 4½ percent to 6 percent. Second, the annual net excise tax on net incomes of building and loan associations was raised from 6 percent to 7½ percent. Also, the tax liability of building and loan associations for the shares of their stock outstanding at the end of each year was increased from 6 cents to 7½ cents per $100.

The 50 cents per bushel excise tax on in-the-shell oysters that are shipped out of state was dropped, but a new levy on green shrimp with the heads on was initiated at the rate of 10 cents per 100 pounds (Ch. 1275, H 1394).

One new revenue measure that attracted national attention collapsed—the motion picture attendance tax proposal that called for the tax rate to be graduated in accordance with the Motion Picture Association of America rating given to the film being shown (S 146). Equally unsuccessful was the effort (H 1371) to impose a 3 percent gross receipts tax upon receipts derived from the labor and services of a variety of enterprises ranging from auctioneers and car washes to general contractors and management consultants.

MORE STUDIES

Although the last two sessions of the General Assembly have put into law few of the recommendations of the respective Tax Study Commissions that reported to them, the 1969 General Assembly created two more such commissions. One is to have eleven members and is supposed to study and review state and local tax laws to recommend changes in rates of taxation, and to propose alternative sources of revenue so that the revenue system will be as stable and equitable as possible. The commission has "the special duty . . . to make a thorough and comprehensive study of exemptions from property taxation" and other tax exemptions (Res. 73, H 898). A separate action (SJR 878) also instructed this commission to study taxation of banks and other financial institutions. This phase of the commission's work is to be reported to the 1971 General Assembly. The more general study is to be reported to the 1973 General Assembly, but the commission may issue an interim report to the 1971 session. This group will have the Director of the Division of Tax Research as its secretary.

The second commission will have nine members and is to study state laws dealing with local taxation and to recommend changes that will enhance the

productivity, equity, stability, and efficiency of local tax administration (Res. 92, S 789). This commission is to report to the 1971 General Assembly. The Administrative Officer of the State Board of Assessment will serve as its secretary.

Although the two study groups are to report at different times and one is supposed to consider both state and local taxes while the other considers only local taxes, which will probably mean almost total concentration upon the property tax, the overlapping assignments given the two commissions create a kind of Alice-in-Taxland confusion. Furthermore, duplication on the one hand is no assurance that there will not be oversight on the other hand. There is no clear indication that anyone is exploring the very real possibility that during 1971-73 expenditures required by natural growth to keep current state programs at their existing levels (essentially the A budget) will more than use up all the new state tax revenues produced by the 1969 General Assembly.

NORTH CAROLINA STATE BOARD OF EDUCATION

Division of Community Colleges

Law Enforcement Training

Schools and Conferences	*Date*	*Location*	*Area Consultant*
Homicide Investigation	Dec. 1-Dec. 4	Wilson	Langston
Police Instructor Course	Dec. 8-Dec. 12	Wilson	Langston
Introduction to Police Science	Jan. 5-Jan. 30	Lexington	Lineberry
Special Criminal Investigation	Jan. 19-Jan. 22	Wilmington	Langston
Crime Scene Photography	Jan. 19-Jan. 23	Kinston	Langston
Special Criminal Investigation	Jan. 26-Jan. 30	Wilson	Langston
Introduction to Police Science	Feb. 2-Feb. 27	Wilson	Langston
Advanced Criminal Investigation	Feb. 9-Feb. 20	Lexington	Lineberry
Special Criminal Investigation	Feb. 10-Feb. 11	Wilmington	Langston
Service of Civil Writs	Feb. 17-Feb. 19	Greenville	Langston
Supervision for Police	Feb. 23-April 10	Lexington	Lineberry
Supervision for Police	March 2-March 27	Wilson	Langston
Accident Investigation	March 16-March 20	Elizabeth City	Langston
Homicide Investigation	March 23-March 26	Wilmington	Langston
Accident Investigation	March 30-April 3	Wilson	Langston
Crime Scene Photography	April 6-April 10	Greenville	Langston
Introduction to Police Science	April 6-May 1	Wilmington	Langston
Juvenile Officers' Training	April 13-April 17	Wilson	Langston
Service of Civil Writs	April 21-April 23	Greenville	Langston

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Shapiro, Irving. *Dictionary of Legal Terms.* Jamaica. New York: Gould Publications. 1969.

Tenbroek, Jacobus, ed. *The Law of the Poor.* San Francisco, California: Chandler Publishing Company. 1966.

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STATE OF NORTH CAROLINA
Local Government Commission

The Bond Buyers Index[1]

Date	*20 Bonds*	*11 bonds*
7-24-69	5.86	5.78
7-17-69	5.62	5.53
6-19-69	5.65	5.54
7- 1-68	4.11	4.00

National Volume Outlook, July 25, 1969

Blue List supply	$ 511 million
30-day visible	$ 640 million
Total supply	$1,151 million
Total supply last week	$1,042 million

Yields Currently Available on North Carolina Issues (%)

	Aaa	*Aa*	*A*
10 year	5.15	5.25	5.40
20 year	5.40	5.50	5.60

Recent Bond Sales in North Carolina

Issuer	*Date of Sale*	*Purpose*	*Amount*	*No. of Bidders*	*Years Average Life*	*First, Second, and Last Bids*	*Winning Manager*	*Moody's Rating*	*NCMC Rating*
City of Winston-Salem	5- 6-69	Various Purpose	$12,000,000	5	13.82	4.8151,4.8855-4.9607	Wachovia	Aa	91
City of Gastonia	5- 6-69	Water	280,000	6	12.84	5.0503,5.1205-5.4054	Interstate	A	83
Town of Bakersville	5- 6-69	Sewer	115,000	1[2]	23.01	4.500	F.H.A.	NR	NR
Town of Chocowinity	5- 6-69	Water	135,000	1[2]	24.14	4.500	F.H.A.	NR	NR
County of Gaston	5-13-69	School Building	4,000,000	7	12.11	5.0675,5.0876-5.3691	Dominick	A	91
City of Raleigh	5-20-69	Water	600,000	7	10.50	5.0838,5.1416-5.2593	NCNB	Aa	87
Town of Selma	5-20-69	Various Purpose	133,000	4	6.89	5.6624,5.7672-5.9317	1st Citizens	NR	72
County of Davie	6-10-69	School Building	2,495,000	3	14.79	5.9585,5.9756-5.9983	NCNB	A	85
County of Chowan	6-10-69	Public Hospital	1,000,000	1	12.44	5.9845	NCNB	NR	83
City of Concord	6-10-69	Electric & Power	1,000,000	6	16.50	5.8929,5.9207-5.9818	Merrill Lynch	A	84
County of Person	6-17-69	School Building	2,250,000	4	12.73	5.8057,5.8115-5.9132	FUNB	A	82
Town of Smithfield	6-17-69	Water	995,000	2	13.87	5.992 ,5.997	Interstate	Baa	80
City of Laurinburg	6-17-69	Sanitary Sewer	800,000	4	12.21	5.8661,5.9252-5.9892	FUNB	NR	83
County of Lenoir	6-24-69	County Hospital	3,000,000	4	13.28	5.6722,5.6996-5.7696	NCNB	A	89
Town of Dillsboro	7-15-69	Sanitary Sewer	17,440	1[2]	19.55	4.125	F.H.A.	NR	NR
City of Oxford	7-22-69	Sanitary Sewer	764,000	5	13.41	5.8115,5.9297-5.9892	Merrill Lynch	Baa	76
Town of Fairmont	7-22-69	Water & Sewer	270,000	2	8.94	5.9171,6.000	1st Citizens	NR	75
City of Henderson	7-22-69	Sanitary Sewer	94,000	4	7.69	5.500 ,5.5768-5.9502	Citizens Bk. & Tr.	A	84

Visible Bond Issues August 1, 1969-September 15, 1969

City of Lexington	8- 5-69	Sanitary Sewer	700,000
Town of Jonesville	8- 5-69	Water	40,000
Town of Middlesex	8-12-69	Sanitary Sewer	128,550
Town of Mayodan	8-12-69	Water & Sewer	325,000

Edwin Gill, Chairman and Director
H. E. Boyles, Secretary
E. T. Barnes, Deputy Secretary

1. The Weekly Bond Buyer, July 28, 1969, p. 59.
2. United States Government financing, Farmers Home Administration.