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no.242

**Report to the Colorado General Assembly:**

**RECOMMENDATIONS FOR 1980  
COMMITTEES ON:**

**Legislative Procedures**

**Finance**

**Education**

**Fire & Police Pensions**

**Agriculture – Water**



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**COLORADO LEGISLATIVE COUNCIL**

**RESEARCH PUBLICATION NO. 242**

**December, 1979**

LEGISLATIVE COUNCIL  
OF THE  
COLORADO GENERAL ASSEMBLY

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Vice-Chairman  
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Steven Durham  
Charles Howe  
Bob Kirscht  
Phillip Massari

\* \* \* \* \*

The Legislative Council, which is composed of six Senators, six Representatives, plus the Speaker of the House and the Majority Leader of the Senate, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

COLORADO LEGISLATIVE COUNCIL  
RECOMMENDATIONS FOR 1980

Committees on:

Legislative Procedures

Finance

Education

Policemen's and Firemen's Pension  
Reform Commission

Agriculture - Water

Legislative Council  
Report to the  
Colorado General Assembly

Research Publication No. 242



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no. 242

# COLORADO GENERAL ASSEMBLY

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## LEGISLATIVE COUNCIL

ROOM 46 STATE CAPITOL  
DENVER, COLORADO 80203  
839-3521  
AREA CODE 303

*MEMBERS*  
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REP. BOB LEON KIRSCHT  
REP. PHILLIP MASSARI

To Members of the Fifty-second Colorado General Assembly:

Submitted herewith are the final reports of the Legislative Council interim committees for 1979. This year's report consolidates the individual reports of ten committees into three volumes of research publications: No. 242, No. 245, and No. 246. The reports of the Committees on School Finance (Research Publication No. 243); and State Affairs (Research Publication No. 244), are contained in separate volumes as indicated.

Respectfully submitted,

/s/ Senator Fred Anderson  
Chairman  
Colorado Legislative Council

FA/pm

## FOREWORD

The recommendations of the Colorado Legislative Council for 1979 appear in five separate volumes (Research Publication Nos. 242 through 246). The Legislative Council reviewed the reports contained in this volume (Research Publication No. 242) at its meeting on November 26, 1979. With one exception, the Legislative Council voted to transmit the bills included herein with favorable recommendation to the Governor and to the 1980 Session of the General Assembly. Bill 10, recommended by the Committee on Finance, is transmitted without comment by the Legislative Council.

The committees and staff of the Legislative Council were assisted by the staff of the Legislative Drafting Office in the preparation of bills and resolutions contained in this Volume. Jim Wilson, Becky Lennahan, and Doug Brown assisted the Committee on Legislative Procedures; John Polak, the Committee on Finance; Becky Lennahan, the Committee on Education; Patrick Boyle, the Committee on Policemen's and Firemen's Pension Reform Commission; and Dave Doering, the Committee on Agriculture - Water.

December, 1979

Lyle C. Kyle  
Director

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LEGISLATIVE COUNCIL  
COMMITTEE ON LEGISLATIVE PROCEDURES

Members of the Committee

Rep. Robert Burford,  
Chairman  
Sen. Dan Noble,  
Vice-Chairman  
Sen. Fred Anderson  
Sen. Hugh Fowler  
Sen. Regis Groff  
Sen. Barbara Holme

Rep. William Becker  
Rep. Richard Castro  
Rep. John Hamlin  
Rep. Betty Orten

Council Staff

David Hite  
Principal Analyst

Tina Walls  
Senior Research Assistant

The focus of the committee's deliberations for the 1979 interim has been on ways to expedite the business of the General Assembly during the legislative session.

#### Deadlines -- Bills 1 and 2

Since its establishment in 1966, the Committee on Legislative Procedures has been involved in a continuing study of how the General Assembly can more efficiently use its time during the annual legislative session. Until recently, the committee's principal effort has been directed at resolving the existing dichotomy of the General Assembly working at less than capacity for the first two-thirds of the session, and then overburdening itself in the closing weeks of the session.

In an attempt to make the workload more uniform throughout the session, a series of legislative day deadlines for the handling of business were developed by the committee during the 1973 interim. The recommendation was introduced in 1974 as House Joint Resolution 1002 and adopted for implementation the following year. As a result of five years of experience with the deadline schedule, the General Assembly has experienced a more evenly distributed workload and, generally speaking, a diminished end-of-the-session "log jam".

The deadline schedule implemented during the 1975 session did not, however, include deadlines for concurrence in second house amendments, conference committee reports, signing of bills, consideration of gubernatorial vetoes, or sine die.

Based on the general success of the present deadline schedule, the committee recommends that two additional deadlines be added: a deadline for recess, and a deadline for sine die. The recess deadline would allow a reasonable time period after the existing deadline for final passage of all bills originating in the other house within which concurrence, conference committee reports, and the signing of bills could be accomplished. The recommended deadline for sine die would allow sufficient time -- fifteen days during the "short session" and twenty days during the "long session" -- for delivery of bills to the Governor and for his action on each measure prior to the General Assembly's consideration of vetoes and their final adjournment.

DEADLINE SCHEDULE WITH RECOMMENDED DEADLINES FOR  
A LEGISLATIVE RECESS AND SINE DIE

Long Session

<u>Legislative Day</u>	<u>Deadline</u>	<u>Calendar Day 1979</u>
30th	Bill Draft Requests Due	February 1
60th	Introduction of Bills	March 5
80th	Own House Bills out of Committee	March 23
95th	Final Passage - House of Introduction	April 9
110th	Committee Reports - Bills from Other House	April 23
120th	Final Passage - Bills from Other House	May 2
130th (NEW)	Recess	May 14
150th (NEW)	Reconvene for Adjournment Sine Die	June 1

DEADLINE SCHEDULE WITH RECOMMENDED DEADLINES FOR  
A LEGISLATIVE RECESS AND SINE DIE

Short Session

<u>Legislative Day</u>	<u>Deadline</u>	<u>Calendar Day 1980</u>
15th	Bill Draft Requests Due	January 16
30th	Introduction of Bills	January 31
45th	Own House Bills out of Committee	February 15
55th	Final Passage - House of Introduction	February 25
70th	Committee Reports - Bills from Other House	March 11
80th	Final Passage - Bills from Other House	March 21
105th (NEW)	Recess	April 15
120th (NEW)	Reconvene for Adjournment Sine Die	April 30

In addition to the setting of deadlines for legislative recess and sine die, the committee recommends a change in the current exclusion of appropriation bills from the deadlines. All appropriation measures are now excluded from the following deadlines: request for a bill draft; bill introduction; committee consideration of a measure; and passage in the house of introduction. The committee recommends

that only the general appropriation (long) bill, supplemental appropriation bills, and the legislative appropriation bill be excluded from the deadlines enumerated above. As a result of this change, all appropriation bills would be excluded from the deadline for committees of reference to report bills originating in the other house. By specifically defining which appropriation measures are excluded from the deadlines, there should no longer be any question regarding the kinds of "appropriation" bills that are excluded from the deadlines. The existing exemption has been used too often as a loop-hole for excluding bills which should have been subject to the deadline schedule.

#### Consent Calendar -- Bills 3 and 4

The committee recommends that a consent calendar be adopted as a part of the joint rules of the Senate and the House of Representatives. The purpose of a consent calendar is to expedite non-controversial bills and resolutions through the legislative process. Such a device is used in one or both houses of the legislature in at least eighteen states, although the conditions under which it is employed vary greatly from state to state.

The Committee on Legislative Procedures recommends that if a bill or resolution is reported out of a committee of reference without amendment, and is approved on a unanimous vote of all committee members in attendance, the measure will be placed on a consent calendar for consideration on the second day following the day on which the committee report is delivered. If an objection is filed during the first twenty-four hours after its placement on the consent calendar, the measure is removed and placed on the regular general orders calendar.

The joint rule recommended by the committee provides that there be no debate or floor amendments on second and third reading for items on the consent calendar; and that a single vote covering all measures on the consent calendar be taken after each reading. The objection by a member of the General Assembly to a proposal automatically removes the measure from the consent calendar.

Although a very small percentage of the bills and resolutions adopted by the General Assembly in the past fit the criteria established by the committee recommendation (see following table), such a procedure will expedite the handling of non-controversial items, thus allowing more time for considering measures of both greater importance and upon which there is less agreement. At the same time, there is adequate provision in the recommended rule for the removal of an item from such a calendar and its handling in the traditional manner.

In order to accomplish the committee's recommendation, Bill 3 amends the rules of the Senate and Bill 4 amends the rules of the House.

Number of Bills that Passed Both Houses and  
Bills that Passed Without Amendment 1/

	<u>1979</u>		<u>1977</u>	
	<u>Senate Bills</u>	<u>House Bills</u>	<u>Senate Bills</u>	<u>House Bills</u>
Total Number of Bills Passed	236	220	284	309
Bills Passed Without Amendment	44	45	70	68
Percentage of Non-Amended Bills	19%	20%	25%	21%
Non-Amended Bills Which Passed Unanimously on Third Reading	10	16	26	19
Percentage of Unanimous Bills	23%	36%	37%	28%

	<u>1978</u>		<u>1976</u>	
	<u>Senate Bills</u>	<u>House Bills</u>	<u>Senate Bills</u>	<u>House Bills</u>
Total Number of Bills Passed	43	84	45	113
Bills Passed Without Amendment	8	15	7	16
Percentage of Non-Amended Bills	19%	17%	16%	14%
Non-Amended Bills Which Passed Unanimously on Third Reading	3	2	2	9
Percentage of Unanimous Bills	38%	13%	29%	56%

1/ Based on the 1979, 1978, 1977, and 1976 final status of Colorado General Assembly bills.

Sponsorship of Bills -- Bill 5

The committee recommends an addition to the joint rules that no bill be accepted for introduction in either house unless it has a prime sponsor in both houses. Such a recommendation provides that the six bill limitation rule not limit the number of bills originating in the house of introduction which a member may introduce in the second house.

The recommendation is made in response to numerous problems that develop each session when there is no sponsor for a measure in

the second house. In such a case, the scheduling of a committee hearing on a bill depends on the availability of the bill's prime sponsor from the first house. Without a prime sponsor in the second house, little may be known of the measure when it reaches the floor for debate. As a result of these problems, the lack of a prime sponsor in the second house has proven to be an obstacle to the most efficient use of legislative time.

#### Citations of Recognition -- Bills 6 and 7

The committee recommends a change in the rules of the Senate and House of Representatives to provide for a different procedure for handling resolutions and memorials of recognition. The accompanying table details the number of resolutions and memorials introduced during the last four sessions which could be identified as congratulatory or recognition in nature. During the 1979 session alone, some 23 resolutions or memorials were introduced to congratulate or recognize athletic teams. The legislative rules now provide that each recognition be discussed on the floor (and, in addition, sometimes in committees of reference), printed in the journals, and voted upon. This procedure is time consuming and often detracts from legislative decorum.

Recognizing the importance of paying tribute to significant public achievement, the committee recommends a procedure which allows tributes or joint tributes to be issued for the following purposes:

- (a) congratulations for significant public achievement;
- (b) meritorious individual achievement;
- (c) appreciation for service to the state or the General Assembly; or
- (d) greetings to prominent visitors to the state.

In addition, memorial tributes or joint memorial tributes could be issued as an expression of sentiment on the death of a person who has not served as a member of the General Assembly.

Tributes would not require introduction, calendaring, or floor action. The legislative sponsor of the tribute must first receive the presiding officer's approval. After securing preliminary approval, the sponsor would obtain a preprinted form and, with the assistance of the Legislative Drafting Office or the staff of the House or Senate, prepare the traditional "whereas" language which would then be transferred to the form by House or Senate personnel. The sponsor would sign the form and place it on the desk of either the Chief Clerk of the House or the Secretary of the Senate who is responsible for obtaining the presiding officer's signature and transmitting the form to the recipient or recipients.

TOTAL NUMBERS OF RESOLUTIONS AND  
MEMORIALS INTRODUCED DURING  
THE SESSIONS OF 1976-79

	<u>1979</u>	<u>1978</u>	<u>1977</u>	<u>1976</u>
<b>HJR</b>				
Total Introduced	55	51	48	51
Congratulatory/Recognition	16	13	4	8
Individual	4	4	0	1
Group	12	9	4	7
<b>H.R.</b>				
Total Introduced	19	17	24	13
Congratulatory/Recognition	8	3	0	1
Individual	4	0	0	0
Group	4	3	0	1
<b>HJM</b>				
Total Introduced	7	4	0	3
Congratulatory/Recognition	7	4	0	3
Former Member	4	2	0	0
Non-Member	3	2	0	0
<b>HM</b>				
Total Introduced	5	2	2	3
Congratulatory/Recognition	5	2	2	3
Former Member	5	2	2	0
Non-Member	0	0	0	0
<b>SJR</b>				
Total Introduced	50	29	34	46
Congratulatory/Recognition	17	7	5	12
Individual	3	2	1	5
Group	14	5	4	7
<b>SR</b>				
Total Introduced	16	20	15	14
Congratulatory/Recognition	5	6	6	5
Individual	1	1	2	2
Group	4	5	4	3
<b>SJM</b>				
Total Introduced	8	2	8	7
Congratulatory/Recognition	1	0	2	2
Former Member	1	0	2	0
Non-Member	0	0	0	0
<b>SM</b>				
Total Introduced	0	3	4	3
Congratulatory/Recognition	0	2	1	2
Former Member	0	2	1	1
Non-Member	0	0	0	1

The recommended procedure would not apply to the following:

-- concurrent resolutions which propose amendments to the state constitution or ratify proposed amendments to the federal constitution;

-- joint resolutions pertaining to the establishment of committees or the transaction of business between the two houses which are outside the scope of the new rule;

-- resolutions relating solely to matters concerning the House or the Senate and not mentioned in the new rule; or

-- memorials or joint memorials which express sentiment on the death of any person or persons who served as members of the General Assembly.

#### Format of Conference Committee Reports

In response to the committee's request for an alternative form for conference committee reports, the Legislative Drafting Office presented a format which the committee endorses for implementation during the 1980 legislative session. The committee determined that the present form is too complicated and cumbersome and is thus in need of simplification. The new format for conference committee reports will have the following advantages:

-- because they are written as amendments to the rerevised or reengrossed bills, instead of addressing the amendments in the journals, the reports will be much easier to understand than the "current form" of reports. The "new form" will reduce the time-consuming practice of reproducing an entirely new bill showing the conference committee changes;

-- the "new form" is shorter than the "current form"; and,

-- as a general rule, the "new form" is easier to draft than the "current form".

Although the "new form" of conference committee reports will be written as an amendment to the rerevised bill in the great majority of cases, drafting considerations relating to length, complexity and the greater understanding by the reader may mean that a report is occasionally written as an amendment to the reengrossed bill. The Legislative Drafting Office will be allowed the discretion to decide when a report should be written as an amendment to the rerevised or reengrossed bill.

No rule changes are necessary to implement the new procedure.



## The Scope of Conference Committee Activities -- Bill 8

Joint Rule No. 4 of the joint rules of the Senate and House of Representatives provides that "with the consent of a majority of members elected to each of the two houses, the conference committee may consider and report on matters beyond the scope of the differences between the two houses; otherwise the committee shall consider and report only on matters directly at issue between the two houses". Different interpretations have recently been applied to the term "scope of the differences" by presiding officers of the two houses. The committee recommends an amendment to Joint Rule No. 4 which provides that consent is not necessary for a conference committee to consider and report on any matter which is germane to the subject of the provision at issue between the two houses.

### Revisor's Comments

Pursuant to Joint Rule 16, the procedure currently used by the Office of Revisor of Statutes when it appears that a comment on a bill is necessary is to attach a copy of the comment to the actual bill when it is transmitted from the house of introduction to the second house. In addition, a copy of the comment is sent to the prime sponsor in the house of introduction and to the prime sponsor in the second house if one is listed on the bill. Copies are also sent to the Legislative Drafting Office and to the Legislative Council for use in the committee of reference in the second house.

Joint Rule No. 26 also provides a procedure whereby a bill may be returned for correction to the second house after that house has adopted the bill on third reading. This procedure is used to suggest a correction to the bill which cannot be made except by amendment. The bill is returned to the second house with a comment attached explaining the need for the correction and with a prepared amendment to make the correction.

In response to the need for additional attention to Revisor's Notes, the committee recommends that a copy of each note be delivered to the front desk in each house, and the calendar in each house in some distinct way reflect the fact that a note on the bill has been written.

### Schedule of Meetings for the Committees of Reference

An afternoon meeting schedule keyed to a categorization of the committees of reference was first used during the 1975 legislative session. No changes in the schedule have been made in the afternoon meeting schedule since 1975. A morning schedule was implemented, in part, during the 1977 legislative session and became fully operational during the 1979 session.

The committee has reviewed the meeting schedule and various alternatives aimed at reducing the number of categories as well as the actual number of committees in both the House and the Senate. As a result of its study, the committee recommends that no changes be made in the existing schedule of meetings for committees of reference and that the schedule (see below) followed during the 1979 session be continued during the 1980 legislative session.

MORNING HOUSE COMMITTEE SCHEDULE\*

House Com- mittee Room	Monday 10:00 a.m. to 12:00 noon	Tuesday 9:00 a.m. to 12:00 noon	Wednesday 9:00 a.m. to 12:00 noon	Thursday 9:00 a.m. to 12:00 noon	Friday 9:00 a.m. to 12:00 noon
B	10:00 a.m. FLOOR ACTION FOR THIRD READING	Business Affairs and Labor	Health, Environment Welfare, and Institutions		Game, Fish and Parks 8-9 a.m.
C		State Affairs		Finance	9:00 a.m. FLOOR ACTION FOR SECOND READING
D		Judiciary		Agriculture, Livestock, and Natural Resources	
E			Local Government		
F			Education	Transpor- tation and Energy	
G					

\*Joint Budget Committee will meet in Room 341 from 9:00 until 12:00 noon Tuesday through Thursday.

AFTERNOON HOUSE COMMITTEE SCHEDULE\*

House Com- mittee Room	<u>Monday and Wednesday</u>		<u>Tuesday and Thursday</u>	<u>Friday</u>
	1:30 p.m. to 3:30 p.m. (Category 2)	3:30 p.m. to 5:00 p.m. (Category 3)	1:30 p.m. to 5:00 p.m. (Category 1)	1:30 p.m. to 5:00 p.m.
B	Health, Environ- ment, Welfare, and Institutions Chrm:		Business Affairs and Labor Chrm:	LEGISLATIVE AUDIT COMMITTEE (1st and 3rd Fridays of each month)
C		Finance Chrm:	State Affairs Chrm:	Game, Fish, and Parks Chrm:
D		Agriculture, Livestock, and Natural Resources Chrm:	Judiciary Chrm:	
E	Local Government Chrm:			COMMITTEE ON LEGAL SERVICES (2nd and 4th Fridays of each month)
F	Education Chrm:			
G		Transportation and Energy Chrm:		

\* Joint Budget Committee will meet in Room 341 from 1:30 to 5:00 p.m. Monday through Thursday.

MORNING SENATE COMMITTEE SCHEDULE\*

Senate  
Com-  
mittee  
Room

Monday  
10:00 a.m. to  
12:00 noon

Tuesday  
9:00 a.m. to  
12:00 noon

Wednesday  
9:00 a.m. to  
12:00 noon

Thursday  
9:00 a.m. to  
12:00 noon

Friday  
9:00 a.m. to  
12:00 noon

320A	10:00 a.m. FLOOR ACTION FOR THIRD READING	Business Affairs and Labor	Health, Environment Welfare, and Institutions	Education	9:00 a.m. FLOOR ACTION FOR SECOND READING
320B		State Affairs	Local Government	Agriculture, Livestock, and Natural Resources	
320C		Judiciary	Transpor- tation	Finance	
320E					

\*Joint Budget Committee will meet in Room 341 from 9:00 until 12:00 noon Tuesday through Thursday.

AFTERNOON SENATE COMMITTEE SCHEDULE\*

Senate Com- mittee Room	<u>Monday and Wednesday</u>	<u>Tuesday and Thursday</u>		<u>Friday</u>
	1:30 p.m. to 5:00 p.m. (Category 1)	1:30 p.m. to 3:30 p.m. (Category 3)	3:30 p.m. to 5:00 p.m. (Category 2)	
320A	Business Affairs and Labor	Education	Health, Environ- ment, Welfare and Institutions	Legislative Audit Committee will meet on 1st and 3rd Fridays, 1:30-5:00 p.m. in House Committee Room B and the Committee on Legal Services will meet on the 2nd and 4th Fridays, 1:30- 5:00 p.m. in House Committee Room E.
320B	State Affairs	Agriculture, Natural Resources and Energy	Local Government	
320C	Judiciary	Finance	Transportation	
320E				

\*Joint Budget Committee will meet in Room 341 from 1:30-5:00 p.m. Monday through Thursday.

### Daily Status Sheet

The committee recommends a change in the preparation and usage of the daily status sheet to correct a waste in paper and labor created by daily revision of the status sheet. It is recommended that a complete status sheet be prepared for distribution on Monday morning, listing all House and Senate action to date. During the rest of the week, a cumulative daily "log sheet" will be prepared. The current format will continue to be used with House action on one side of the status sheet and Senate action on the other side. As soon as a bill is acted upon, it will be noted on the daily log sheet. It will not be necessary to keep sheets from one day to the next. On Friday afternoon, the whole week's actions will be incorporated into an up-to-date, complete status sheet for distribution on Monday morning.

The recommended system will help highlight the bills that are receiving attention during the week and make legislators more aware of the week's work both in the House and the Senate. A substantial savings in time, labor, and paper costs is expected.

### Reports of Attendance at Committee Meetings

The committee has approved a plan for the filing of weekly reports of meeting attendance of the committees of reference. The reports will be distributed each Friday to the majority and minority leadership in each house. Such a procedure should improve attendance at committee meetings during the legislative session.

### Other Committee Activities

Contact with the Resource Communication Center, Colorado School of Mines. At the committee's first meeting of the interim, Dr. Albert Burke, representing the Resource Communication Center at the Colorado School of Mines, proposed the development of a series of videotaped programs on the state of the art of energy development in the West. Using existing resource data, the resource Communication Center would make a series of video tapes to assist decision-makers at the national level in the formulation of a national energy policy. As the proposal was presented to the committee, programmatic approval would lie with the General Assembly while administrative responsibility would remain with the School of Mines. The project would not require the approval of the Board of Trustees of the School of Mines.

The project budget calls for a monthly expenditure of \$25,000. It was suggested that an agreement be made for funding through March, 1980, at which time the fiscal year 1981 legislative appropriation would be written and adopted to reflect funding for the remainder of FY 1980 and all of FY 1981. Although one General Assembly cannot legally bind a succeeding body, it was recommended that the project coordinators be given some kind of assurance that the program would receive legislative support through June, 1982.

At its August 21, 1979, meeting the committee voted to recommend to the Executive Committee of the Legislative Council the approval of a contract between the Legislative Council and the School of Mines for a program administered according to the provisions enumerated above.

Use of the Old State Museum Building. During the 1976 legislative interim, the Committee on Legislative Procedures was directed to study the immediate and long-range office space needs of the legislative department. The departure of the Judicial Department from the Capitol Building scheduled for 1977 and the vacating of the State Museum Building (located directly south of the Capitol Building on Fourteenth Street) gave additional impetus to the study. The committee recommendations to the 1977 General Assembly included plans for the utilization of all available space in the basement, second and third floors of the Capitol Building, as well as the space in the Museum Building.

With the completion of the Colorado Heritage Center building, the State Museum Building was vacated in 1977. House Bill 1019, adopted during the 1977 session, directed that the building be designated for use by the General Assembly. However, the appropriation to remodel the building into legislative offices was not adopted during the 1977 session. As a result, the expansion of legislative office space was limited to areas within the Capitol Building. By statute (Section 2-2-321, C.R.S. 1973, as amended), the General Assembly has relinquished use of the first floor of the Capitol Building to the Governor. The same provision of law charges the General Assembly with the designation and assignment of space in the remaining areas of the building and in the museum building.

The cost for remodeling the museum facility for legislative office space was estimated at \$1.2 million in 1977. To date, a number of additional proposals have been made for use of the building. The committee recognizes that the structure should be in use and, as a result, has directed that the following information be gathered for consideration by the General Assembly during the 1980 session: a current estimate of monies needed for remodeling the building to house government offices, and a survey of government agencies leasing space in the capitol hill area. The committee further recommends that the museum building remain under the control of the General Assembly.

Activities of the Capitol Arts Commission. Until recently, there have been no organized efforts to present arts performances and displays on a regular basis in the Capitol Building. Periodically, since December, 1977, a small group of citizens has organized a series of concerts in the rotunda during the noon hours, and occasionally works of art have been displayed. During the 1978 interim, the committee was asked to approve the continuation of those efforts. In addition, the committee was asked to support the establishment of an ongoing "Capitol Arts Fund" and the formation of an "Arts Colorado" commission. It was envisioned that the fund would be established to promote the continual display of the arts in the Capitol Building, and

that the commission would include legislators among its members. After discussing the issue, the 1978 interim Committee on Legislative Procedures approved a motion to authorize continuation of the arts program in the Capitol Building but took no action to support fund raisers for establishment of a "Capitol Arts Fund" or an "Arts Colorado" commission.

During the 1979 legislative session, House Joint Resolution 1027 was adopted which created a Capitol Arts Commission comprised of twenty-one members, including members of the General Assembly, representatives from the Executive Branch, and interested citizens. The resolution charged the commission with responsibility for scheduling and implementing arts programs in the State Capitol and soliciting volunteer assistance to implement the desired events. With regards to funding, the resolution stated that:

The commission shall not incur any government expense and that, to defray its expenses, the commission shall sponsor, with the concurrence of the Speaker of the House of Representatives and the President of the Senate, an annual arts benefit in the State Capitol and establish an ongoing "Capitol Arts Fund" to be implemented through private contributions and volunteer community assistance.

During the 1979 interim, the commission presented the committee with concerns over art acquisitions, including the establishment of a procedure for accepting donations of art and the possibility of the General Assembly purchasing art. The committee asked that the commission develop a proposed procedure and present it to the committee. The commission report to the committee reads as follows:

The Capitol Arts Commission recommends the following procedures regarding acquisition of art for the Capitol building:

- 1) Works of art donated or acquired for the Capitol should meet the professional standards of the Colorado Historical Society (exhibit historical significance as to artists or subject matter) or the criteria created by the Capitol Arts Commission.
- 2) The Capitol Arts Commission shall establish a committee on criteria and standards composed of representatives of the Colorado Historical Society, the Colorado Council on the Arts, and Capitol Arts Commission members representing the legislature and the Governor's Office. Such committee shall consult state arts experts, including staff members of the Denver Art Museum, and shall promulgate general standards in writing for future acquisitions other than those which are of historical significance and therefore meet the existing CHS standards.



- 3) The Capitol Arts Commission shall be the official body for channeling of art acquisitions for the Capitol and for coordination of arts programs and cultural events focusing on art from all regions of the state.
- 4) Art objects or works approved for acceptance by the Colorado Historical Society will be covered automatically under the CHS insurance provision. We are hopeful that other acquisitions for the Capitol which are officially approved by the Capitol Arts Commission may be covered through the existing insurance policy of the Colorado Council on the Arts for such works in state buildings (this latter provision yet to be ascertained).

The above report was accepted by the committee and the following recommendation made regarding art acquisitions: a final determination on the acceptance of a piece of art for the Capitol Building should be made by joint agreement between the Governor, the President of the Senate, and the Speaker of the House of Representatives. In addition to being of high quality, the piece of art should be of special historical significance.

Aid Station in the Capitol Building. As a result of the need for emergency first aid for those who work in the Capitol Building, as well as for those who visit the building, the committee has adopted a plan suggested by Senator Harvey Phelps, M.D., to establish a first aid station in the Capitol. The basic first aid materials needed for the station will cost approximately \$2,500. The facility will be housed on the second floor of the Capitol Building. Senator Phelps has been asked to detail a procedure for utilizing the equipment, including the training of those state employees working in the building on methods of first aid.

BILL 1

HOUSE JOINT RESOLUTION NO.

1 Be It Resolved by the House of Representatives of the  
2 Fifty-second General Assembly of the State of Colorado, the  
3 Senate concurring herein:

4 That Joint Rule No. 23 (a) of the Joint Rules of the  
5 Senate and House of Representatives is amended to read:

6 JOINT RULE NO. 23

7 (a) Deadline schedule. For the purposes of organizing the  
8 legislative session, the schedule for the enactment of  
9 legislation shall be as follows:

10 Odd-year Session

11 First House  
12 Deadlines:

13 30th day Deadline for bill draft requests to the Legislative  
14 Drafting Office.\*

15 60th day Deadline for the introduction of bills. No bill  
16 delivered by the Legislative Drafting Office on or  
17 before the fiftieth legislative day shall be  
18 introduced more than ten legislative days after  
19 such delivery. Any bill delivered by the  
20 Legislative Drafting Office on or after the  
21 fifty-first legislative day and before the  
22 fifty-sixth legislative day shall be introduced not  
23 later than five days after such delivery; except  
24 that no bill shall be introduced after the sixtieth  
25 legislative day.\*

26 80th day Deadline for committees of reference to report  
27 bills originating in their own house.\*

28 95th day Deadline for final passage of bills in the house of  
29 introduction.\*

1 Second House  
2 Deadlines:  
3 110th day Deadline for committees of reference to report  
4 bills originating in the other house.\*  
5 120th day Deadline for final passage of all bills originating  
6 in the other house.  
7 130TH DAY DEADLINE FOR RECESS.  
8 150TH DAY RECONVENE FOR ADJOURNMENT SINE DIE.  
9 \* Appropriation bills are excluded from these deadlines.

10 Even-year Session

11 First House  
12 Deadlines:  
13 15th day Deadline for bill draft requests to the Legislative  
14 Drafting Office.\*  
15 30th day Deadline for the introduction of bills. No bill  
16 delivered by the Legislative Drafting Office on or  
17 before the twentieth legislative day shall be  
18 introduced more than ten legislative days after  
19 such delivery. Any bill delivered by the  
20 Legislative Drafting Office on or after the  
21 twenty-first legislative day shall be introduced  
22 not later than the thirtieth legislative day.\*  
23 45th day Deadline for committees of reference to report  
24 bills originating in their own house.\*  
25 55th day Deadline for final passage of bills in the house  
26 of introduction.\*  
27 Second House  
28 Deadlines:  
29 70th day Deadline for committees of reference to report  
30 bills originating in the other house.\*  
31 80th day Deadline for final passage of all bills originating  
32 in the other house.  
33 105TH DAY DEADLINE FOR RECESS.  
34 120TH DAY RECONVENE FOR ADJOURNMENT SINE DIE.  
35 \* Appropriation bills are excluded from these deadlines.

BILL 2

SENATE JOINT RESOLUTION NO.

1           Be It Resolved by the Senate of the Fifty-second General  
2 Assembly of the State of Colorado, the House of  
3 Representatives concurring herein:

4           That Joint Rule No. 23 (a) of the Joint Rules of the  
5 Senate and House of Representatives is amended to read:

6                           JOINT RULE NO. 23

7       (a) Deadline schedule. For the purposes of organizing the  
8       legislative session, the schedule for the enactment of  
9       legislation shall be as follows:

10                           Odd-year Session

11       First House  
12       Deadlines:

13       30th day   Deadline for bill draft requests to the Legislative  
14                   Drafting Office.\*

15       60th day   Deadline for the introduction of bills. No bill  
16                   delivered by the Legislative Drafting Office on or  
17                   before the fiftieth legislative day shall be  
18                   introduced more than ten legislative days after  
19                   such delivery. Any bill delivered by the  
20                   Legislative Drafting Office on or after the  
21                   fifty-first legislative day and before the  
22                   fifty-sixth legislative day shall be introduced not  
23                   later than five days after such delivery; except  
24                   that no bill shall be introduced after the sixtieth  
25                   legislative day.\*

26       80th day   Deadline for committees of reference to report  
27                   bills originating in their own house.\*

28       95th day   Deadline for final passage of bills in the house of  
29                   introduction.\*

1 Second House  
2 Deadlines:

3 110th day Deadline for committees of reference to report  
4 bills originating in the other house.\*\*

5 120th day Deadline for final passage of all bills originating  
6 in the other house.

7 \* THE GENERAL APPROPRIATION BILL, SUPPLEMENTAL APPROPRIATION  
8 BILLS, AND LEGISLATIVE APPROPRIATION BILL ARE EXCLUDED FROM  
9 THESE DEADLINES.

10 \*\* ALL appropriation bills are excluded from these deadlines.

11 Even-year Session

12 First House  
13 Deadlines:

14 15th day Deadline for bill draft requests to the Legislative  
15 Drafting Office.\*

16  
17 30th day Deadline for the introduction of bills. No bill  
18 delivered by the Legislative Drafting Office on or  
19 before the twentieth legislative day shall be  
20 introduced more than ten legislative days after  
21 such delivery. Any bill delivered by the  
22 Legislative Drafting Office on or after the  
23 twenty-first legislative day shall be introduced  
24 not later than the thirtieth legislative day.\*

25 45th day Deadline for committees of reference to report  
26 bills originating in their own house.\*

27 55th day Deadline for final passage of bills in the house  
28 of introduction.\*

29 Second House  
30 Deadlines:

31 70th day Deadline for committees of reference to report  
32 bills originating in the other house.\*\*

33 80th day Deadline for final passage of all bills originating  
34 in the other house.

35 \* THE GENERAL APPROPRIATION BILL, SUPPLEMENTAL APPROPRIATION  
36 BILLS, AND LEGISLATIVE APPROPRIATION BILL ARE EXCLUDED FROM  
37 THESE DEADLINES.

38 \*\* ALL appropriation bills are excluded from these deadlines.

BILL 3

SENATE RESOLUTION NO.

1 Be It Resolved by the Senate of the Fifty-second General  
2 Assembly of the State of Colorado:

3 That the Rules of the Senate are amended BY THE ADDITION  
4 OF A NEW RULE to read:

5 15A. CONSENT CALENDAR

6 (a) If a bill is reported out of a committee of reference  
7 without amendment, for consideration by the committee of  
8 the whole, and if all members of the committee of  
9 reference who are present so vote, the secretary shall  
10 place the bill on the consent calendar for consideration  
11 on the second day of actual session following the day on  
12 which the committee report is delivered. If any Senator  
13 files an objection to the inclusion of a bill on the  
14 consent calendar with the secretary during the first  
15 twenty-four hours after its placement thereon, the bill  
16 shall be removed from the consent calendar and placed on  
17 the general orders calendar in accordance with Rule No.  
18 15(c). The consent calendar shall appear on the daily  
19 calendar under the title of "general orders", and it  
20 shall be clearly designated by the words "consent  
21 calendar".

22 (b) All bills on the consent calendar shall be considered on  
23 second reading by the committee of the whole in the same  
24 manner as other bills, except that:

25 (1) No debate or floor amendments shall be permitted  
26 for bills on the consent calendar; and

27 (2) The committee of the whole shall take a single vote  
28 covering all such bills. Such vote shall have the  
29 effect of adopting all such bills on second  
30 reading.

31 (c) All bills on the consent calendar which have been passed  
32 on second reading shall be included on the calendar under  
33 the title "third reading of bills" and shall be clearly

1 designated by the words "consent calendar". No debate or  
2 third reading amendments shall be permitted for bills on  
3 the consent calendar. There shall be a single vote  
4 covering all bills appearing on the consent calendar.  
5 Such vote shall be by ayes and noes and entered in the  
6 journal separately for each bill.

7 (d) A bill shall be removed from the consent calendar upon  
8 the objection of any Senator made at any time after the  
9 Senate begins to consider the bill on second reading. If  
10 the objection is made prior to the adoption of the  
11 committee of the whole report, the bill shall be deemed  
12 as not having been considered on second reading and shall  
13 be placed on the general orders calendar for the next day  
14 of actual session following the day on which it was  
15 removed from the consent calendar. If the objection is  
16 made after the adoption of the committee of the whole  
17 report but prior to the passage of the bill on third  
18 reading, the bill shall be placed on the third reading  
19 calendar for the next day of actual session following the  
20 day on which it was removed from the consent calendar.

BILL 4

HOUSE RESOLUTION NO.

1 Be It Resolved by the House of Representatives of the  
2 Fifty-second General Assembly of the State of Colorado:

3 That the Rules of the House of Representatives are  
4 amended BY THE ADDITION OF A NEW RULE to read:

5 29A. CONSENT CALENDAR

6 (a) If a bill is reported out of a committee of reference  
7 without amendment, for consideration by the committee of  
8 the whole, and if all members of the committee of  
9 reference who are present so vote, the rules committee  
10 may place the bill on the consent calendar. If any  
11 member files an objection to the inclusion of a bill on  
12 the consent calendar with the clerk during the first  
13 twenty-four hours after its placement thereon, the bill  
14 shall be removed from the consent calendar and placed on  
15 the general orders calendar. The consent calendar shall  
16 appear on the daily calendar under the title of "general  
17 orders", and it shall be clearly designated by the words  
18 "consent calendar".

19 (b) All bills on the consent calendar shall be considered on  
20 second reading by the committee of the whole in the same  
21 manner as other bills, except that:

22 (1) No debate or floor amendments shall be permitted  
23 for bills on the consent calendar; and

24 (2) The committee of the whole shall take a single vote  
25 covering all such bills. Such vote shall have the  
26 effect of adopting all such bills on second  
27 reading.

28 (c) All bills on the consent calendar which have been passed  
29 on second reading shall be included on the calendar under  
30 the title "third reading of bills" and shall be clearly  
31 designated by the words "consent calendar". No debate or  
32 third reading amendments shall be permitted for bills on  
33 the consent calendar. There shall be a single vote



1 covering all bills appearing on the consent calendar.  
2 Such vote shall be by ayes and noes and entered in the  
3 journal separately for each bill.

4 (d) A bill shall be removed from the consent calendar upon  
5 the objection of any member made at any time after the  
6 House begins to consider the bill on second reading. If  
7 the objection is made prior to the adoption of the  
8 committee of the whole report, the bill shall be deemed  
9 as not having been considered on second reading and shall  
10 be placed on the general orders calendar for the next day  
11 of actual session following the day on which it was  
12 removed from the consent calendar. If the objection is  
13 made after the adoption of the committee of the whole  
14 report but prior to the passage of the bill on third  
15 reading, the bill shall be placed on the third reading  
16 calendar for the next day of actual session following the  
17 day on which it was removed from the consent calendar.

BILL 5

SENATE JOINT RESOLUTION NO.

1        Be It Resolved by the Senate of the Fifty-second General  
2        Assembly of the State of Colorado, the House of  
3        Representatives concurring herein:

4        That Joint Rule No. 24 (a) of the Joint Rules of the  
5        Senate and House of Representatives is REPEALED AND REENACTED,  
6        WITH AMENDMENTS, to read:

7                                JOINT RULE NO. 24

8        (a) No bill shall be accepted for introduction in either  
9        house of the General Assembly unless it shall have a  
10       prime sponsor in both houses thereof.

11        That Joint Rule No. 24 (b) of the Joint Rules of the  
12        Senate and House of Representatives is amended to read:

13                                JOINT RULE NO. 24

14       (b) A member of the General Assembly may not introduce more  
15       than six bills, excluding bills for appropriations and  
16       prefiled bills requested of the Legislative Drafting  
17       Office no later than December 1, in a regular session of  
18       the General Assembly except when given permission to  
19       exceed the limit established by this rule by the Senate  
20       Committee on Delayed Bills for members of the Senate and  
21       the House Committee on Delayed Bills for members of the  
22       House of Representatives; EXCEPT THAT NOTHING IN THIS  
23       SUBSECTION (b) SHALL LIMIT THE NUMBER OF BILLS  
24       ORIGINATING IN THE OTHER HOUSE WHICH A MEMBER MAY  
25       INTRODUCE IN THE SECOND HOUSE.

BILL 6

SENATE RESOLUTION NO.

1        Be It Resolved by the Senate of the Fifty-second General  
2        Assembly of the State of Colorado:

3        That Rule No. 30(b) and 30(d) of the Rules of the Senate  
4        are amended to read:

5                                30. RESOLUTIONS AND MEMORIALS

6        (b) Senate joint resolutions, which pertain to:

7                (1) The transaction of the business of both houses.

8                (2) The establishment of investigating committees  
9                composed of members of both houses.

10               (3)\* An expression of the will or--sentiment of both  
11               houses on any matter NOT MENTIONED IN RULE 30A.

12               Any such resolution, upon request of its sponsor, shall  
13               be printed as a bill and placed in the members' bill  
14               books. The number of printed copies shall be determined  
15               by the secretary. If such resolution is printed and  
16               placed in the bill books, only its title shall be printed  
17               in the journal. At the discretion of the President, it  
18               shall then either lay over one day before being acted  
19               upon or be referred to a committee of reference, where it  
20               shall be considered as Senate bills are considered.

21        (d) Senate joint memorials or Senate memorials, which shall  
22        pertain to resolutions memorializing the Congress of the  
23        United States on any matter or to an expression of  
24        sentiment on the death of any person or persons WHO  
25        SERVED AS MEMBERS OF THE GENERAL ASSEMBLY. Such  
26        memorials shall be treated in all respects as joint  
27        resolutions; except that Senate memorials shall not  
28        require the concurrence of the House.

29        That the Rules of the Senate are amended BY THE ADDITION

1 OF A NEW RULE to read:

2 30A. TRIBUTES

3 (a) Tributes are non legislative actions which do not require  
4 introduction, calendaring, or floor action.

5 (b) Tributes issued by the secretary of the Senate shall be  
6 of the following classes:

7 (1) Senate joint tributes or Senate tributes, which  
8 shall:

9 (A) Offer congratulations for significant public  
10 achievements;

11 (B) Recognize meritorious individual achievement;

12 (C) Express appreciation for service to the state  
13 or the General Assembly;

14 (D) Extend greetings to prominent visitors to the  
15 state.

16 (2) Senate joint memorial tributes or Senate memorial  
17 tributes, which shall express sentiment on the  
18 death of a person who has not served as a member of  
19 the General Assembly.

20 (c) The secretary of the Senate shall not issue:

21 (1) A Senate tribute or memorial tribute unless the  
22 Senator requesting the issuance of such tribute has  
23 obtained the permission of the President;

24 (2) A Senate joint tribute or joint memorial tribute  
25 unless the Senator requesting the issuance of such  
26 tribute has obtained the permission of the  
27 President and a Representative has obtained the  
28 permission of the Speaker of the House.

BILL 7

HOUSE RESOLUTION NO.

1 Be It Resolved by the House of Representatives of the  
2 Fifty-second General Assembly of the State of Colorado:

3 That Rule No. 26 (a) of the Rules of the House of  
4 Representatives is amended to read:

5 26. RESOLUTIONS AND MEMORIALS

6 (a) Resolutions and memorials originating in the House shall  
7 be of the following classes:

8 (1) House concurrent resolutions, which shall propose  
9 amendments to the constitution of the state of  
10 Colorado or recommend the holding of constitutional  
11 conventions and ratify proposed amendments to the  
12 federal constitution.

13 (2) House joint resolutions, which shall pertain to THE  
14 transaction of the business of both the House and  
15 the Senate OR THE establishment of committees  
16 comprised of members of both houses or WHICH SHALL  
17 express the will ~~or sentiment~~ of both houses on any  
18 matter NOT MENTIONED IN RULE 26A.

19 (3) House resolutions, which shall relate solely to  
20 matters NOT MENTIONED IN RULE 26A concerning the  
21 House.

22 (4) House memorials or House joint memorials, which  
23 shall express sentiment on the death of any person  
24 or persons WHO SERVED AS MEMBERS OF THE GENERAL  
25 ASSEMBLY.

26 That the Rules of the House of Representatives are  
27 amended BY THE ADDITION OF A NEW RULE to read:

28 26A. TRIBUTES

- 1 (a) Tributes are nonlegislative actions which do not require  
2 introduction, calendaring, or floor action.
- 3 (b) Tributes issued by the chief clerk of the House shall be  
4 of the following classes:
- 5 (1) House joint tributes or House tributes, which  
6 shall:
- 7 (A) Offer congratulations for significant public  
8 achievement;
- 9 (B) Recognize meritorious individual achievement;
- 10 (C) Express appreciation for service to the state  
11 or the General Assembly;
- 12 (D) Extend greetings to prominent visitors to the  
13 state.
- 14 (2) House joint memorial tributes or House memorial  
15 tributes, which shall express sentiment on the  
16 death of a person who has not served as a member of  
17 the General Assembly.
- 18 (c) The chief clerk of the House shall not issue:
- 19 (1) A House tribute or memorial tribute unless the  
20 Representative requesting the issuance of such  
21 tribute has obtained the permission of the Speaker;
- 22 (2) A House joint tribute or joint memorial tribute  
23 unless the Representative requesting the issuance  
24 of such tribute has obtained the permission of the  
25 Speaker and a Senator has obtained the permission  
26 of the President of the Senate.

BILL 8

SENATE JOINT RESOLUTION NO.

1           Be It Resolved by the Senate of the Fifty-second General  
2 Assembly of the State of Colorado, the House of  
3 Representatives concurring herein:

4           That Joint Rule No. 4 (d) of the Joint Rules of the  
5 Senate and House of Representatives is amended to read:

6   JOINT RULE NO. 4

7 (d) With the consent of a majority of members elected to each  
8 of the two houses, the conference committee may consider  
9 and report on matters beyond the scope of the differences  
10 between the two houses; ~~otherwise-the-committee-shall~~  
11 ~~consider-and-report-only-on-matters-directly-at-issue~~  
12 ~~between-the-two-houses~~ BUT NO SUCH CONSENT SHALL BE  
13 NECESSARY FOR THE COMMITTEE TO CONSIDER AND REPORT ON ANY  
14 MATTER WHICH IS GERMANE TO THE SUBJECT OF THE PROVISION  
15 AT ISSUE BETWEEN THE TWO HOUSES.

LEGISLATIVE COUNCIL  
COMMITTEE ON FINANCE

Members of the Committee

Sen. Les Fowler, Chairman	Rep. C. Michael Callihan
Rep. Bev Bledsoe, Vice-Chairman	Rep. Carol Edmonds
Sen. Barbara Holme	Rep. Steven Durham
Sen. Al Meiklejohn	Rep. Martha Ezzard
Sen. Ron Stewart	Rep. Bob Kirscht
Sen. Sam Zakhem	Rep. Paul Schauer
	Rep. Bev Scherling
	Rep. Claire Traylor
	Rep. Dorothy Witherspoon

Council Staff

David Hite Principal Analyst	Brian Mitchell Senior Research Assistant
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The Interim Committee on Finance was established by the Legislative Council to conduct four studies pursuant to House Joint Resolution 1052:

1) a review of the problems of the low-income elderly and low-income disabled in meeting rising energy and fuel costs, and of all aspects of winterization, including current programs, designed to provide services, labor, material, finances, and other forms of assistance to such people in order to improve the thermal performance of their residences;

2) a study of the reestablishment and restoration of an ad valorem tax on intangible personal property and the elimination of the surtax on dividends and interest;

3) an examination of the effects of the seven-percent limitation on state general fund spending and on tax levies of local governments to determine if such limitations result in the underfunding of necessary governmental services; and

4) a study of the problems concerning property valuations for tax purposes under House Bill 1452, enacted in 1977.

#### Weatherization

Energy assistance programs for the low-income in Colorado began in 1974 with a utility bill relief grant of \$100,000 from the federal Community Services Administration (C.S.A.). The C.S.A. has funded various types of weatherization programs in the state since that time, but its funding for weatherization services is being gradually phased out in favor of Department of Energy grants for the same purpose. The federal Department of Energy first became involved in a weatherization program in Colorado with a \$548,000 weatherization grant in October, 1977. In recent years, funding for a portion of the labor costs for weatherization has also been provided by the federal Comprehensive Employment and Training Act (CETA).

Between 1975 and July 1, 1979, approximately 9,800 Colorado homes have been weatherized through the federal programs. At the present time, it is estimated that 83,000 to 84,000 households in the state remain eligible for federal weatherization assistance. Approximately 40 percent of these homes are owner-occupied, while 60 percent are renter-occupied. The federal eligibility guidelines for the current weatherization programs limit maximum family income for farm and non-farm homes to 125 percent of the designated poverty-level income. This requirement translates into the following maximum annual incomes:

Federal Eligibility Guidelines  
(Maximum Annual Income)

<u>Persons in Household</u>	<u>Non-Farm</u>	<u>Farm</u>
1	\$ 4,250	\$3,637
2	5,625	4,800
3	7,000	5,963
4	8,375	7,125
5	9,750	8,288
6	11,125	9,450
For families larger than 6 members, for each additional member add:	1,375	1,163

During the interim, the Department of Local Affairs reported to the committee that at current energy costs the annual savings resulting from the installation of \$310 of weatherization materials is \$173. This constitutes a 31 percent reduction in utility bills per home per year and a decrease of 45 million BTU's per home per year. The committee recognized that a program which could result in such substantial savings in energy consumption and utility bills is worthwhile. However, the committee was informed by the Division of Housing that the weatherization program in Colorado is in jeopardy of being curtailed because of projected cutbacks in federal CETA funding for weatherization labor. Although by mid-November, 1979, the CETA bill had not yet passed Congress, the division expects a 50 percent reduction in Title VI labor funds for the state. Such a reduction would leave \$700,000 (\$200 per home) available in CETA funds for weatherization labor.

The Division of Housing plans to weatherize 3,500 homes under the existing federal programs in FY 1979-80, and another 3,500 homes in FY 1980-81. The division has determined that approximately \$1,400 is needed to weatherize each home (\$840 for labor and \$560 for materials). The Department of Energy provides the entire funding of \$560 for materials, and in addition allows \$440 for support services and labor. If CETA labor funding is cut back as expected, only \$200 in CETA labor funds would be available for each residence. Therefore, the Division of Housing requested that the state provide the shortfall of \$700,000 (\$200 per residence) caused by the projected reduction in CETA labor monies.

In addition, the committee was informed by the Division of Housing that certain homes are not approved for weatherization because the residences have structural or other problems which limit the effectiveness of the weatherization services. Consequently, the division requested an appropriation of \$800,000 for a state repair program which would upgrade certain homes. The proposed state program would

include services such as repairing roofs, plumbing, electrical systems, and furnaces.

The other weatherization proposal placed before the committee came from the Office of Energy Conservation. At several meetings, representatives of that office suggested that an Oregon weatherization law be used as a model for Colorado. The law requires that gas and electric utilities provide weatherization services and low-interest loans for such services to their customers. The committee was not convinced of the viability of the Oregon approach and consequently offers no recommendation on this matter.

#### State Financial Assistance -- Bill 9

The committee concludes that weatherizing homes of low-income and disabled people serves a useful purpose. In contrast to programs which provide funds or credits to pay utility bills for energy inefficient homes, a weatherization program reduces energy costs and consumption. Concerning the Division of Housing's specific FY 1981 request of \$1.5 million, the committee concludes that such a request may be warranted, but it is concerned that the funds may not be available because of the state's seven percent expenditure limitation on general fund monies. The committee also concludes that the General Assembly should exercise close control over any state expenditures made for weatherization assistance.

As a result of its deliberations, the committee recommends a measure which will allow appropriations to be made to the Division of Housing for weatherization grants. No specific dollar amount is recommended. In addition, the bill provides:

- a specific definition of weatherization;
- a requirement that the Division of Housing report to the General Assembly on the weatherization grants program within six months after the end of each fiscal year; and
- a stipulation that the funds appropriated for weatherization grants may not be used to pay administrative costs.

#### Taxation of Intangible Personal Property

Prior to 1937, intangible personal property in Colorado was subject to the property tax. Intangible property, as defined during that period, included the following paper evidences of wealth: rights; credits; franchises; and special privileges and advantages derivable under contract rights or in connection with other property including bank deposits, money and credits, bank stock, bonds, notes, and book accounts. This class of property largely escaped taxation

because most county assessors found it inadvisable or impossible to place a very large portion of intangibles on the assessment rolls.

In 1937, an income tax law was enacted which repealed property taxation on intangibles and imposed instead a two percent surtax on the income derived from intangible personal property. The surtax law was amended in 1943 to permit a \$200 exemption of intangible income from the tax. The present exemption for income derived from intangible personal property is \$15,000 (increased in 1979 from \$5,000).

During the interim, the committee heard testimony that all property, regardless of its type, should be taxed on an ad valorem basis. It was contended that owners of intangible personal property are taxed in a manner which is not consistent or uniform with owners of real property and, as a result, real property owners carry too much of a tax burden. Finally, it was suggested that taxes on real property cannot be lowered appreciably unless intangibles are taxed in the same manner as real property.

The committee decided against taking any action on this subject for primarily two reasons: first, the differences between intangible and real property are too great to tax both classes in the same manner; and secondly, subjection of intangible personal property to the property tax would discourage savings and thereby diminish the capital which the American economy needs for investments.

#### Seven Percent Limitation on General Fund Expenditures and Local Tax Levies

A restriction on state general fund spending of seven percent over the previous year was enacted into law in 1977. FY 1978-79 was the first fiscal year to which the limitation applied. The statute, as amended, reads as follows:

24-75-201.1. Restriction on state spending. For the fiscal year 1978-79 and each fiscal year thereafter, state general fund spending shall be limited to seven percent over the previous year. Any amount of general fund revenues in excess of seven percent, and after retention of unrestricted general fund year-end balances of no less than four percent of the amount appropriated for expenditure from the general fund for the current fiscal year, shall be placed in a special reserve fund to be utilized for tax relief.

In addition to the seven percent limitation on state expenditures, Colorado law imposes a seven percent limitation on the annual revenue generated through property taxes levied by local governments and special districts. Section 29-1-301, C.R.S. 1973, specifies that all statutory levies for counties, special districts, and cities not chartered as home rule, shall be reduced as to "...prohibit the levy-

ing of a greater amount of revenue than was levied in the preceding year plus seven percent, except to provide for the payment of bonds and interest thereon."

During the course of the interim, the committee heard testimony on whether these two limitations were still feasible in view of present economic conditions and the level of need for governmental services. In regards to the seven percent limitation on state expenditures, the committee heard testimony from the Office of State Planning and Budgeting (OSPB) and Senator Stockton, member of the Joint Budget Committee. The OSPB agrees that the seven percent limitation has proved to be a useful budgeting mechanism, but contends that it will result in shortfalls and underfunding of governmental services in the future because of the effect of double-digit inflation, the increase in pressure for services from a growing population, and the expansion of needs that result from the state's energy development.

As evidence of the funding problem, OSPB presented a report entitled "Current Services Estimates, 1980-83", which makes a projection of governmental costs if the fiscal 1979-80 programs and levels of activities and services are continued into the future with no legislative or executive changes. Under these conditions, the study projects the following shortfalls in funding: \$28 million in FY 1980-81, \$50 million for FY 1981-82, and \$70 million for FY 1982-83. This projection is illustrated in the table found on the following page.

In Senator Stockton's discussion with the committee, she contended that it is possible to continue under the constraints of the seven percent spending limitation for at least another fiscal year. She stated that the limitation has compelled state agencies to prioritize their budgets and the General Assembly to begin to explore the question of the level of government involvement in society.

The question of the state-imposed seven percent limitation on revenues derived from local tax levies was addressed by representatives of the Colorado Municipal League and Colorado Counties, Inc. They apprised the committee of the major problems confronting the local budgeting process. These problems are:

- state and federal mandated programs which must be administered by local entities;
- inflation, recession, population increases and growth; and
- the variation from year to year in the funds provided to local entities by the state and federal governments.

All of these factors are exerting pressure on budgets of local taxing jurisdictions which are limited in their ability to raise taxes.

GENERAL FUND EXPENDITURES, APPROPRIATIONS, CURRENT SERVICES ESTIMATES,  
AND PER CAPITA EXPENDITURES UNDER THE 7% SPENDING LIMITATION

(\$ MILLIONS)

Fiscal Year	Expenditures/Appropriation		Current Services Estimates		Amount Over 7%	Expenditures Per Capita /a	
		% Increase		% Increase		Current \$	Constant \$
1967-68	239.6	11.1				113	108
1968-69	270.7	12.9				124	141
1969-70	364.7	34.7				185	153
1970-71	421.8	15.7				189	151
1971-72	447.2	6.0				206	155
1972-73	509.1	13.8				278	188
1973-74	700.4	37.6				304	189
1974-75	774.3	10.6				335	196
1975-76	867.6	12.1				356	197
1976-77	937.5	8.1				374	192
1977-78	999.7	6.6				394	183
1978-79	1,069.8	7.0				412	176
1979-80	1,144.6	7.0	1,144.6			431	171
1980-81	1,225.0	7.0	1,253.0	9.4	28.0	449	167
1981-82	1,310.0	7.0	1,360.0	8.5	50.0	468	163
1983-83	1,402.0	7.0	1,472.0	8.2	70.0		

/a Based on the amount available for appropriation within the 7% limitation.

## Exempt Capital Construction -- Bill 10

While acknowledging the economic pressures that local budgets and the state general fund budget are presently subjected to, the committee concludes that both limitations serve a useful function. They should remain in effect because they restrain unnecessary government spending. However, the committee also concludes that capital construction expenditures should be removed from the limitation on state general fund expenditures and therefore recommends Bill 10. The committee's reasoning for this exclusion is twofold: 1) capital construction should not be regarded as part of an agency's day-to-day operational expenditures; and 2) it is a wise and cost-effective policy to maintain state-owned buildings in a proper manner.

## Committee Review of H.B. 1452 (1977 Session)

As part of its charge, the committee was directed to review the problems concerning property valuations for tax purposes under H.B. 1452, adopted by the General Assembly during the 1977 Session. Of all the topics reviewed by the committee during the interim, this subject commanded the greatest amount of time and attention. During its deliberations, the committee heard from the chairman of the Board of Assessment Appeals, the Property Tax Administrator, various county assessors, a representative of the Colorado Association of Commerce and Industry, and other interested parties. Although there was a common identification by these parties of the problem areas in H.B. 1452, there was a lack of concurrence regarding a solution to each issue. The committee devoted itself primarily to an examination of the specified problems in order to clarify any ambiguities in the existing provisions of law.

Open space-residential property. There is presently an uncertainty about what tracts of land should qualify for the open space-residential designation. Land used for open space-residential purposes is defined in the law as "land of up to thirty-five acres, part of which is used for residential and related purposes and part of which is used for open space." The actual value of the non-residential portions of such a property is determined in a manner which in effect lowers the assessed valuation of the entire parcel of property. As a result, the property taxes on such tracts are lower. The question before the committee was whether the General Assembly intended to apply the assessment benefit only to tracts of land up to thirty-five acres, or to grant the benefit to the first thirty-four acres of a larger tract of land.

Committee deliberations on this topic included a general discussion of whether such a tax benefit is justifiable. The law is criticized because it grants tax benefits to only one class of property owners. Supporters of the open space tax policy state that persons owning such land should bear less of a tax burden on that portion of property which is basically undeveloped.

A second problem with the current statutory provisions concerning open space-residential property is that the term "residence" is not defined. As a result, it is unclear as to what constitutes a residence for the purposes of this section of statute.

#### Open Space-Residential Land -- Bill 11

It is the committee's conclusion that the General Assembly intended for the open space-residential provisions to apply to the first thirty-four acres of any tract which meets the other specified requirements. Bill 11 provides specific wording to this effect.

Definition of residence -- Bill 12. In response to the suggestion of inserting a definition of residence into the open space-residential law, the committee recommends Bill 12. The committee concludes that the law was enacted with the idea that a residence on an open space-residential tract would have to be the owner's primary home.

#### Appeals of Decisions of the Board of Assessment Appeals -- Bill 13

Under present law, a county may appeal a decision of the Board of Assessment Appeals, but only upon the recommendation of the board that the matter is one of "statewide concern". The chairman of the Board of Assessment Appeals questioned whether this is a reasonable requirement since decisions regarding property within a county may not have any significance to the rest of the state. As an alternative, it was proposed that the criteria be changed to provide that an appeal may be initiated on matters of "significant public concern".

The committee concurs that counties should be able to appeal decisions of the Board of Assessment Appeals on matters of "significant public concern", rather than being restricted to matters of "statewide concern". Bill 13 reflects this recommendation.

#### Appraisal Factor Used in Determining Actual Value

H.B. 1452 added "appraisal value for loan purposes" as a seventh factor to be used in determining the actual value of property. The committee heard testimony that such information is, in most instances, unavailable. It was, therefore, suggested that the factor be removed from the law. The committee decided, however, to make no recommendation on this matter.

#### One Percent Sample of Each Class and Subclass of Property

As a check on the accuracy and the methodology used in establishing the assessed valuation of property in each county, the Property Tax Administrator is required to conduct a periodic review of



each county assessor's use of all manuals published by the Property Tax Administrator, and the factors, formulas, and other directives of law. This review is conducted over a four year period, corresponding to the four year revaluation cycle. As part of this periodic review, the Property Tax Administrator is required to sample at least one percent of the properties in each class and subclass. The administrator informed the committee that the implementation of this responsibility would place a severe strain on his staff and the resources of his office. He further informed the committee that it would be difficult for his staff, at its present size, to continue giving aid and assistance to assessors and review, under the one percent directive, approximately 13,900 schedules annually.

Committee recommendation. The committee recognizes that the tax administrator's office may not have sufficient staff to conduct the one percent sample, and that, furthermore, such a requirement at this point in the revaluation cycle may be excessive. As a result, the committee recommends that this matter be placed before the General Assembly for a full discussion during the 1980 legislative session.

#### Property Tax Increases Caused by a Change in Base Years

Committee members expressed concern over the dramatic increase in real property values that will occur in 1983 when the shift is made from the 1973 base year level of value to the 1977 base year. This increased valuation could result in a doubling of the property tax bills. Committee members offered the following suggestions on ways to prevent such a dramatic increase in taxes:

- allow real property to remain on the 1973 base year;
- lower the assessment percentage from its present 30 percent rate;
- adjust state school finance aid in such a manner that lower property taxes for support of schools would mitigate higher property taxes for other services; or
- institute a state-imposed limitation on revenues or expenditures for those taxing jurisdictions which do not presently operate under any such limitation.

The committee discussed these options, but decided to make no recommendation on this matter.

#### Assessment of Personal Property

The committee devoted a large portion of its time to the problems surrounding the assessment of personal property. When H.B. 1452 was enacted, there was confusion as to whether the General Assembly intended to place personal property on the base year concept. In

order to clarify the legislative intent on this matter, the General Assembly passed Senate Joint Resolution 2 in 1978. This resolution stated that the General Assembly intended that depreciation be allowed in the determination of the actual value of personal property. Nevertheless, the Property Tax Administrator and the State Board of Equalization, upon advice of the Attorney General, have held that depreciation on personal property is not to be allowed, while the Board of Assessment Appeals has ruled that depreciation on personal property is to be allowed to the year of assessment. As a result, some counties are granting personal property depreciation to the current year, some are allowing depreciation until 1973, and at least one county is allowing depreciation to some other year. The committee recognizes that this situation is not only confusing, but also inequitable, since the actual value of personal property is being determined differently throughout the state.

The proposal which the committee considered on this subject would have left personal property on the base year, allowed depreciation to the current year, and adjusted state school finance aid in a way that would mitigate the effects of reduced valuations for assessment. The committee decided not to recommend this proposal.

Committee recommendations. Action must be taken to resolve the question of how to determine the actual value of personal property. However, the committee believes that this subject needs to be studied further and a consensus reached by various interest groups. The committee therefore recommends that the House and Senate leadership appoint, with the advice of the interim committee, an ad hoc committee composed of legislators, assessors, and other interested parties. The committee further recommends that this ad hoc group begin its deliberations immediately after the start of the 1980 session. The leadership is urged to give this subject top priority. In addition, the committee directed its chairman to meet with the Governor and request that he place on his call the topic "concerning the taxation of personal property and, in connection therewith, providing a method for mitigating the fiscal impact of changes in the taxation of personal property". The committee approved this topic because it encompasses a number of proposals on personal property, including those debated by the General Assembly in the past and the one considered by the committee during the interim.

#### Other Committee Action

##### Credits or Refunds Against Property Taxes -- Bills 14 and 15

The committee also reviewed inequities in the law granting credits or refunds against real property taxes or rents paid by senior or disabled citizens. It was realized by committee members that this subject was beyond the scope of the committee's assignment; however, the members concluded that it was an area which warranted consideration. The first problem brought to the committee's attention involved

the annual income ceiling and the amount of the credit or refund that eligible parties may receive. In 1978, both the maximum allowable income and the amount of the credit for married couples were increased. The annual income ceiling was increased from \$3,300 to \$10,800 and the credit or refund was changed to \$410 minus 10 percent of a couple's income over \$6,700, rather than over \$4,300. The annual income ceiling for a single individual remained at \$7,300 and the credit or refund at \$410 minus 10 percent of an individual's income over \$3,300.

The committee concludes that it is unfair to increase the benefits and liberalize the qualification requirements for married couples, and not provide similar treatment for single individuals. The committee recommends Bill 14 which is an attempt to correct this inequity by expanding the benefits and qualification requirements for unmarried individuals. Bill 14 raises the annual income ceiling from \$7,300 to \$9,000 and the dollar ceiling used in calculating the credit or refund from \$3,300 to \$5,200.

The additional problem with the law concerns the provision that a surviving spouse who is fifty-eight years of age or older qualifies for the tax credit or refund if the deceased spouse met the 65 years of age requirement and if all other income and residency limitations are fulfilled. The committee concludes that this statutory provision causes a hardship for those surviving spouses whose husband or wife died before he or she met the age requirement. Under such circumstances, the surviving spouse could not qualify for tax benefits even though all the other requirements are satisfied. Therefore, the committee recommends Bill 15 which would remove the stipulation that the deceased spouse had to have met the age requirement in order for the surviving spouse to be eligible for tax benefits.

BILL 9

A BILL FOR AN ACT

1 CONCERNING WEATHERIZATION GRANTS BY THE DIVISION OF HOUSING, AND  
2 MAKING AN APPROPRIATION THEREFOR.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Authorizes the division of housing to issue grants for weatherization of houses of low-income persons and for necessary weatherization-related repair work on such houses. Requires the division to submit annual reports to the general assembly regarding specified aspects of the weatherization grants program. Makes an appropriation therefor, none of which may be used for administrative costs.

---

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 24-32-702 (1), Colorado Revised Statutes 1973,  
5 is amended to read:

6 24-32-702. Legislative declaration. (1) It is hereby  
7 declared that there exists in this state a need for additional  
8 adequate, safe, and sanitary, AND ENERGY-EFFICIENT new and  
9 rehabilitated dwelling units and that a need exists for  
10 assistance to families in securing new or rehabilitated rental  
11 housing; that unless the supply of housing units is increased, a

1 large number of residents of this state will be compelled to live  
2 under unsanitary, overcrowded, and unsafe conditions to the  
3 detriment of their health, welfare, and well-being and to that of  
4 the communities of which they are a part. It is further declared  
5 that coordination and cooperation among private enterprise and  
6 state and local government are essential to the provision of  
7 adequate housing, and to that end it is desirable to create a  
8 division of housing within the department of local affairs. The  
9 general assembly further declares that the enactment of these  
10 provisions as set forth in this part 7 are for the public and  
11 statewide interest.

12 SECTION 2. 24-32-705 (1) (a), Colorado Revised Statutes  
13 1973, as amended, is amended, and the said 24-32-705 is further  
14 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

15 24-32-705. Functions of division. (1) (a) To encourage  
16 private enterprise and all public and private agencies engaged in  
17 the planning, construction, and acquisition of adequate housing  
18 or the rehabilitation OR WEATHERIZATION of existing housing in  
19 Colorado by providing research, advisory, and liaison services  
20 and rehabilitation, construction, and acquisition, AND  
21 WEATHERIZATION grants from appropriations made for this purpose  
22 by the general assembly. FOR THE PURPOSES OF THIS PARAGRAPH (a),  
23 WEATHERIZATION MEANS THE PROVISION AND INSTALLATION OF MATERIALS  
24 AND DEVICES WHICH IMPROVE THE THERMAL PERFORMANCE OF A RESIDENCE  
25 SO AS TO CONSERVE ENERGY AND REDUCE ENERGY COSTS AND INCLUDES  
26 THOSE STRUCTURAL, HEATING, ELECTRICAL, AND PLUMBING REPAIRS AND

1 IMPROVEMENTS WHICH ARE NECESSARY TO SAFELY AND EFFECTIVELY  
2 IMPROVE THERMAL PERFORMANCE. All such grants shall be at least  
3 equally matched from a nonstate source and shall be primarily for  
4 the purpose of demonstrating ~~for-existing-or-proposed-low-income~~  
5 ~~housing-development-agencies-and-corporations~~; methods by which  
6 adequate AND ENERGY-EFFICIENT housing can be made available to  
7 low-income households. None of these grants shall be used for  
8 development, planning, or administration which shall be funded  
9 within the administrative budget of the division. ~~of-housing~~

10 (3) A full report on the weatherization grants program  
11 shall be made by the division to the general assembly within six  
12 months after the end of each fiscal year. The report shall  
13 contain the following:

14 (a) The actual program expenses, itemized appropriately;

15 (b) The total number of eligible residences upon which  
16 weatherization services were performed and the average cost per  
17 residence;

18 (c) The income eligibility guidelines for residences  
19 receiving weatherization services;

20 (d) The average energy savings realized by such residences;

21 (e) Recommendations for improvements and changes in program  
22 design and administration.

23 SECTION 3. Appropriation. There is hereby appropriated,  
24 out of any moneys in the capital construction fund not otherwise  
25 appropriated, for the fiscal year beginning July 1, 1980, to the  
26 department of local affairs, for allocation to the division of

1 housing, the sum of \_\_\_\_\_ dollars (\$ ), or so much  
2 thereof as may be necessary, for weatherization grants, of which  
3 none may be used for administration costs.

4 SECTION 4. Safety clause. The general assembly hereby  
5 finds, determines, and declares that this act is necessary for  
6 the immediate preservation of the public peace, health, and  
7 safety.

BILL 10

A BILL FOR AN ACT

1 CONCERNING CAPITAL CONSTRUCTION EXPENDITURE LIMITATIONS.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that the seven percent limitation on state general fund spending shall not apply to moneys spent for capital construction, as such term is defined in the provisions on the capital construction fund but without regard to the dollar limits contained in such provisions.

---

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 24-75-201.1, Colorado Revised Statutes 1973, as  
4 amended, is amended to read:

5 24-75-201.1. Restriction on state spending. For the fiscal  
6 year 1978-79 and each fiscal year thereafter, state general fund  
7 spending shall be limited to seven percent over the previous  
8 year; EXCEPT THAT THE SEVEN PERCENT LIMIT IMPOSED BY THIS SECTION  
9 SHALL NOT APPLY TO SPENDING STATE GENERAL FUND MONEYS FOR CAPITAL  
10 CONSTRUCTION, AS SUCH TERM IS DEFINED IN SECTION 24-75-301 (1)  
11 BUT REGARDLESS OF THE DOLLAR LIMITS CONTAINED IN SUCH DEFINITION.  
12 MONEYS SPENT THE PREVIOUS YEAR FOR SUCH CAPITAL CONSTRUCTION



1 SHALL BE EXCLUDED IN THE CALCULATION OF THE SEVEN PERCENT LIMIT  
2 PURSUANT TO THIS SECTION. Any amount of general fund revenues in  
3 excess of seven percent, and after retention of unrestricted  
4 general fund year-end balances of no less than four percent of  
5 the amount appropriated for expenditure from the general fund for  
6 the current fiscal year, shall be placed in a special reserve  
7 fund to be utilized for tax relief.

8 SECTION 2. Effective date. This act shall take effect July  
9 1, 1980.

10 SECTION 3. Safety clause. The general assembly hereby  
11 finds, determines, and declares that this act is necessary for  
12 the immediate preservation of the public peace, health, and  
13 safety.

BILL 11

A BILL FOR AN ACT

1 CONCERNING OPEN SPACE-RESIDENTIAL PROPERTY.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that the first thirty-four acres of any tract of land shall be considered open space-residential for determining the actual value thereof for property tax purposes if such acres meet the definitional requirements.

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2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 39-1-103 (7), Colorado Revised Statutes 1973, as  
4 amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

5 39-1-103. Actual value determined - when. (1) (c) The  
6 actual value of the first thirty-four acres of any tract of land,  
7 regardless of the total acreage of such tract, shall be  
8 determined pursuant to this subsection (7), provided such  
9 thirty-four acres meet the requirements set forth in subsections  
10 (12.3) and (12.4) of section 39-1-102.

11 SECTION 2. Safety clause. The general assembly hereby  
12 finds, determines, and declares that this act is necessary for

1 the immediate preservation of the public peace, health, and  
2 safety.

BILL 12

A BILL FOR AN ACT

1 CONCERNING OPEN SPACE-RESIDENTIAL PROPERTY, AND PROVIDING FOR A  
2 DEFINITION OF "RESIDENCE" THEREFOR.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that a "residence", for the purpose of taxing open space-residential property, means the primary home or place of abode of a person.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 39-1-102 (12.4), Colorado Revised Statutes 1973,  
5 as amended, is amended to read:

6 39-1-102. Definitions. (12.4) "Portion of land used for  
7 residential and related purposes" means that portion of land used  
8 for open space-residential purposes which underlies a residence  
9 and an area not exceeding one acre which encompasses the  
10 residence. AS USED IN THIS SUBSECTION (12.4), "RESIDENCE" MEANS  
11 THE PRIMARY HOME OR PLACE OF ABODE OF A PERSON. A PERSON'S  
12 PRIMARY HOME OR PLACE OF ABODE IS THAT HOME OR PLACE IN WHICH HIS  
13 HABITATION IS FIXED AND TO WHICH A PERSON, WHENEVER HE IS ABSENT,

1 HAS THE PRESENT INTENTION OF RETURNING AFTER A DEPARTURE OR  
2 ABSENCE THEREFROM, REGARDLESS OF THE DURATION OF ABSENCE.

3 SECTION 2. Safety clause. The general assembly hereby  
4 finds, determines, and declares that this act is necessary for  
5 the immediate preservation of the public peace, health, and  
6 safety.

BILL 13

A BILL FOR AN ACT

1 CONCERNING APPEALS OF DECISIONS OF THE BOARD OF ASSESSMENT  
2 APPEALS TO DISTRICT COURTS.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that decisions of the board of assessment appeals favorable to the taxpayer may be appealed if the board determines that the matter is of significant public concern rather than requiring the matter to be of statewide concern.

---

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 39-8-108 (2), Colorado Revised Statutes 1973, as  
5 amended, is amended to read:

6 39-8-108. Decision - review. (2) If the decision of the  
7 board is against the petitioner, he may, within thirty days after  
8 such decision, petition the district court of the county wherein  
9 his property is located for judicial review thereof pursuant to  
10 section 24-4-106, C.R.S. 1973. If the decision of the board is  
11 against the respondent, the respondent, upon the recommendation  
12 of the board that it is a matter of statewide-concern SIGNIFICANT

1 PUBLIC CONCERN and within thirty days after such decision, may  
2 petition the district court of the county in which the property  
3 is located for judicial review pursuant to section 24-4-106,  
4 C.R.S. 1973.

5 SECTION 2. Safety clause. The general assembly hereby  
6 finds, determines, and declares that this act is necessary for  
7 the immediate preservation of the public peace, health, and  
8 safety.

BILL 14

A BILL FOR AN ACT

1 CONCERNING REAL PROPERTY TAX OR RENT PAID AS A CREDIT OR REFUND  
2 FOR INCOME TAX PURPOSES.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Increases the income level at which a single senior or disabled citizen may receive the maximum real property tax or rent paid credit or refund for income tax purposes for taxable years 1980 and after. Increases the maximum allowable income for single senior or disabled citizens to claim such credit or refund.

---

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 39-22-120 (2) (a), (3) (c), and (5) (c),  
5 Colorado Revised Statutes 1973, as amended, are amended to read:

6 39-22-120. Real property tax credit or refund - eligibility  
7 - applicability. (2) (a) In the case of an individual, four  
8 hundred ten dollars reduced by ten percent of the amount by which  
9 his income exceeds three FIVE thousand three TWO hundred dollars;  
10 (3) (c) Have income from all sources for the taxable year  
11 of less than seven NINE thousand three-hundred dollars if single



1 or, in the case of husband and wife, less than ten thousand eight  
2 hundred dollars including, but not limited to, for this purpose,  
3 alimony, support money, cash public assistance and relief,  
4 pension or annuity benefits, federal social security benefits,  
5 veterans' benefits (except those specific veterans' benefits that  
6 are service-connected disability compensation payments),  
7 nontaxable interest, workmen's compensation, and unemployment  
8 compensation benefits, but not including outright gifts.  
9 "Service-connected disability compensation payments" means those  
10 payments made for permanent disability, which disability shall be  
11 limited to loss of or loss of use of both lower extremities so as  
12 to preclude locomotion without the aid of braces, crutches,  
13 canes, or a wheelchair; loss of use of both hands; blindness in  
14 both eyes, including such blindness with only light perception;  
15 or loss of one lower extremity together with residuals or organic  
16 disease or injury which so affects the functions of balance or  
17 propulsion as to preclude locomotion without the use of a  
18 wheelchair.

19 (5) (c) Paragraphs (a) and (b) of subsection (2) of this  
20 section and paragraph (c) of subsection (3) of this section shall  
21 apply to credits and refunds claimed on real property taxes  
22 levied for the year 1977 1979 and actually paid in the year 1978  
23 1980 and to personal property and specific ownership taxes and  
24 tax-equivalent amounts paid during 1978 1980 and for each  
25 succeeding year.

26 SECTION 2. Safety clause. The general assembly hereby

1 finds, determines, and declares that this act is necessary for  
2 the immediate preservation of the public peace, health, and  
3 safety.

BILL 15

A BILL FOR AN ACT

1 CONCERNING ELIGIBILITY FOR INCOME TAX CREDITS.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Removes the requirement that a deceased spouse must have been at least sixty-five years of age for the surviving spouse to claim the real property tax credit for income tax purposes. Makes such amendment applicable to taxes levied in 1979 and paid in 1980 and to taxable years thereafter.

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2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 39-22-120 (1) (b) (II), Colorado Revised  
4 Statutes 1973, as amended, is amended to read:

5 39-22-120. Real property tax credit or refund - eligibility  
6 - applicability. (1) (b) (II) A surviving spouse fifty-eight  
7 years of age or older shall be treated as qualifying for the  
8 credit or refund under paragraph (a) of this subsection (1) if  
9 ~~the deceased spouse met the age requirement and they~~ THE  
10 SURVIVING SPOUSE AND THE DECEASED SPOUSE HAVE jointly met all the  
11 limitations of subsection (3) of this section for a prior taxable  
12 year and such surviving spouse meets all the limitations imposed

1 by subsection (3) of this section.

2 SECTION 2. 39-22-120 (5), Colorado Revised Statutes 1973,  
3 as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to  
4 read:

5 39-22-120. Real property tax credit or refund - eligibility  
6 - applicability. (5) (d) Subparagraph (II) of paragraph (b) of  
7 subsection (1) of this section shall apply to credits and refunds  
8 claimed on real property taxes levied for the year 1979 and  
9 actually paid in the year 1980 and to personal property and  
10 specific ownership taxes and tax-equivalent amounts paid during  
11 1980 and for each succeeding year.

12 SECTION 3. Safety clause. The general assembly hereby  
13 finds, determines, and declares that this act is necessary for  
14 the immediate preservation of the public peace, health, and  
15 safety.

LEGISLATIVE COUNCIL  
COMMITTEE ON EDUCATION

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Vice-Chairman,  
Basic Education

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The Committee on Education was directed under H.J.R. 1052, 1979 Session, to make "a study of the various aspects of 'a basic education', and a study of possible revisions in the present system of higher education".

## BASIC EDUCATION

In addressing the basic education segment of the resolution, the committee was further directed to study "the various components of an educational program which serve to constitute 'a basic education', including definition thereof...".

Five specific areas of study were defined and the committee's activities in response to these study areas are noted below.

Study Area One. The first study area concerned the identification of academic programs designed to teach basic skill levels, their quality and effectiveness, and the uniformity of their application throughout the state's school districts.

The committee toured school districts in three different geographic locations in the state, holding open public hearings at two of these locations. School district officials prepared information which helped to detail the basic skills curriculum of each school. Uniformity of school experiences was considered by comparison of course offerings, physical facilities, class sizes, and other variable factors among the school districts.

Study Area Two. The second study area concentrated on academic programs which are designed to supplement the basic education core of the curriculum and their value and effectiveness.

The committee's school district tours also addressed issues of supplementary courses. Testimony from members of the educational community, experts in educational measurement, and the general public was heard on this subject.

Study Areas Three and Four. These areas focused on the academic environment in which basic skills courses are taught with reference to the degree of teacher preparation, the classroom climate, and the degree of discipline maintained; and an investigation to determine the quality and extent of the teacher education training programs, undergraduate and graduate, currently being used to prepare a person for certification to teach in Colorado schools.

Tours, testimony, and prepared materials were used to assess these conditions.

Study Area Five. The final study area regarded the assessment of the legal and constitutional requirements which have been placed upon the state of Colorado in the area of basic education.

Staff members of the Legislative Drafting Office briefed the committee on the present status of litigation challenging the Colorado Public School Finance Act of 1973, and representatives of New Jersey and Washington, two states which have also wrestled with the problem of defining and implementing basic educational standards, reviewed their states' laws with the committee. In addition, information was presented concerning uses of electronic media, particularly television, as an aid to classroom teaching.

### School District Visits

In its study of the various aspects of an educational program which comprises "a basic education", the committee toured facilities in 16 school districts in three distinct areas of the state -- six districts in the San Luis Valley, seven districts in the eastern plains area near Limon, and three districts in the Denver metropolitan area. The visits included presentation of comparative educational data for each school district and discussion of district problems with superintendents, board of education members, and accountability committee members. Much of the information received and impressions gained were subjective in nature and depended, to some extent, on which schools individual members were able to tour. Summarized below are a few observations shared by several committee members.

San Luis Valley. At the public meeting in Alamosa, school officials and citizens participated in a wide-ranging discussion concerning the goals, performance, needs, and accomplishments of their schools. Several persons expressed concern about the difficulty of attracting and retaining good teachers in rural areas. They also cited the difficulty of providing a high quality educational experience when tight budget constraints cause problems in such areas as replacement of equipment and upgrading physical facilities. Some districts in the area appeared to have salary schedules which provide only minimal increments after the first year. Several parents suggested that a definition of basic education should not be so narrowly focused that enrichment of the student might be jeopardized through reduction of curriculum offerings.

Districts visited in the San Luis Valley were Alamosa, Antonito, Del Norte, La Jara, Sargent, and Sierra Grande. These districts were visited for two primary reasons: 1) in each of the districts, declining enrollments were a significant concern; and 2) to find what level of educational opportunities could be seen in districts which historically have had comparatively low expenditures per pupil.

Although many of the school facilities were considered to be in good or excellent condition, portions of the physical plant in some

districts were in a state which the committee found to be less than desirable. In a number of locations, the adequacy and condition of the physical plant varied considerably among the school buildings of the same district. Under present Colorado law, no provision exists for state assistance for local school construction costs. The committee was interested in viewing these school facilities in order to note the problems which exist and the efforts which have been made to rectify unsatisfactory conditions.

Some problems proved to be unique to certain school districts. The problems of student discipline and lack of parental involvement were mentioned in one locale, but were not typical problems in other districts in the San Luis Valley. The committee observed that both the North and South Conejos districts experience difficulty in attracting and retaining high quality teachers, but the problem is not shared by all the districts visited. Community members and school personnel told the committee that they felt that financial disparities, substandard physical facilities, and the difficulty of attracting good teachers to remote areas were the major impediments to providing equal educational opportunities in these districts.

Committee members observed a high level of dedication and motivation among teachers in all of the San Luis Valley schools visited. Visitors to the Antonito school saw that district's success in procuring federal funds for educational projects, most notably Elementary and Secondary Education Act (ESEA) Title I monies. These funds were being used for the improvement of basic skills instruction in the elementary school. Highly motivated, energetic administrators and staff were present at the Sargent school district. The committee was also pleased to observe the productivity engendered by a moderate pupil/teacher ratio in a small town environment in several locations.

Limon area. The second set of visits concentrated on the eastern plains school districts in the Limon area. An open public meeting was held at Limon Junior-Senior High School at which time comparative factual information concerning conditions in the school districts to be visited was presented. Problems noted included declining enrollments and the difficulties encountered in obtaining and holding good teachers. Transportation expenses and the difficulties incurred in transporting students over long distances during bad weather were also mentioned as area-wide concerns. The work of the regional board of cooperative educational services (BOCES) was cited as a valuable asset to the local districts in providing services and materials which would be too costly to be purchased by individual schools. Members of the community supported the school accountability process in maintaining high standards for schools, but noted that small districts had problems in recruiting members for these committees.

Members of the committee visited school facilities at Limon, Hugo, Genoa, Arriba, Agate, Deer Trail, Woodlin, and the offices of the East Central BOCES. Committee members obtained a firsthand impression of the difficulty of pupil transport in visiting remote districts such as Woodlin, which serves a wide geographical area. A



disparity in the adequacy of some physical facilities was noted, but modern, well-appointed facilities were toured in Limon, Deer Trail, Hugo, and Woodlin.

Most of these districts enjoy a relatively high level of per pupil expenditure, but the problems of small and declining enrollments posed difficulties for some districts. Having an extremely low student/teacher ratio may be beneficial in a number of respects, but this was not seen as automatically improving the quality of instruction. In addition, it further served to restrict the number of course offerings. Similarly, program offerings in some vocational arts subjects were curtailed because of the small number of students taking those courses. In the districts visited, the remoteness of some areas to be served is a major factor impacting upon the level of educational quality. The isolation of the area affects students, as a student may find that the few other students with whom he enters school in the primary grades may very well be the same group with whom he graduates from high school.

Another impression gained was of the importance of the local school as a focus for community activity in the small towns. Parental support for the schools and teacher interaction with the community seemed to share a high priority in many of the districts visited. Moreover, the role of the BOCES in filling gaps in local educational endeavors proved to be very significant. Remoteness, small and declining enrollments, and a lack of varied experiences for students struck many parents and teachers as an obstacle to providing an equal educational opportunity to students.

Denver area. The final committee tour was a series of visits to schools in the Denver metropolitan area -- Gilpin Elementary School and East High School (Denver), Cunningham Elementary School and Overland High School (Cherry Creek), and Paris Elementary School and Gateway High School (Aurora). A wide variety of educational issues were observed and discussed at each of these schools. At Gilpin Elementary School, for example, the effects of busing to achieve racial balance in the schools was observed, as were problems of language communication with children from several cultures, including refugee children from Southeast Asia. At Gateway High School and Paris Elementary School the problem of rapidly increasing enrollments and high student/teacher ratios were present. Conversely, the impact of an enrollment decline, but to a more manageable level, was seen at East High School. The committee toured a district (Cherry Creek) in which parental involvement, both in financial support and in participation in school activities, was extremely high. At Paris Elementary School a "fundamental school" approach to teaching basic skills is proving to be popular with parents who advocate a "back to basics" educational approach.

In looking for commonalities among these districts, the committee found that parental support was of major importance in determining that high levels of quality be maintained in the schools. Some

schools having modest per pupil expenditures appeared to do quite well in student performance, possibly because of strong feelings of parental interest in the school. The committee took note of numerous teachers and administrators of high quality and dedication in all of the districts visited.

One significant difficulty in the metropolitan school districts was high rates of student turnover from one year to the next. In some cases, for example, students might enter a school without any previous academic record available to assist the teachers and staff with placement in the appropriate academic programs.

Summary. The dominant belief engendered by the tours seemed to support a definition of "a basic education" that would not be a restrictive definition, but rather one that would be broad enough to encompass the goals and directions which the school districts have developed for their own needs. Others, however, have pointed out the need to set parameters and to decide on a more narrow definition of what constitutes the basic education segment of a thorough and uniform system of education.

#### Committee Hearings

Testimony was received from a number of persons in the educational community with regard to what constitutes "a basic education". Dr. Calvin M. Frazier, Commissioner of the Colorado Department of Education, noted that the question of quality is evidenced by growing public concern over declining scores in standardized tests, and by a revival of interest in the quality of instruction in basic skills areas. Test results from Colorado school districts, however, have been somewhat counter to the national trends, based on surveys of local test results monitored by the State Department of Education over the last four years.

Court challenges have acted to further reinforce the need for a clearer understanding of the state's responsibility to provide a "thorough and uniform system of education", according to Dr. Frazier. The importance of the school principal as a key element in assessing quality of education was also underscored, as was establishment of an effective monitoring system to provide a meaningful evaluation process.

Dr. Gene V. Glass of the Laboratory of Educational Research, the University of Colorado at Boulder, also commented on the importance of the school principal and the district superintendent in the monitoring of levels of quality in school programs. Dr. Glass contended that among the variables effecting educational quality, only class size (student/teacher ratio) had a direct bearing on pupil progress in basic skills or in personality development. Dr. Glass said that in his research he could find no correlation between increases in public school funding and improved learning environment. The reason for this was that extra funds were absorbed by increased

salary levels, expanding school bureaucracies, or "faddish" curriculum offerings. Dr. Glass concluded that the measurement of progress in providing "a basic education" should focus strictly on those learning activities geared to strengthen a child's literate and numerate capabilities.

Dr. J. Quentin Jones, Associate Director of the College Board, discussed the measurement of quality in educational programs and the relationship of such testing to the assessment of basic skills. Dr. Jones said that public dissatisfaction with current educational standards is reflected in the recent controversy over declining scores on standardized academic tests. The Scholastic Aptitude Test (SAT), administered by the College Board, is a predictive instrument designed exclusively to forecast academic success in college. As such, the SAT cannot be viewed as a diagnostic device to pinpoint inadequacies in levels of educational achievement of public schools.

Dr. Jones also stated that public demand for educational accountability was on the increase and was being manifest in support for state minimal competency legislation and other measures of performance-based achievement. State legislatures and departments of education might expect to see even greater demand for assessment mechanisms in the years to come.

Dr. Roy H. Forbes, Director, National Assessment of Educational Progress Project located in Denver, described the work being done by the project in measuring levels of educational achievement on both a regional and on a national level. Achievement levels in basic skills areas had remained relatively constant over the last ten years, but applicative skills had shown a significant drop in recent years. For example, results in the area of mathematics demonstrated a level of proficiency in basic skills being maintained, but also showed a decline in scores relative to problem-solving abilities. Dr. Forbes said that test scores for students from low-income backgrounds, particularly in urban, inner-city districts, tended to be disproportionately lower than the national average. In areas where additional funds are being used to upgrade basic skill levels, however, the gap in these test scores appears to be narrowing somewhat.

A common sentiment related to a perceived lack of accountability on the part of schools and school personnel. This concern was articulated by Mrs. Naomi Bradford, member of the Denver Board of Education. Parents were said to be shut out of the accountability process, thus prohibiting them from interacting in a manner that might impact upon educational standards.

Mr. A. Edgar Benton, member of the Colorado Commission on Higher Education and former Denver school board member, said that in order to insure standards of quality for public education in Colorado, it would be necessary to create a coherent mechanism for making educational judgments that would include parents, teachers, students, administrators, and legislators. Mr. Benton agreed that a return to teaching basic skills exclusively might not encompass much of the

progress made in educational standards in recent years. Similarly, the role of the state in determining what constitutes "a basic education" should be limited to providing a forum for local school districts and their governing boards to address that issue.

The issues of accreditation and accountability were reviewed for the committee by Dr. Frazier and by Dr. William C. Dean, Assistant Commissioner, State Department of Education. It was stated that lack of staff and uncertain statutory authority for enforcement to oversee these activities inhibited Colorado's accreditation and accountability functions. The Department has observed that districts that have utilized the school accountability process are those districts showing achievement test gains, while districts not in compliance with the accountability law generally have held even or lost ground on test scores.

Senator Sam Barnhill described the benefits of a package-type program of television instruction in terms of improving basic skill levels throughout the state. A presentation demonstrating the practical uses of television instruction was made by Dr. Harold Hill of the University of Colorado at Boulder, Ms. Mary Lou Ray of KRMA-TV, and Dr. Ray Anterton, director of the media center at the Auraria complex. Their presentation outlined the diverse uses of educational television in supplementing the student's classroom experience.

Legal and constitutional requirements. One of the study areas assigned the committee was an assessment of the legal and constitutional requirements for public education which have been placed upon the state of Colorado. The committee was briefed by Mr. Douglas G. Brown and Ms. Rebecca Lennahan of the Legislative Drafting Office regarding recent state district court decision in Lujan, et al v. State Board of Education, et al (Civil Action No. C-73688). In that opinion the court held that the Colorado system of public school financing violates three constitutional provisions, including the education clause of the Colorado constitution, which requires that the general assembly provide for the establishment and maintenance of "a thorough and uniform system of free public schools throughout the state..." The case has been appealed, and is currently before the Colorado Supreme Court.

The opinion of the district judge in the Lujan decision indicated that, although several meanings of "thorough" and "uniform" were possible, the basic concept which needed to be addressed was that of equal educational opportunity. Citing language from the case of Robinson v. Cahill (62 N.J. 4731 303A. 2d 273, 1973), a New Jersey decision concerned with "thorough and efficient" education, the judge concluded that education is a fundamental right and that it is necessary for the state of Colorado to fund its schools so as to provide an equal educational opportunity in a manner consistent with a thorough and uniform system of public education.

The Committee on Education attempted to examine the basic educational components of the present school system in order to determine

whether one or more of these components could be identified as providing the type of equal educational opportunity which would meet the responsibility of the state under its thorough and uniform mandate. A principal goal of the committee was to develop a clear and comprehensive definition of such a basic educational system. To this end, it seemed appropriate to hear from officials of other states which had attempted similar acts of definition in recent years in order to gain some insights about the definitional process.

Dr. Fred G. Burke, Commissioner of Education of the State of New Jersey, and State Senator James McDermott, State of Washington, both spoke with the committee in regard to the laws in their states concerning basic educational requirements. Dr. Burke outlined the process by which New Jersey had responded to the court decision (Robinson v. Cahill) which invalidated that state's system of public school finance. The New Jersey legislation empowered the state Department of Education, in cooperation with the State Board and local school districts, to determine the goals, standards, and procedures necessary to meet the "thorough and efficient" mandate. The legislature, meanwhile, acted in several other areas: to define the overall goals of a thorough and efficient system of free public schools; to establish guidelines which would ensure that adequate financial resources would be available for operation of the system; and to provide a mechanism for monitoring the system and levying corrective action when necessary. The legislature was quite specific, however, in delegating to appropriate state and local agencies the authority to establish goals and objectives and in delineating statewide standards of pupil proficiency such as basic communications and computational skills.

Dr. Burke pointed out several important differences between the New Jersey system and the current condition of education in Colorado. New Jersey, for example, employs a Minimum Basic Skills Test, which is administered on a state-wide basis to grades 3, 6, 9, and 11. The Office of Commissioner of Education is vested with considerable enforcement power in administering the Basic Education Act provisions, particularly those relating to remediation plans and capital outlays within school districts.

New Jersey had experienced some problems of local compliance over the four years that the Act has been in effect, and faces possible litigation over contentious aspects of the program. Dr. Burke said, however, that in leaving the definition of "thorough and efficient" to the legislature, and subsequently to state and local agencies, the court allowed the state some leeway in determining which educational components would be included in that definition. In conclusion, Dr. Burke stated that a state should proceed cautiously and to seek maximum inputs in its task of defining "a basic education".

State Senator James McDermott, of Washington, outlined the efforts made by that state in meeting the constitutional mandate which requires the state to make ample provision for the education of all children residing within its borders and to "provide for a general and

uniform system of public schools". The Basic Education Act of 1977 was the legislative response to that mandate and to pending judicial decisions relating to equal educational opportunity. The Washington Legislature acted to define the goals of the basic education system for the state, delineated the components of such a system in terms of curriculum hours and offerings, and then developed a financing formula to fund the entire system. (School districts, however, may raise an additional ten percent over state funds to provide for additional programs).

The legislature opted for a broad definition of basic education so as to allow maximum flexibility on the part of the local districts in accepting and modifying components of the basic education package. Districts are not required by law to limit curriculum to these components, but funding for instruction or activities above and beyond this core must be raised at the local level. It is important to note, however, that deviations from the basic education program are regulated at the state level, and penalties may be levied upon school districts which fail to meet state program requirements.

Senator McDermott discussed some of the difficulties of the basic education financing formula, particularly in growing urban areas. Importance was given to the four-year phase-in period for the program in terms of allowing districts time to make curriculum and instructional staff adjustments. Also of note was that Washington, in keeping with a desire to ensure maximum possible local control and flexibility, had decided against initiating a state-wide minimum competency testing program.

In Washington it was decided to attempt to provide a system to equalize educational opportunities across the state, but which would also leave questions of quality and objectives at the local level. In effect, the state decided to provide a guarantee of process, leaving as much of the educational decision-making as possible with the local school district. Senator McDermott concluded with an observation that a state should consider all the implications of linking a funding formula to a definition of basic education before venturing into the definitional process itself.

#### Committee Recommendations - Basic Education

##### Accreditation of School Districts -- Bill 16

The state board of education would be given statutory responsibility for accreditation of a school district under Bill 16, with local boards of education responsible for maintaining accreditation at the district level. Bill 16 would require that the state board report annually to the Governor and to the General Assembly on the accreditation status of all school districts and their educational programs. The state board would be authorized to withhold accreditation of any district which fails to meet the educational accountability standards

set forth in Article 7, Title 22, C.R.S. 1973. Moreover, the bill would amend the state accountability act to prohibit admission of a student from an unaccredited district to any state institution of higher education.

This bill was developed to give the state board of education statutory responsibility for accreditation of school districts, and to require compliance with state accountability standards, with a serious penalty for noncompliance. The state board of education, under the constitution, (Article IX, Section 1), has the "general supervision" of the public schools. This bill would provide a statutory basis for school accreditation. The function has been a voluntary activity by local districts.

Another draft bill appropriate to the basic education segment of the committee was considered but was not recommended. This bill would have: a) defined a basic educational curriculum through amendment of the school accountability act; b) provided for review of accountability goals and objectives and measurement of district performance at the local level; and c) required the state board to consider district performance under the accountability law in its accreditation activities. An amendment proposed to this bill would have required statewide standardized testing of basic education levels to be administered by the state Department of Education. The bill failed on a tie vote.

#### HIGHER EDUCATION

Issues concerning higher education in the state were also included in the committee's charge:

- continuation of the legislative consideration of revisions in the present system of higher education including monitoring developments relative to the reorganization of the Auraria Higher Education Center as directed under H.B. 1498 (1979 Session);
- monitoring and receipt of periodic reports on the activities of the Colorado Commission on Higher Education in its study of issues of faculty productivity and student redirection; and
- consideration of the advisability of the creation of a permanent subcommittee within the General Assembly to address issues concerning higher education on a continuing basis.

Hearings were held on the progress of the Colorado Commission on Higher Education (CCHE) in implementing the provisions of H.B. 1498 which require that the commission report their recommendations to the General Assembly by January 15, 1980, concerning the numerous governance issues at the Auraria Higher Education Center. The commission

also used these opportunities to report its findings on footnotes 38 and 44a of the 1979 Long Appropriations Bill. Footnote 38 empowered the commission to make transfers between the appropriations made to the University of Colorado at Denver and Metropolitan State College in order to eliminate duplication of programs between those two institutions. Footnote 44a gave the commission similar powers to transfer funds appropriated for instructional support among the University of Colorado at Denver, Metropolitan State College, Community College of Denver - Auraria, and the Auraria Higher Education Center for purposes of consolidation and centralization of instructional support services on the Auraria campus.

Footnote 38a mandated that the CCHE develop in conjunction with institutional governing boards, a plan assessing and increasing faculty productivity. The plan is to be reported by January 8, 1980. Similarly, footnote 39a required the commission to develop a program which would provide systematic referral and transfer of students among the community colleges and four-year colleges and universities. The CCHE presentation on faculty productivity consisted of a report of the progress being made toward the January, 1980, deadline. The study of student transfers was presented in the form of a plan of action, with initiation of the plan and the monitoring and evaluation phases not scheduled to begin until 1980.

#### Auraria Center for Higher Education

In regard to the issues concerning Auraria, the committee was responsible for "monitoring developments relative to the reorganization of the Auraria Center for Higher Education as directed under House Bill No. 1498 (1979 Session)". H.B. 1498 concerned possible changes in the administrative and educational structure of the three institutions -- the University of Colorado at Denver (UCD), Metropolitan State College (MSC), and the Community College of Denver - Auraria (CCD-A), as well as the Auraria Higher Education Board. Under H.B. 1498, the CCHE has the responsibility for submitting recommendations to the General Assembly by January 15, 1980, concerning whether the present governance structure should remain unchanged, be changed through merger, be placed under a new form of institutional governance, or be terminated. In view of the January, 1980, deadline, presentations by CCHE served as progress reports to the committee.

Three areas of the CCHE study were reviewed: (a) elimination of duplicative academic programs; (b) consolidation and centralization of academic support services; and (c) the development of a recommendation on a future governance structure of Auraria. It should also be noted that footnote 38 of the 1979 Long Bill directed that the CCHE undertake efforts to eliminate duplicative courses at the Auraria Center.

It was reported that the CCHE and the institutions had developed an approach to the problem of duplicative programs in which four recommendations were utilized to categorize types of action to be



taken. Under Recommendation I, the business and management programs, which are the largest of the programs at each institution (UCD and MSC), would be continued without change. Each institution was reported to have sufficient numbers of students, with justifiable differences in approaches being taken between the institutions, so that no advantage was seen in program consolidation.

Recommendation II continued selected baccalaureate programs (English, Mathematics, and Psychology) at both institutions, but required maximum use of cross-listed courses, notably at the upper division levels. Recommendation III called for the development of a common curriculum of selected courses in order to integrate duplicative baccalaureate programs at Metropolitan State College and the University of Colorado at Denver. The subject areas in Recommendation III included Anthropology, Art and Fine Arts, General Biology, General Chemistry, Earth Sciences, Economics, History, Political Science and Government, Sociology, and Speech.

Finally, Recommendation IV transferred responsibility for baccalaureate programs in Education to MSC, and also recommended the consolidation of departments of Ethnic Studies, Foreign Languages, Philosophy, Physics, and Urban Studies into single departments. These departments would have a single chairman and a single curriculum leading to a joint degree for students from either MSC or UCD.

The commission noted that considerable progress had been made in compliance with the legislative directives in the following areas:

(1) Consolidation and centralization of instructional support services. As addressed by footnote 44a of the 1979 Long Bill, the CCHE was authorized to make transfers of funds between the University of Colorado at Denver, Metropolitan State College, Community College of Denver-Auraria, and the Auraria Higher Education Center for the purpose of implementing consolidations in instructional support services.

(2) The commission reported a common academic calendar was established between all institutions and was put into operation for the 1979-80 academic calendar year.

(3) Also noted was action of the institutions to eliminate the positions of Vice Chancellor or Vice President for Administration at each of the schools. Authority and responsibility for these positions has been transferred to the Executive Director of the Auraria Board.

(4) It was reported that the Auraria Board plans to extend activities for consolidation and centralization to the following areas by the dates indicated below:

Financial Aid -- July 1, 1980

Registration -- timetable to be set by institutions

Job Placement -- January 23, 1980

Classified Personnel -- January 23, 1980

Payroll -- Consolidation of the Auraria Higher Education Center  
(AHEC) payroll with that of either UCD or MSC (no target  
date given)

Office of the Chief Executive, Senior Academic Offices, and  
Community Relations Officers -- physical relocation only

Campus Mail -- consolidation implemented

Campus-wide ID Cards -- consolidation implemented

Campus-wide Special Events Scheduling -- consolidation implemented

Printing and Administrative Graphics -- January 23, 1980

Handicapped Student Services -- January 23, 1980

Counseling Services -- Spring, 1980

Foreign Student Services -- Spring, 1980

Veterans Affairs -- Spring, 1980

Consolidated Equipment Inventory - no target date given

The issue of future governance at Auraria, as raised by H.B. 1498, was discussed, but the recommendations are not due until January 15, 1980. Dr. Lee Kerschner, Executive Director of the CCHE, reported that CCHE has met with faculty, students, the general public, and with members of the various governing boards to solicit opinions on the governance issue. The Commission has developed a group of five governance models, and is in the process of narrowing this list of alternatives. The CCHE recommendation, with a report of benefits and liabilities of each alternative, will be ready for presentation to the legislature by the January deadline.

#### Faculty Productivity Study

Under the directive of footnote 38a of the 1979 Long Bill, the CCHE was charged with developing "...a plan for assessing and increasing faculty productivity, in conjunction with institutional governing boards." The reporting date for this study is no later than January 8, 1980. As a result, only progress reports were presented to the committee during the interim. The study was reported to be on sched-

ule and is being conducted for CCHE by Dr. Thomas Mason. Dr. Mason is a former administrator of the University of Colorado - Boulder and now a private consultant on higher education.

Among other activities, the study has involved a survey of other state considerations on faculty teaching load, workload, and productivity, and the methods used in analyzing faculty productivity. Personal visits have been made to selected states to examine, in depth, the approaches used in dealing with this complex area. A policy advisory committee of higher education faculty members and administrators, along with private citizens, has been established under the chairmanship of Dr. Guy T. McBride, Jr., President, Colorado School of Mines. Numerous meetings have been held with interested persons, governing board members, and other organizations. Although the committee is pleased with the apparent thoroughness of the study, it is too early to suggest any opinion or to comment even generally on the substance of the final report, which is now in preparation.

### Student Redirection

Footnote 39a of the 1979 Long Bill directed the Colorado Commission on Higher Education to develop a program for the systematic referral and transfer of students among Colorado's two-year and four-year colleges and universities. The commission presented a report on the plan which has been developed. This plan is scheduled for implementation in September, 1980, and represents combined efforts of CCHE, governing boards, administrators, and student representatives working on the problems involved with student transfer.

The focus of the report has been on establishing a process which will ensure uniform procedures for the evaluation of credits earned at another of the state's institutions. Early next year the CCHE will seek agreement on the changes in institutional policies and practices which are necessary for the establishment of a comprehensive student transfer program.

The commission reported that monitoring and evaluation of program progress would be performed during the period 1980-1984. The CCHE staff expressed optimism that the plan would encourage the creation of institutional policies and operations which will minimize problems of student transfer and referral.

### Committee Recommendations -- Higher Education

#### Creation of the Division of Information Systems Coordination -- Bill 17

Bill 17 is an updated version of Senate Bill 494 of the 1979 session. The reasons for submitting this bill are similar to the

reasons given last year; namely, there still exist wide disparities between the types and quality of information systems utilized at the state's institutions of higher education. Moreover, much of the existing hardware and software at state institutions is obsolete, handicapping not only students in their educational experiences, but also administrators whose management, budgeting, and accounting functions are adversely effected by lack of modern equipment and appropriate staff training.

The primary purpose of Bill 17 is to create, within the Department of Higher Education, a division of information systems coordination which would be responsible for the following activities:

1. determination of the types of computer hardware and software which will meet the educational and administrative requirements of the state's institutions of higher education, with attention to standard, linkable systems capable of resource sharing, distributive processing capability, and access through telecommunications;
2. submission of a plan to the General Assembly summarizing the hardware/software needs of the institutions and outlining a procedure for acquisition of same;
3. development, with the institutions of higher education, of comprehensive long-range plans for information systems in higher education;
4. development of budgets for higher education information systems;
5. development of appropriate software to support standardized information systems between all institutions;
6. encouragement and promotion of resource sharing between information systems;
7. provision for training faculty on the use of computers in instruction; and
8. encouragement of efforts to establish a higher education information systems directors council.

Several of the informational and coordinative activities are also ascribed to the division, ranging from coordination of multi-institutional acquisition of hardware and software, to advisory functions with other state agencies concerning provision of computer services in higher education.

The second major purpose of this bill is to provide the division an appropriation for the purchase of the appropriate computer hardware. The amount of the appropriation is not included in the bill at this time, since the appropriation can be adjusted depending upon

the level at which the General Assembly would want to initiate this program.

### Other Issues

#### Block Plan for Higher Education

Formal action was not taken, but individual members of the committee are writing to officials of the CCHE and the Trustees of the Consortium of State Colleges to encourage a study of possible implementation of the "Block Plan" at Adams State College or another of the state's four-year colleges.

The block plan, developed ten years ago by Colorado College in Colorado Springs, involves the intensive study of one subject at a time for a three and one-half week period. A highly favorable research report on the results of this plan at Colorado College was recently released by eminent educators who conducted a four-year appraisal of the plan. <sup>1/</sup>

Committee members who advocated a study of the block plan suggested that it could be a positive move towards improving the educational vitality of an institution and to providing an alternative education program that would be unique to public higher education in Colorado. The emphasis in such a study could be placed on developing a new educational experience, by using a model that was described in the Colorado College report as "one of the boldest and most exciting" innovations in education ever.

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<sup>1/</sup> "The Block Plan: A Preliminary Report on a Ten-Year Evaluation on the Colorado College Block Plan Format for Intensive Study". Dr. Paul Heist and Dr. Maxwell F. Taylor, November, 1979.

BILL 16

A BILL FOR AN ACT

1 CONCERNING THE ACCREDITATION OF SCHOOL DISTRICTS.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Establishes the accreditation of school districts as the duty of the state board of education. Provides that the general assembly shall be notified annually of the accreditation status of each school district. Requires that students come from an accredited district if they are to be accepted by institutions of higher education within the state.

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2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 22-2-106 (1) (c), Colorado Revised Statutes  
4 1973, is amended, and the said 22-2-106 is further amended BY THE  
5 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

6 22-2-106. State board - duties. (1) (c) To appraise AND  
7 ACCREDIT the public schools AND EDUCATIONAL PROGRAMS OPERATED BY  
8 ALL STATE GOVERNMENTAL AGENCIES FOR PERSONS WHO HAVE NOT  
9 COMPLETED THE TWELFTH-GRADE LEVEL OF INSTRUCTION, and TO submit  
10 recommendations to the governor and general assembly for  
11 improvements in education;

1           (2) The state board shall withhold its accreditation of any  
2 district under subsection (1) (c) of this section if it  
3 determines that the district has not discharged its  
4 responsibilities under article 7 of this title.

5           (3) The state board shall annually submit a report to the  
6 governor and the general assembly on the accreditation status of  
7 all school districts and educational programs described under  
8 subsection (1) (c) of this section.

9           SECTION 2. 22-7-104, Colorado Revised Statutes 1973, is  
10 amended BY THE ADDITION OF A NEW SUBSECTION to read:

11           22-7-104. Local accountability programs. (4) No student  
12 shall be admitted to a state institution of higher education from  
13 a Colorado school district whose accreditation has been withheld  
14 on the grounds that the district has not implemented a local  
15 accountability program in compliance with this article.

16           SECTION 3. Safety clause. The general assembly hereby  
17 finds, determines, and declares that this act is necessary for  
18 the immediate preservation of the public peace, health, and  
19 safety.

BILL 17

A BILL FOR AN ACT

1 CONCERNING THE CREATION OF THE DIVISION OF INFORMATION SYSTEMS  
2 COORDINATION IN THE DEPARTMENT OF HIGHER EDUCATION, AND  
3 MAKING AN APPROPRIATION THEREFOR.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Creates a new division in the department of higher education. Creates an advisory council to the new division. Makes an appropriation.

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4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. Title 23, Colorado Revised Statutes 1973, as  
6 amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

7 ARTICLE 90

8 Division of Information Systems Coordination

9 23-90-101. Legislative declaration. The general assembly  
10 hereby finds, determines, and declares that: Wide differences  
11 exist in the availability and quality of information systems and  
12 other computing services among institutions of higher education  
13 in this state; obsolete equipment and procedures are, in many



1 cases, providing poor service at unacceptably high costs while  
2 denying to students the experience and training indispensable to  
3 a complete education; lack of suitable management, budgeting, and  
4 accounting procedures imposes undesirable rigidities and  
5 discourages efficient administration; lack of modern equipment,  
6 technical support, and staff training has made it difficult for  
7 smaller institutions to improve their services to students and  
8 their management capabilities; a general skepticism exists that  
9 any significant improvements requiring substantial investments of  
10 money will be made; and a funding level that has remained even in  
11 real terms for seven years has contributed to a lag in updating  
12 equipment and an inability of Colorado colleges and universities  
13 to take advantage of current computing technology in educational,  
14 research, and administrative areas.

15 23-90-102. Division of information systems coordination -  
16 creation. (1) There is hereby created, as a division of the  
17 department of higher education, the division of information  
18 systems coordination, referred to in this article as the  
19 "division". Pursuant to section 13 of article XII of the state  
20 constitution, the executive director of the Colorado commission  
21 on higher education shall appoint the director of the division  
22 who shall appoint employees of the division.

23 (2) Said division and office of director shall exercise  
24 their powers and perform their duties and functions specified in  
25 this article under the department of higher education as if the  
26 same were transferred to the department by a type 2 transfer as

1 such transfer is defined in the "Administrative Organization Act  
2 of 1968", article 1 of title 24, C.R.S 1973.

3 23-90-103. Duties - powers of the division. (1) Prior to  
4 January 1, 1981, the department of higher education, all  
5 community colleges, state colleges, and the Colorado school of  
6 mines shall be provided with standard computing hardware and  
7 software meeting the educational and administrative requirements  
8 for information systems as determined by the division. Such  
9 systems shall be independently operable to meet specific  
10 institutional needs but shall be linkable for resource sharing,  
11 distributed processing capability, and access through  
12 telecommunications by the division and other institutions.

13 (2) Prior to January 1, 1982, the division shall submit to  
14 the general assembly a plan for the acquisition of necessary  
15 computer hardware and software to meet the needs of all other  
16 institutions of higher education.

17 (3) In addition to the provisions of subsections (1) and  
18 (2) of this section, it shall be the duty of the division to:

19 (a) Work cooperatively with institutions of higher  
20 education to develop comprehensive long-range plans for  
21 information systems in higher education;

22 (b) Develop budgets for information systems in higher  
23 education;

24 (c) Develop appropriate software to support standard  
25 information processing systems and management decision-making  
26 among all institutions;

1 (d) Encourage and promote information systems resource  
2 sharing in higher education;

3 (e) Provide or facilitate training for faculty on the use  
4 of the computer in instruction;

5 (f) Encourage and facilitate the establishment of a higher  
6 education information systems directors council;

7 (g) Advise institutions and their computing center  
8 personnel on matters of computing technology, management, and  
9 applications;

10 (h) Provide coordination for multiinstitution acquisitions  
11 of hardware and applications software packages;

12 (i) Develop data communication plans that would allow for  
13 cost-effective computer resource sharing;

14 (j) Keep abreast of technical developments for relevant new  
15 hardware and software products and share said information with  
16 the institutions of higher education;

17 (k) Provide continual support for the provision of computer  
18 services at all the institutions of higher education in this  
19 state;

20 (l) Advise the department of administration, the Colorado  
21 commission on higher education, governing boards, institution  
22 presidents, and other agencies related to higher education on all  
23 matters concerning the provision of computer services in higher  
24 education.

25 23-90-104. Advisory committee - created. There is hereby  
26 created a nine-member information systems coordination advisory

1 council to advise the director of the division in the performance  
2 of his duties. The advisory council shall be comprised of  
3 members of the association of college and university presidents  
4 and the association of community college presidents or their  
5 designees.

6 SECTION 2. 24-1-114 (3), Colorado Revised Statutes 1973, as  
7 amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

8 24-1-114. Department of higher education - creation.  
9 (3) (d) Division of information systems coordination, the head  
10 of which shall be the director of the division of information  
11 systems coordination, created by article 90 of title 23, C.R.S.  
12 1973. Said division and director shall exercise their powers and  
13 perform their duties and functions as if the same were  
14 transferred to the department by a type 2 transfer.

15 SECTION 3. Part 6 of article 30 of title 24, Colorado  
16 Revised Statutes 1973, is amended BY THE ADDITION OF A NEW  
17 SECTION to read:

18 24-30-608. Limitation on authority. Nothing in this part 6  
19 shall be construed in any way to limit the authority, powers, or  
20 prerogatives of the division of information systems coordination  
21 in the department of higher education which shall have exclusive  
22 responsibility for all information systems in the department of  
23 higher education.

24 SECTION 4. Appropriation. Notwithstanding the provisions  
25 of section 24-75-201.1, Colorado Revised Statutes 1973, there is  
26 hereby appropriated, out of any moneys in the state treasury not

1 otherwise appropriated, to the department of higher education for  
2 allocation to the division of information systems coordination,  
3 for the fiscal year commencing July 1, 1980, the sum of \_\_\_\_  
4 dollars (\$ ), or so much thereof as may be necessary, for the  
5 implementation of section 23-90-103 (1), Colorado Revised  
6 Statutes 1973.

7 SECTION 5. Effective date. This act shall take effect July  
8 1, 1980.

9 SECTION 6. Safety clause. The general assembly hereby  
10 finds, determines, and declares that this act is necessary for  
11 the immediate preservation of the public peace, health, and  
12 safety.

LEGISLATIVE COUNCIL  
FIRE AND POLICE PENSION REFORM COMMISSION

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Wallace Pulliam Principal Analyst	Bart Bevins Research Associate
Debbie Wilcox Senior Research Assistant	

This report represents the concluding element of a three-year effort by the Colorado General Assembly to address the problems faced by local and state government as a result of the unstable condition of local firemen's and policemen's pension funds. Through the development and passage of two previous legislative proposals -- Senate Bill 46 (1978), the Policemen's and Firemen's Pension Reform Act, and Senate Bill 79 (1979), concerning a benefit plan for firemen and policemen -- the General Assembly has implemented a fundamental change in public pension policy that requires police and fire retirement systems to be funded on a sound actuarial basis rather than on a pay-as-you-go system. In order to put this report into its proper context and allow further explanation of the commission's present recommendations, a brief discussion of the General Assembly's previous efforts follows.

#### 1977 Interim -- Senate Bill 46

In 1977 it was brought to the General Assembly's attention that local fire and police pensions were becoming increasingly unsound. It was then estimated that these local pension plans had accrued a total of \$500 million in future pension liabilities for which there were no funds. In addition, these unfunded liabilities appeared to be increasing at an alarming rate. It was apparent then that future pension liabilities of local governments were high and the promised benefits to employees were increasingly in jeopardy. Accordingly, the General Assembly adopted House Joint Resolution 1046 which directed the State Auditor to examine the matter. H.J.R. 1046 also established the 1977 Interim Committee on Fire and Police Pensions to coordinate and assist the State Auditor's office in conducting this study.

The State Auditor was directed to address several matters through the study. These included:

- 1) the determination of the current costs of present benefit packages;
- 2) benefit alternatives and related costs necessary to fund proposed benefit packages on an actuarially sound basis;
- 3) proposed alternatives for current formulae for employee, employer, and state contributions to provide for actuarially sound pension funds within a period not to exceed forty years;
- 4) a comparative analysis of the firemen's and policemen's pension funds with other state and municipal employee's pension funds; and

5) organizational alternatives for firemen's and policemen's pension funds, to include a proposal for statewide consolidation and a plan for inclusion in the Public Employees Retirement Association.

During the course of this study, it became evident that not all these matters could be adequately addressed. For various reasons, including the lack of uniform detailed actuarial cost data and the great complexity of the proposed benefit structures, the committee concentrated on developing an interim proposal which would adequately fund local pension plans in order to prevent further increases in the levels of unfunded liabilities, and provide a framework within which a permanent solution might be developed. The committee did not address other important issues such as the appropriate levels of financial responsibility which should be imposed on the state, employers, and employees in paying for these plans.

In order to prevent further increases in unfunded liabilities, the committee recommended that fire and police pension funds, beginning in 1979, be adequately funded to cover both unfunded accrued liabilities and current normal service costs. It further recommended that no modification of any pension benefit plan by local action be authorized after October 1, 1978. New employees were to be temporarily covered by the existing statutes, but not vested in the plans. This was intended to freeze existing levels of liability. However, it did allow member contributions to be increased to a maximum of ten percent. The committee also recommended that the state's contribution to fire and police pension funds be increased by \$1 million to each fund.

In order to address further issues surrounding local pension plans, the committee also recommended the following: 1) that an actuarial study of each pension fund be conducted to determine the actuarial liability; 2) that procedures to be used in selecting the actuarial firm to conduct these studies, as well as the actuarial methods and assumptions to be used be developed by the State Auditor; and 3) that a statutory policemen's and firemen's pension reform commission be created to study this matter further. The committee determined that, without a complete actuarial study, development of any new pension plan was impossible.

It should be noted that the 1977 committee concluded that the adoption of a policy to fund a public retirement system on a sound actuarial basis was essential. Funding on an actuarial basis would seek to assure that: level contributions will be made over a prolonged period; present taxpayers will pay for the benefits earned by present employees for the services they render; and assets would be accumulated in a manner sufficient to fulfill the benefit commitments if further contributions to the retirement system were to be discontinued.

The General Assembly subsequently adopted Senate Bill 46 which created the Policemen's and Firemen's Pension Reform Commission and directed it to carry out an actuarial valuation of local funds, and to



"... study and develop proposed legislation relating to funding of policemen's and firemen's pensions in this state and benefit designs of such pension plans". Specifically, the commission was to examine normal retirement age and compulsory retirement, rate of accrual of benefits, disability benefits, survivors' benefits, vesting of benefits, employee contributions, postretirement increases, creation of a consolidated statewide system, distribution of state funds, and creation of a volunteer firemen's pension system.

#### 1978 Interim -- Senate Bill 79

Based on the legislative directive of S.B. 46, the commission met throughout the 1978 interim in order to conduct an actuarial study of pension system funds and to develop a pension system which addressed the General Assembly's general goals and principles. As noted previously, Senate Bill 46 required that the actuarial study of all policemen's and firemen's pension funds be conducted under the supervision of the State Auditor. The act permitted each municipality and fire protection district to elect to use the services of its own actuary in conducting the valuation (based on the method and assumptions adopted by the State Auditor) or the services of the Martin E. Segal Company, the actuarial firm designated by the State Auditor to conduct or review all of the studies required.

The purpose of the actuarial valuations was two-fold. The first purpose was to determine the 1979 contribution rates necessary for each pension plan to meet the minimum funding standards established under Senate Bill 46. The second purpose was to determine the actual status of all such pension funds.

The results of these actuarial valuations were made available in February of 1979, and represented the first complete evaluation of local pension funds using a uniform set of assumptions and methodologies. The report presented the results of the valuation performed for 49 firemen's pension plans and 118 policemen's pension plans. The results of valuations of 31 additional municipalities were excluded from the written report because they cover their police officers under social security. Excerpted below is a portion of the report's summary.

As of January 1, 1978, the 167 plans

- Cover 5,826 active members and 1,761 pensioners and beneficiaries. Of these totals, the Denver police and firemen's plans cover 2,270 active members and 1,044 pensioners and beneficiaries.
- Have a combined payroll of \$95.4 million and assets of \$69.6 million. Of these totals, the two Denver plans have a combined payroll of \$42.9 million and assets of \$14.1 million.

As of December 31, 1978, the 167 plans have combined unfunded past service liabilities of \$431.2 million. Of this amount, the two Denver plans have combined liabilities of \$299.2 million, about 70 percent of the total. The four largest cities, Denver, Colorado Springs, Pueblo, and Aurora, account for about 85 percent of the total.

It should be emphasized that the unfunded past service liability is not a liability in the accounting sense. It is not a specific dollar amount owed to anyone as of a certain date. Rather it is the lump-sum present value of contributions employers expect to make in the future in a form other than normal costs. Furthermore, the dollar amount of the unfunded past service liability can change considerably from one actuarial valuation to the next.

During 1977, the 167 plans received combined employer, employee and state contributions of \$17.8 million (about 19 percent of total payroll). Of the total contributions of \$17.8 million, the two Denver plans received \$7.8 million or about 44 percent.

Based on the minimum funding standards established by the 1978 Reform Act, the total contributions (from all sources) necessary to pay the normal cost and amortize the unfunded past service liability over 40 years from January 1, 1979, for all 167 plans is about \$48.2 million (based on January 1, 1978, payroll), or about 50 percent of total payroll. For Denver alone, the necessary contribution would be \$28.2 million, or about 66 percent of Denver's payroll (January 1, 1978).

Expressed as a percentage of payroll, the total contribution rates vary widely, from 14 percent to 65 percent for police plans and from 18 percent to 78 percent for firemen's plans.

Based on the responses from the municipalities to date, the actual contribution rate for most municipal employers (excluding Denver), calculated pursuant to the hardship exceptions and maximum limitations of the 1978 Reform Act, will be about 150 percent of the rate the employer contributed in 1978. For Denver, which elected a hardship exception for both of its plans, the 1979 contribution rate will apparently be the greater of its 1977 rate or the amount required to pay current pensions because these two amounts are greater than the amount required for the first year under the hardship exception. The 1977 employer rate for Denver's police fund was 18.3 percent and 19.4 percent for Denver's firemen's fund.

In addressing the specific questions raised in Senate Bill 46 relative to the design of a pension benefit structure, the commission considered a number of broad policy issues. These issues included the questions listed below.

- 1) What should be the role of the state with regards to local firemen's and policemen's pension plans?
- 2) Should pension plans be administered on a local or state-wide basis?
- 3) On what basis should death and disability benefits be afforded employees?
- 4) What should be the relative responsibilities of the state, employees, and employers in funding pension plans?
- 5) How should a benefit structure for employees hired after April 7, 1978, be modified in order to address both the issue of unfunded liabilities and adequate pension benefits?
- 6) What degree of autonomy should be provided local governments in modifying any minimum benefit structure?

Based on actuarial reports, input from employees, employers, and other affected parties, the commission developed and recommended the substance of Senate Bill 79. That bill represents a systematic and comprehensive revision of the pension system in Colorado. Its major provisions are summarized as follows. (Summary taken from a Colorado Municipal League publication, "Policemen's and Firemen's Pensions, Analysis of 1978 and 1979 Legislative Reforms".)

#### Retirement

Eligibility. A member is eligible at age 60, with 25 years active service. The member may retire as early as age 55 if the employer certifies that there are no available positions for which the member is qualified. Section 31-30-1006 (1). Options for deferred and early retirement are summarized below.

Benefit. The benefit is two percent of the average of the highest three years salary multiplied by the member's years of service prior to age 65, not to exceed 25 (section 31-30-1006).

Escalator benefit. A post retirement cost of living adjustment (COLA) is applicable to departments providing a COLA, and in lieu of a COLA, the adjustment is tied to changes in the Consumer Price Index. The maximum annual increase is three percent. The rank escalator is frozen effective January 1, 1980. Service is credited pro rata, with the rank escalator benefits paid for pre January 1, 1980, service and a COLA paid for post January 1, 1980, service. Local governments may

continue the full rank escalator as a local obligation (sections 31-30-1010, 31-30-1014 (4) (b)).

Deferred pension. A member may elect to defer receipt of the pension benefit until age 65. In such case, the deferred pension shall be the actuarial equivalent of the normal retirement benefit (section 31-30-1006 (2)).

Early retirement. A member may retire early at age 50 with 30 years of credited service. The benefit award is reduced by one-half of one percent for each month of age less than 55 (section 31-30-1006 (3)).

Pension options. Option 1: A reduced pension is payable to the member and, upon his death, all of such reduced pension is to be paid to his designated beneficiary for life (section 31-30-1006 (4) (a) (I)). Option 2: A reduced pension is payable to the member and, upon his death, one-half of such reduced pension is to be paid to his designated beneficiary for life (section 31-30-1006 (f) (a) (II)). Option 3: A reduced pension is payable jointly to the member and his designated beneficiary and, upon death of either, one-half of such reduced pension is to be paid to the survivor for life (section 31-30-1006 (4) (a) (III)).

#### Disability

Total disability. The annual benefit is 40 percent of the member's annual base salary and increased by: 1) ten percent of the member's annual base salary for his spouse; and 2) ten percent of the annual base salary for dependent children (section 31-30-1007 (1)).

Occupational disability. The annual benefit is 30 percent of the member's annual base salary and increased by: 1) ten percent of annual base salary for his spouse; and 2) ten percent of the annual base salary for dependent children (section 31-30-1007 (2)).

Offsets. If the member has received an award under workmen's compensation, the disability award is reduced by one-half of the workmen's compensation award. If the workmen's compensation award was in a lump sum, the offset is made under board rules. The disability award is to be reduced by 25 percent of any additional earned income, and is also to be reduced by a pro rata amount of any social security award attributable to earned quarters from employment as a member (section 31-30-1007 (3)).

Determination: The board is to determine disability upon recommendation by a panel of five physicians, three concurring that a disability exists. The board must have such concurrence before an award can be made, but is not bound by the recommendation and may deny claims. The employer must certify there is no available position for which the member is qualified before an occupational disability can be granted (section 31-30-1007 (4)).

## Death

Award: 1) A surviving spouse with no dependent children is awarded 25 percent of the monthly base salary (MBS) plus one-half of one percent of such salary for each year of active service in excess of 25 years, not to exceed 35 percent of salary. 2) A surviving spouse with one dependent child is awarded 40 percent of the MBS. 3) A surviving spouse with two or more dependent children is awarded 50 percent of the MBS. 4) Three or more dependent children with no surviving spouse are awarded 50 percent of the MBS. 5) Two dependent children with no surviving spouse are awarded 40 percent of the MBS. 6) One dependent child with no surviving spouse is awarded 25 percent of the MBS (section 31-30-1008).

## Mandatory Retirement

Retirement is not mandatory, but no additional service is credited after 25 years for normal retirement or after 30 years for early retirement (section 31-30-1006 (1) and (3)).

## Contributions

Employer. The employer's initial rate of contribution is set at eight percent pending future actuarial evaluation (section 31-30-1013 (2)).

Employee. The employee's initial rate of contribution is set at eight percent pending future actuarial evaluations (section 31-30-1013 (1)).

State. The state's contribution includes 100 percent funding of the cost of death and disability benefits for three years. Thereafter, the state contribution of \$6,000,000 is phased down at ten percent per year, with local governments picking up the difference. Freed money reverts to use for accrued unfunded liabilities (section 31-30-1014 (1) and (2)).

The state is also to appropriate \$14,000,000 which, after funding "hold harmless" provisions, will be credited to each fund in relation to total statewide accrued unfunded liabilities each fund represents (section 31-30-1014 (3) and (4)).

## Portability

Establishment of a statewide standard benefit and state fund enhances portability. A member who terminates his employment is entitled to the return of his contributions (see vesting). If he is subsequently employed as a police officer, he must return his contributions in order to gain recognition of prior service. Failure to effect such return of contributions classifies the employee as a new member, without recognition of prior service (section 31-30-1011).

## Vesting

Upon termination, a member is entitled to the return of his accumulated contributions together with five percent annual interest. The refund must be made within 120 days. If a member has ten years of credited service, he may leave the accumulated contributions in the fund, and upon reaching age 65, is eligible to receive an annual vested benefit equal to two percent of his average highest three years salary multiplied by his years of credited service not to exceed 25 (section 31-30-1011).

## 1979 Study Directive

The emphasis of Senate Bill 79 and the issues upon which it focused dealt primarily with paid employees of police and fire departments. Primarily because of the differing manner in which volunteer firemen are treated by statute, and the lack of necessary actuarial data, the examination of pension plans for volunteer firemen was, by mutual agreement, postponed during the development and passage of Senate Bill 79 in 1979. It was recognized, however, that Senate Bill 46 required the examination of the status of these volunteer departments.

In addition it was anticipated that many problems might be encountered during the initial phases of the implementation of Senate Bill 79. Therefore, it was suggested that the commission monitor the bill's implementation in order to identify and recommend any necessary refinements of Senate Bill 79 which were required. These two topics formed that basis for the work of the commission during the 1979 interim.

## Actuarial Study

In order to carry out its first function, the commission authorized the Martin E. Segal Company to conduct an actuarial study of volunteer firemen's pension plans in the state of Colorado. The purpose of such a study was much the same as a study conducted on fire and police pensions; i.e., to determine the extent to which pension plans for volunteer firemen may be underfunded, and develop recommendations to remedy these problems. In addition members of volunteer fire departments were asked to suggest matters which required attention.

As suggested above, the statutory provisions regarding volunteer firemen differ from those for paid firemen. While the current statutory provisions are summarized in the Appendix, it is important to note the permissive nature of these statutory provisions. The benefits provided volunteer firemen are not part of a defined benefit plan. Benefits can be altered in order to respond to differing financial conditions in the affected local governments. Consequently, volunteer fire departments have not, generally speaking, acquired an unfunded liability similar to paid departments.

As noted in the actuarial report developed by Martin E. Segal Company:

The statutory plan for volunteers is permissive, that is, it permits any level of benefit up to a certain amount. In this respect it differs from the statutory plans for paid firemen which establish basic benefits, some of which may be increased through local charter or ordinance.

As a result, at least one-third of the known plans which cover volunteers have not established any benefits. For many of these the local board is awaiting its first application for benefits before establishing a schedule of benefits.

For another one-third of the known plans it is unknown whether or not benefit levels have been established.

For the 67 plans which have established benefit levels, the benefits range from \$5 per month in Hugo, La Junta, and Limon to \$200 per month in Evergreen, but only about one-third have established disability benefits. Almost one-half of the plans have established duty-death benefits, but only about 20 percent (13 plans) have established post-retirement death benefits. The focus on duty-death benefits (however small) seem to indicate that many, if not most, boards are unaware of the \$50,000 death benefit provided by the Law Enforcement Assistance Administration under the Public Safety Officers' Benefits Act which covers volunteer firemen.

Although 21 plans provide \$100 per month retirement benefits, only 3 funds provide higher benefits. The remaining plans provide between \$5 and \$75 per month.

Another basic characteristic of existing volunteer firemen pension plans, and a major obstacle which hampered completion of the actuarial study and the commission's deliberations, was the lack of data needed to perform full actuarial calculations. The information required to perform an actuarial review can be grouped into three categories -- census data, benefit information, and financial data. The census data relates to the physical characteristics of the membership, pensioners, and beneficiaries. Benefit information describes the various benefits which a pension plan may provide its members. Financial data includes the assets of the plan, receipts from local and state sources, income from investments, and expenditures.

Despite four separate efforts to develop this information, response by volunteer departments was incomplete. This lack of data may be due to several reasons, but principally because of the nature of volunteer fire departments themselves and the type of pension plans

which many operate. Periodic centralized reporting of membership data is not required by state law. Further, because these fire departments are staffed by volunteers, there are no payroll or other personnel records to survey. In addition, because of the permissive nature of benefit plans, information regarding benefits was also difficult to acquire. The Segal report notes that benefit information from 64 plans was received, or about one-third of known plans covering volunteer firemen.

Based on the surveys conducted, however, the following overview of the state's volunteer firemen's pension plans was provided:

- 1) there are at least 192 firemen's pension plans in Colorado which cover at least 5,200 volunteer firemen. Not all volunteer fire departments have established pension plans;
- 2) because state law requires little reporting, the exact number of volunteer fire departments and volunteer firemen's pension plans is not known. The study uncovered almost 30 more pension plans than were recorded with the State Treasurer;
- 3) for the pension plans which are known, record keeping is often incomplete or unreliable. Accurate record keeping is particularly difficult because a significant source of data for regular government employees -- the payroll system -- is absent in volunteer fire departments;
- 4) the known pension plans for all-volunteer fire departments cover as few as ten and as many as 89 active members, with the average about 24 members;
- 5) the pension plans of combined paid and volunteer departments cover as few as three and as many as 133 active volunteer members, with the average about 30 which is slightly larger than the average for all-volunteer plans;
- 6) with few exceptions, the members covered by volunteer firemen's pension plans are relatively similar, assuming the data available (covering about half of known volunteers) is representative. The average active member is age 38 and has served almost eight years;
- 7) although state law has established a dollar limit on volunteer firemen's pension benefits, there is no common benefit level. Benefits range from \$5 to \$200 per month;
- 8) at least one-third of the plans have not apparently established any benefit levels. Some are awaiting



their first application for retirement, disability, or death benefits;

- 9) of the plans which have established one or more benefits, almost all have established a retirement benefit, but less than half have established a disability benefit. The remaining plans either provide no disability benefits or participate in the state industrial insurance program;
- 10) for about 50 percent of the 164 plans for which financial information is available, state contributions in 1977 were at least one-third of total contributions made to the plans. For about 12 percent of these plans, state contributions were more than half of total contributions; and
- 11) based on the census data for about 2,400 volunteer firemen, the annual per capita normal cost to provide a monthly \$1 benefit was: retirement benefit -- \$2.39, disability benefit -- \$0.66, and pre-retirement death benefit -- \$0.27.

Based on their examination of volunteer firemen's pension plans, the Segal Company developed two recommendations for consideration by the commission.

Recommendation 1. Additional information should be required from these plans as a condition for receipt of state contributions.

Recommendation 2. Based on this additional information, and until the legislature determines the future course of these plans, the state (possibly through the Colorado Fire and Police Pension Association) periodically should provide normal cost information to these plans in order to assist their financial planning.

As the Segal report notes, until complete census data on active and retired members, as well as information on benefit levels, is available to permit full actuarial valuations for the volunteer firemen's plans, their total financial condition can not be fully assessed. The two recommendations were designed to address the absence of information, and assist fire departments in estimating more accurately the financial commitments for which they may be obligated in the future. Further actuarial information would allow the legislature at some future date to make comprehensive policy decisions regarding these plans if that became necessary.

Based on the actuarial report and testimony presented to the commission, however, it appeared that concern over a significant unfunded liability accrued by volunteer plans was, for the most part, unwarranted. Consequently, the commission shifted its emphasis to examination of the benefit structure. The commission was most concerned with determining what changes, if any, should be made to the existing structure in order to better assist volunteer firemen. As a

result, the commission met with representatives of volunteer firemen to solicit their views on this matter.

At these discussions volunteer firemen indicated that the current benefit structure was adequate and needed no substantive changes. These representatives did suggest, however, that three items be recommended by the commission. The items were:

1) authorize the new state board to establish a death and disability program into which the volunteer departments could buy;

2) require the state board to make disability determinations for volunteers under the provisions set down in S.B. 79 for the paid departments; and

3) set the state contribution to volunteer departments for 1981 at 80 percent of one-half mill and increase that annually by two and one-half percent until it reaches 90 percent and thereafter remains level at 90 percent.

#### Implementation of Senate Bill 79

On September 13, Governor Lamm appointed an eleven member task force to carry on necessary pre-implementation activities related to the Policemen's and Firemen's Pension Association. Since Senate Bill 79 has to be fully operational January 1, 1980, it was thought that extensive preparations would be required prior to January 1.

The requirements provided in Senate Bill 79, regarding the composition of the Police and Fire Pension Board are reflected in the gubernatorial appointments. The task force consists of the following individuals.

1) Representing Colorado municipal employees:

- (a) Jerry Kempf of Denver, Colorado;
- (b) Cappie Fine of Boulder, Colorado;
- (c) John Tasker of Grand Junction, Colorado; and
- (d) Kent Cooper of Greeley, Colorado.

2) Representing professional policemen's organizations:

- (a) Kenneth Harris of Denver, Colorado; and
- (b) Ray Magan of Pueblo, Colorado.

3) Representing professional firemen's organizations:

- (a) Richard Holck of Aurora, Colorado; and
- (b) Fred Knowles of Grand Junction, Colorado.

4) Representing special districts:

- (a) F. A. "Bo" Frye of Evergreen, Colorado.

- 5) An individual selected from a list prepared by the representatives of municipal employers.
- 6) An individual selected from a list prepared by the representatives of professional policemen's organizations and professional firemen's organizations:

(a) Robert Bendixen, Denver Fire Department.

These appointments expire on January 1, 1980, at which time the Governor will appoint the permanent association board.

The task force will be responsible for taking the initial steps in implementing Senate Bill 79. These steps include: developing an accurate and complete census of potential association members and employees; developing additional actuarial data; calculating individual benefit levels and contributions levels; developing procedures for accepting local pension funds and making any initial investment decisions; establishing procedures for death and disability determinations; making preliminary administrative decisions regarding staffing; and making other procedural decisions regarding the general operation of the board.

Since its appointment the task force has met several times to carry out these directives. The group has, with the assistance of the Office of State Planning and Budgeting and the Department of Administration, rented office space, obtained staff assistance, and retained the services of an actuary, an attorney, and an accountant. It is also now in the process of completing a contract with the Public Employee's Retirement Association for data services. Finally, the task force is developing forms which will be used for the collection of census and other data.

During these initial meetings it became evident to the task force that certain technical changes needed to be incorporated into Senate Bill 79. At its last meeting of the interim, the task force reviewed these recommended changes with the commission and urged that they be adopted. All of these recommended amendments were adopted by the commission and are reviewed below.

### Recommendations

Based on testimony received during the 1979 interim, the commission recommends two bills which affect volunteer firemen and make several clarifying amendments to Senate Bill 79.

Bill 18. In accordance with the recommendations from representatives of the state's volunteer firemen, this proposal would effect three changes of the state's pension plans. First, the bill would require the state Firemen's and Policemen's Pension Board to make disability determinations for volunteer firemen, except for volunteer firemen who are insured by a commercial insurance company.

Currently, local boards of trustees of each pension plan must make these disability determinations. Disability determinations by the state board would presumably help insure a more impartial ruling in these matters, and result in the application of a more uniform set of criteria.

Secondly, Bill 18 requires the state board to establish a statewide insurance policy against death and disability. Local volunteer pension plans may buy into the plan if they so choose. Currently, each pension plan must, if it desires, establish its own death and disability plan. By allowing the state board to create a statewide death and disability plan, individual associations would receive certain benefits relative to the cost of providing such a plan.

Finally, Bill 18 provides that the current state contribution to firemen's pension plans for volunteers be increased over a four-year period, from 1981 to 1984. Currently, the state contribution to municipalities and special districts offering fire protection and utilizing volunteer firemen equals 80 percent of the proceeds of one-half mill on the valuation for assessment in 1979 of the municipality or special district. This contribution would be raised in four equal steps to a level equal to 90 percent of the proceeds of one-half mill on the municipality or special district's valuation for assessment in 1979. The level of state contribution must be increased if the municipality or special district increases its geographic size.

Bill 19. This bill amends certain sections of Senate Bill 79 to effect several changes which are of a "housekeeping" nature. These amendments were developed by the Martin E. Segal Company and the task force. It should be noted, however, that the amendments are intended only to clarify certain provisions of Senate Bill 79. Both the task force and the commission agreed that consideration of substantive amendments to Senate Bill 79 would be ill-advised at this time. Without sufficient experience in administering this new state pension plan, major alterations may not appropriately address emerging needs and result in a great degree of confusion.

The amendments made by the various sections of Bill 19 are explained below:

Section 1. See Section 13.

Section 2. This section clarifies that future changes in population will not affect the level of benefits received by new or affiliating employees.

Section 3. See Section 13.

Section 4. This section clarifies the election procedures for withdrawal or reentry into the state plan. It provides that such actions must be approved by 65 percent of the new and affiliating employees, as well as 65 percent of the employees still covered under the local plan. Without such language, situations may arise in which

one segment of employees imposes its will on another. This section also establishes a presumption of benefits in the case where a member of an affiliating employer fails to make an election of coverage within the required 60 day period following affiliation. Currently, the act is silent on the status if the member fails to take any action. This section clarifies this matter by providing a presumption that the member is under the current plan.

Section 5. This section clarifies the phrase "appoint ... such other employees as may be necessary..." by giving the board more definitive authority to appoint attorneys, actuaries, investment counselors, and other consultants. While the act implies this power, and it can be considered as a logical expansion of the act's provisions, clarification is necessary.

In addition, this section clarifies the powers of the board to pay for its operations, and make payments or refunds to members, payments to survivors, disability and retirement benefits, and for purposes of investment. This appears to be in keeping with the board's general authority. In addition, this section also authorizes the board to promulgate rules and regulations necessary to implement the act.

Section 6. This section provides that, since the board is responsible for seeing that actuarial studies are performed, it may direct that contribution rates be changed based on these studies. This authority is inferred in the current statutes but is not explicitly stated.

Section 7. This section provides that the board will not be making eligibility determinations for death and disability benefits for officers covered by money purchase plans. This is in line with the general philosophy of S.B. 79 which excludes officers covered by money purchase plans.

Section 8. This section clarifies two matters regarding early retirement. The base used in calculating the reduction of pension benefit payments in the case of early retirement is unclear. Section 8 provides specifically that the basis will be a portion of normal retirement benefit.

In addition, the act allows for early retirement at age 50 and 30 years of service at a reduced rate of benefit. The age from which the reduction of a member's pension is determined for this early retirement is 55. The net result is that normal retirement effectively becomes 55 rather than 60 (normal retirement age) because no reduction is applied against a member who takes an "early" retirement at 55. This situation may have significant effects upon the total cost of the new plan. The committee, therefore, recommends that the age from which early retirement reductions are calculated be raised to 65. This is in keeping with the initial decisions regarding normal retirement age.

Section 9. This section clarifies the status of benefits provided to those members who are eligible for normal retirement and become disabled. In this case they are to receive the normal retirement benefits. Currently, it is unclear what benefits these people should receive.

Section 10. This section clarifies the current conflicts which appear to exist regarding pension benefit adjustments. Section 31-30-1010 indicates that the three percent cost of living provision is "in lieu of" any other cost of living adjustment. This section is amended to recognize the rank escalation option allowed to localities in section 31-30-1014 (4) (b). Localities can, if they fund this completely, provide rank escalation to "old hires".

Section 11. Senate Bill 79 authorizes the return of member contributions with interest. The intent of this provision was to allow this return only to those employees who are covered, or who elect to be covered by the retirement provisions in the act. The language of this section is not clear concerning whether the return of contribution applies only to members of the association. To resolve this problem, section 11 states that affiliating employees will receive a refund of contributions for all accumulated service and that interest thereon will be a flat five percent of the total.

Section 12. This section clarifies the conditions on which the state will distribute money to the local funds. Paragraph 31-30-1014 (4) (a) provides that no state money for unfunded liabilities shall be distributed to an employer having rank escalation which is not in the association. The intent of the General Assembly was also to condition the distribution of money to employers with rank escalation on the employer permitting its employees hired before April 8, 1978, to elect the provisions of the new plan. This subparagraph is amended to make it clear that no state money will be distributed to amortize the unfunded liabilities of a fund having rank escalation which is not in the association and which has not affiliated with the association.

Section 13. This section clarifies the termination of state contributions to actuarially sound funds. Paragraph 31-30-1014 (4) (c) provides, "As any employer receiving the state contributions pursuant to this subsection (4) becomes actuarially sound, such state contributions shall cease." This definition, "actuarially sound", refers to a fund which is receiving a stream of contributions sufficient to pay the normal cost and amortize the unfunded past service liabilities over forty years. It is not defined as having no past service liabilities. Consequently, any employer adhering to the funding requirements of part 8 (including an employer who has elected the hardship provision) and part 10 automatically is "actuarially sound" triggering the discontinuance of state contributions. This amendment makes it clear that state contributions end once the level of local contributions exclusive of state contributions is sufficient to fulfill the minimum funding requirements of part 8. Conforming amendments to the intent of this section 13 appear in sections 1 and 3 of the bill.

## APPENDIX

### Statutory Benefits for Volunteer Firemen as Summarized by the Martin E. Segal Company

For over 60 years, the State Legislature has established some guidelines for volunteer firemen's pensions. The current provisions may be summarized as follows:

Normal Retirement -- A volunteer with 20 years of active service and above the age of 50 may receive a pension not to exceed \$200 per month. However, pensions in excess of \$100 per month must be actuarially sound. A volunteer fireman with 20 years of service who has not attained age 50 is entitled to begin receiving a pension upon the attainment of age 50.

Disability -- A volunteer fireman injured in line of duty may receive an annuity in an amount not to exceed \$150 per month for a period of time not to exceed one year. If the disability extends beyond a year and the fireman was deprived of his earning capacity, the local board is authorized to provide monthly annuities "in such an amount as the board determines proper and necessary."

Death Benefits -- A local firemen's pension board may provide a surviving spouse of a volunteer fireman who dies in the line of duty with a monthly annuity in the amount that is "deemed proper and necessary not to exceed \$150 per month, or within limits as are prescribed by municipal ordinance..." This language suggests that the death benefits may exceed \$150 per month. If there is no surviving spouse but there is a surviving child under the age of 18 or a dependent parent, the same amount of annuity is authorized for such survivors.

Post-Retirement Death -- The local board may grant an annuity not to exceed 50 percent of a pension being received at the time of the fireman's death to his survivors.

BILL 18

A BILL FOR AN ACT

1 CONCERNING VOLUNTEER FIREMEN, AND PROVIDING BENEFITS THEREFOR AND  
2 INCREASING THE STATES' CONTRIBUTION FOR FIRE PROTECTION  
3 SERVICE.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that from 1981 to 1984, the state contribution to firemen's pension plans for volunteer firemen shall increase in four equal steps. Requires the state board of directors of fire and police pensions to set up a statewide death and disability insurance policy for volunteers. Shifts the burden of determining disability of volunteer firemen from the local boards to the state board of directors.

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4 Be it enacted by the General Assembly of the State of Colorado:  
5 SECTION 1. 31-30-415 (2), (3), and (7), Colorado Revised  
6 Statutes 1973, 1977 Repl. Vol., as amended, are amended to read:  
7 31-30-415. Volunteer firemen's pensions - blanket  
8 insurance. (2) All applicants for disability pensions shall be  
9 examined by one or more physicians selected ~~for-the-purpose~~ by  
10 the board OF DIRECTORS ESTABLISHED BY PART 10 OF THIS ARTICLE FOR  
11 THE PURPOSE OF EXAMINING SAID APPLICANTS and may be examined by



1 one or more physicians selected by ~~the applicant~~ SAID APPLICANTS  
2 FOR SUCH PURPOSE. All expenses of examinations by ~~the~~ physician  
3 PHYSICIANS chosen by the board OF DIRECTORS shall be paid by the  
4 board OF DIRECTORS out of the fund.

5 (3) The board OF DIRECTORS ESTABLISHED BY PART 10 OF THIS  
6 ARTICLE shall establish such rules and regulations as it deems  
7 proper for the purpose of examination of all persons who have  
8 retired for disability or who may be so retired on or after July  
9 JANUARY 1, 1969 1980, to determine from time to time the fitness  
10 of such persons. ~~No such person who has reached the age of fifty~~  
11 ~~years; either before or after his retirement; shall be~~  
12 ~~reexamined: No such person who has completed twenty years of~~  
13 ~~active duty in said department before the date of such retirement~~  
14 ~~shall be reexamined: No person on the retired list shall be~~  
15 ~~examined sooner than one year after the date of retirement and~~  
16 ~~not more often than once a year thereafter: In the event it is~~  
17 ~~found by said board that any member on the retired list has~~  
18 ~~recovered sufficiently from the disability which caused his~~  
19 ~~retirement and such person is under the age of fifty years and~~  
20 ~~has served less than twenty years of active duty; such person~~  
21 ~~shall be removed from the retired list: Any member so removed~~  
22 ~~from the retired list; within thirty days after his removal~~  
23 ~~therefrom; may file a written protest in which he shall state any~~  
24 ~~objection to his removal from the retired list: The decision of~~  
25 ~~said board shall be suspended pending a hearing on said protest;~~  
26 ~~at which hearing such member shall have the right to appear and~~

1 ~~to-be-represented-by-counsel:~~

2 (7) (a) The board in any municipality or fire protection  
3 district having a ~~paid-or~~ volunteer OR A PAID AND VOLUNTEER fire  
4 department or a fire department aid association is hereby  
5 authorized, with the consent in writing of a majority of the  
6 VOLUNTEER members of such department or association, to insure  
7 the VOLUNTEER members of such ~~paid--or~~ volunteer OR PAID AND  
8 VOLUNTEER fire department or fire department aid association by  
9 insurance policies of individual, group, or blanket life,  
10 endowment, or annuity insurance, variable annuity insurance, or  
11 disability or liability insurance in and from companies  
12 authorized to do business in Colorado and to expend any portion  
13 of such pension fund for the purpose of paying the premiums on  
14 any such policies, but the expending of said funds shall not  
15 impair the ability of such pension funds to pay the annuities to  
16 a VOLUNTEER member OR HIS surviving spouse, ~~or~~ dependent parent  
17 or children receiving such annuities.

18 (b) IN LIEU OF PROVIDING INSURANCE PURSUANT TO PARAGRAPH  
19 (a) OF THIS SUBSECTION (7), THE BOARD IN ANY MUNICIPALITY OR FIRE  
20 PROTECTION DISTRICT IS AUTHORIZED TO INSURE VOLUNTEERS SERVING IN  
21 ANY VOLUNTEER OR PAID AND VOLUNTEER FIRE DEPARTMENT OR FIRE  
22 DEPARTMENT AID ASSOCIATION BY THE STATEWIDE INSURANCE POLICY  
23 AGAINST DEATH AND DISABILITY WHICH THE STATE BOARD OF DIRECTORS  
24 IS REQUIRED TO PROVIDE PURSUANT TO PART 10 OF THIS ARTICLE.

25 SECTION 2. 31-30-1005 (2), Colorado Revised Statutes 1973,  
26 1977 Rep1. Vol., as amended, is amended, and the said 31-30-1005

1 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:  
2 31-30-1005. Powers and duties of the board. (2) (a) The  
3 board has the sole power to determine eligibility for retirement  
4 for disability, whether total or occupational, for any policeman  
5 or fireman in this state whether or not such member is covered by  
6 the provisions of this part 10, except those policemen and  
7 firemen having only social security coverage. The final power to  
8 determine disability status is vested in the board, but each  
9 employer shall determine whether positions are available for  
10 disabled members and shall make such appointments to said  
11 positions as it deems necessary.

12 (b) THE BOARD HAS THE SOLE POWER TO DETERMINE DISABILITY  
13 FOR VOLUNTEER FIREMEN UNDER THE PROVISIONS OF SECTION 31-30-415,  
14 EXCEPT FOR VOLUNTEER FIREMEN INSURED UNDER COMMERCIAL INSURANCE  
15 PLANS.

16 (4) The board shall provide for and determine the cost of a  
17 statewide death and disability insurance policy to be purchased  
18 by volunteers serving in volunteer or paid and volunteer fire  
19 departments.

20 SECTION 3. 31-30-1014 (3) (a), Colorado Revised Statutes  
21 1973, 1977 Repl. Vol., as amended, is REPEALED AND REENACTED,  
22 WITH AMENDMENTS, to read:

23 31-30-1014. State contribution. (3) (a) (I) (A) In 1981  
24 contributions to municipalities and special districts offering  
25 fire protection service and having volunteer firemen shall equal  
26 eighty-two and one-half percent of the proceeds of one-half mill

1 on the valuation for assessment in 1979 of the municipality or  
2 special district.

3 (B) In 1982 contributions to municipalities and special  
4 districts offering fire protection service and having volunteer  
5 firemen shall equal eighty-five percent of the proceeds of  
6 one-half mill on the valuation for assessment in 1979 of the  
7 municipality or special district.

8 (C) In 1983 contributions to municipalities and special  
9 districts offering fire protection service and having volunteer  
10 firemen shall equal eighty-seven and one-half percent of the  
11 proceeds of one-half mill on the valuation for assessment in 1979  
12 of the municipality or special district.

13 (D) In 1984 and each year thereafter contributions to  
14 municipalities and special districts offering fire protection  
15 service and having volunteer firemen shall equal ninety percent  
16 of the proceeds of one-half mill on the valuation for assessment  
17 in 1979 of the municipality or special district.

18 (II) In calculating the contribution by the state provided  
19 in subparagraph (I) of this paragraph (a), there shall be  
20 subtracted from said amounts the cash equivalent of the death and  
21 disability benefit for each employer having members as well as  
22 volunteers. If the death and disability benefit is equal to or  
23 greater than the amount scheduled to be contributed to the  
24 municipality or special district offering fire protection  
25 service, no contribution shall be made by the board, and state  
26 payment of death and disability benefits shall be in lieu of any

1 contribution previously made to such employer.

2 (III) If any municipality or special district offering fire  
3 protection service and having volunteer firemen increases the  
4 geographic region for which it provides such fire protection  
5 service, the state contribution to such municipality or special  
6 district shall be increased based upon the valuation for  
7 assessment in 1979 of the region.

8 SECTION 4. Effective date. This act shall take effect July  
9 1, 1980.

10 SECTION 5. Safety clause. The general assembly hereby  
11 finds, determines, and declares that this act is necessary for  
12 the immediate preservation of the public peace, health, and  
13 safety.

BILL 19

A BILL FOR AN ACT

1 CONCERNING THE PROVISION OF BENEFITS FOR FIREMEN AND POLICEMEN.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Makes various technical and conforming amendments to existing, new legislation on fire and police benefits, including: Expanding and refining the powers of the state board, clarifying provisions for entry into the benefits plan, clarifying provisions for eligibility and payment of benefits for disability and retirement under the plan, defining and explaining the extent and conditions for state contributions to the plan, and various other minor, technical changes.

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2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 31-30-804 (8) (a) (II), Colorado Revised  
4 Statutes 1973, 1977 Repl. Vol., as amended, is amended to read:

5 31-30-804. Limitation on existing funds - procedures.

6 (8) (a) (II) A rate of contribution lower than the minimums set  
7 forth in this paragraph (a) may be established by the governing  
8 body if, **considering** EXCLUDING any state contribution, the lower  
9 rate would meet the minimum funding provisions of subsection (2)  
10 of this section and if the rate of contribution of the employer

1 at least equals the employee rate.

2 SECTION 2. Part 8 of article 30 of title 31, Colorado  
3 Revised Statutes 1973, 1977 Repl. Vol., as amended, is amended BY  
4 THE ADDITION OF A NEW SECTION to read:

5 31-30-805.5. Population changes not to affect benefits.  
6 Notwithstanding any other provision of this article, no change in  
7 the population of any municipality which is certified pursuant to  
8 the 1980 federal census or any other census taken thereafter  
9 shall cause any change in the levels of benefits to which  
10 employees of such municipality are entitled pursuant to part 3,  
11 4, 5, 6, or 10 of this article.

12 SECTION 3. 31-30-1002 (1), Colorado Revised Statutes 1973,  
13 1977 Repl. Vol., as amended, is amended to read:

14 31-30-1002. Definitions. (1) "Actuarially sound" means a  
15 policemen's or firemen's pension fund determined by the board to  
16 be receiving or scheduled to receive EMPLOYER AND MEMBER  
17 contributions in each fiscal year ~~from-any-source~~ equal to the  
18 annual contributions actuarially determined to be necessary to  
19 pay the annual current service cost of pension benefits  
20 attributable to active employees and to pay the annual  
21 contribution necessary to amortize any unfunded accrued liability  
22 over a period not to exceed forty years. The actuarial cost  
23 method to be utilized shall be the entry age-normal cost method.  
24 The date from which unfunded liabilities shall be amortized shall  
25 be determined pursuant to part 8 of this article.

26 SECTION 4. 31-30-1003 (2) (b) (III) and (3) (b), Colorado

1 Revised Statutes 1973, 1977 Repl. Vol., as amended, are amended  
2 to read:

3 31-30-1003. Applicability of plan. (2) (b) (III) Any  
4 reentry or both the withdrawal and the alternative pension plan,  
5 together with any amendments thereto, shall be approved by at  
6 least sixty-five percent of all members WHO HAVE ELECTED TO BE  
7 COVERED BY A LOCAL PLAN IN EFFECT ON JANUARY 1, 1979, AND BY AT  
8 LEAST SIXTY-FIVE PERCENT OF ALL MEMBERS WHO WERE FIRST HIRED ON  
9 APRIL 8, 1978, OR LATER OR WHO HAVE MADE THE IRREVOCABLE ELECTION  
10 PURSUANT TO PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION TO  
11 BECOME COVERED UNDER THE PROVISIONS OF THE STATEWIDE PLAN  
12 ESTABLISHED BY THIS PART 10.

13 (3) (b) Each member hired by an affiliating employer prior  
14 to April 8, 1978, shall irrevocably elect, not later than sixty  
15 days after affiliation, either to remain covered under the  
16 provisions of the local plan in effect on January 1, 1979, or to  
17 become covered under the provisions of the statewide plan  
18 established by this part 10. IF A MEMBER HIRED BY AN AFFILIATING  
19 EMPLOYER BEFORE APRIL 8, 1978, FAILS TO MAKE SUCH AN ELECTION FOR  
20 ANY REASON, SAID MEMBER SHALL BE DEEMED TO HAVE ELECTED TO REMAIN  
21 COVERED UNDER THE PROVISIONS OF THE LOCAL PLAN IN EFFECT ON  
22 JANUARY 1, 1979. A member who elects to become covered under the  
23 statewide plan established by this part 10 shall be deemed to  
24 have waived all rights to benefits under the local plan but shall  
25 receive full credit for all service credited under the local  
26 plan, and a member electing to remain covered under the local



1 plan shall not be governed by the provisions of this part 10  
2 relating to defined retirement benefits.

3 SECTION 5. 31-30-1004 (3) (b), Colorado Revised Statutes  
4 1973, 1977 Repl. Vol., as amended, is amended to read:

5 31-30-1004. Association - creation - board - organization.  
6 (3) (b) The board shall elect a chairman and a vice-chairman,  
7 shall appoint a secretary and such other employees as may be  
8 necessary, and shall fix the compensation for said appointees.  
9 THE BOARD SHALL HAVE THE AUTHORITY TO RETAIN ACTUARIES,  
10 INVESTMENT COUNSELORS, PRIVATE LEGAL COUNSEL, AND OTHER  
11 CONSULTANTS AS DEEMED NECESSARY. THE FEES OF SUCH PERSONS SHALL  
12 BE CONSIDERED EXPENSES OF THE ASSOCIATION.

13 SECTION 6. 31-30-1005 (1), Colorado Revised Statutes 1973,  
14 1977 Repl. Vol., as amended, is amended BY THE ADDITION OF THE  
15 FOLLOWING NEW PARAGRAPHS to read:

16 31-30-1005. Powers and duties of the board.  
17 (1) (h) Provide for disbursements from the fire and police  
18 members' benefit fund created by section 31-30-1012. Such  
19 disbursements shall be made only for payment of the expenses of  
20 the association, payment of refunds to members, payment of  
21 survivor, disability, or retirement benefits, or for purposes of  
22 investment.

23 (i) Make such modifications to the minimum annual rates of  
24 contribution certified to municipalities and fire protection  
25 districts as may be justified by actuarial studies approved by  
26 the board, subject to the requirements of section 31-30-804. In

1 addition, the board shall supervise the establishment of such  
2 minimum annual rates of contribution for any municipalities or  
3 fire protection districts which, for any reason, did not receive  
4 such a minimum annual rate of contribution. Such establishment  
5 of minimum annual rates of contribution shall be conducted  
6 substantially in the manner provided by procedural regulations  
7 promulgated by the board.

8 (j) Promulgate such rules and regulations as may be  
9 necessary to implement the provisions of this part 10.

10 SECTION 7. 31-30-1005 (2), Colorado Revised Statutes 1973,  
11 1977 Repl. Vol.;, as amended, is amended to read:

12 31-30-1005. Powers and duties of the board. (2) The board  
13 has the sole power to determine eligibility for retirement for  
14 disability, whether total or occupational, for any policeman or  
15 fireman in this state whether or not such member is covered by  
16 the provisions of this part 10, except those policemen and  
17 firemen having only social security coverage AND EXCEPT THOSE  
18 POLICEMEN AND FIREMEN WHOSE EMPLOYERS HAD ESTABLISHED MONEY  
19 PURCHASE PLANS ON OR BEFORE DECEMBER 1, 1978, IN ACCORDANCE WITH  
20 THE PROVISIONS OF SECTION 31-30-325, 31-30-417, 31-30-522, OR  
21 31-30-621. The final power to determine disability status is  
22 vested in the board, but each employer shall determine whether  
23 positions are available for disabled members and shall make such  
24 appointments to said positions as it deems necessary.

25 SECTION 8. 31-30-1006 (3), Colorado Revised Statutes 1973,  
26 1977 Repl. Vol., as amended, is amended to read:

1           31-30-1006. Normal retirement. (3) Any member who has  
2 completed at least thirty years of active service or has attained  
3 the age of fifty years may elect to retire from active service  
4 and shall be eligible for an early retirement pension. The  
5 annual early retirement pension for a member shall be the normal  
6 retirement pension provided by subsection (1) of this section  
7 reduced by one-half of one percent OF THE NORMAL RETIREMENT  
8 PENSION per month for each month or portion thereof that such  
9 member is less than ~~age-fifty-five~~ SIXTY-FIVE YEARS OF AGE at the  
10 time of such election.

11           SECTION 9. The introductory portion to 31-30-1007 (1),  
12 Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, is  
13 amended to read:

14           31-30-1007. Retirement for disability. (1) Any member  
15 hired before, on, or after April 7, 1978, who IS NOT ELIGIBLE  
16 FOR THE RETIREMENT PENSION DESCRIBED IN SECTION 31-30-1006 AND  
17 WHO becomes totally disabled shall be retired from active service  
18 for disability and shall be eligible to receive the disability  
19 benefit provided by this subsection (1). The annual disability  
20 benefit for total disability for such member shall be forty  
21 percent of the annual base salary paid to such member immediately  
22 preceding retirement for disability, which shall be increased by:

23           SECTION 10. 31-30-1010 (1), Colorado Revised Statutes 1973,  
24 1977 Repl. Vol., as amended, is amended to read:

25           31-30-1010. Adjustment of benefits. (1) The benefits  
26 payable under this part 10 shall be redetermined effective

1 October 1 each year, and such redetermined amount shall be  
2 payable for the following twelve months. To be eligible for  
3 redetermination, such benefits shall have been paid for at least  
4 twelve calendar months prior to the effective date of  
5 redetermination. The annual redetermination of benefits provided  
6 in this section shall be required only for those employers not  
7 exempted by section 31-30-1003 (2) which, on January 1, 1980,  
8 were providing an annual cost of living adjustment to pension  
9 benefits provided pursuant to this article, and, EXCEPT AS  
10 PROVIDED IN SECTION 31-30-1014 (4) (b), the annual  
11 redetermination of benefits made pursuant to this section shall  
12 be in lieu of any other annual cost of living adjustment.

13 SECTION 11. 31-30-1011 (1) (a), Colorado Revised Statutes  
14 1973, 1977 Repl. Vol., as amended, is amended to read:

15 31-30-1011. Return or transfer of contributions.  
16 (1) (a) Any member terminating his service may elect to have his  
17 accumulated contributions, REGARDLESS OF WHEN MADE, ~~together-with~~  
18 ~~interest-earned-thereon-at-five-percent-per-annum~~ refunded to him  
19 in a lump sum and shall sign a statement to be filed with his  
20 employer evidencing such election and acknowledging that said  
21 member has no right to benefits provided by this part 10. IN  
22 ADDITION TO RECEIVING HIS ACCUMULATED CONTRIBUTIONS, THE MEMBER  
23 SHALL ALSO RECEIVE, AS INTEREST, FIVE PERCENT OF HIS TOTAL  
24 ACCUMULATED CONTRIBUTIONS. The contributions refunded pursuant to  
25 this subsection (1) shall not include contributions other than  
26 those required to be made by the member, and the return of

1 contributions shall be made within one hundred twenty days.

2 SECTION 12. 31-30-1014 (4) (a), Colorado Revised Statutes  
3 1973, 1977 Repl. Vol., as amended, is amended to read:

4 31-30-1014. State contribution. (4) (a) After the  
5 disbursements made pursuant to subsections (2) and (3) of this  
6 section, any moneys allocated for distribution remaining in the  
7 fund shall be distributed by the board annually to any employer  
8 having an accrued unfunded liability to assist in amortizing such  
9 accrued unfunded liability as determined pursuant to the  
10 provisions of part 8 of this article. Moneys shall be credited  
11 to the various employers in proportion to the percentage of  
12 aggregate accrued unfunded liabilities each employer represents,  
13 but no money shall be distributed pursuant to this subsection (4)  
14 to an employer having rank escalation for members hired before  
15 April 8, 1978, which is not in the association. AFTER JUNE 30,  
16 1981, NO MONEY SHALL BE DISTRIBUTED PURSUANT TO THIS SUBSECTION  
17 (4) TO ANY EMPLOYER WHICH HAS NOT AFFILIATED WITH THE  
18 ASSOCIATION. For the purposes of this subsection (4), "rank  
19 escalation" means the addition to the amount of the retirement  
20 pension or disability benefit being received of a fixed  
21 percentage of any increase in salary, as well as longevity or  
22 additional pay based on length of service, granted the rank a  
23 member occupied before retiring or being disabled.

24 SECTION 13. 31-30-1014 (4) (c), Colorado Revised Statutes  
25 1973, 1977 Repl. Vol., as amended is REPEALED AND REENACTED, WITH  
26 AMENDMENTS, to read:

1           31-30-1014. State contribution.           (4) (c) State  
2 contributions to an employer pursuant to this subsection (4)  
3 shall cease when the minimum employer and employee contributions  
4 required pursuant to the provisions of part 8 of this article  
5 result in an actuarially sound fund.

6           SECTION 14. Repeal. 31-30-804 (4), (5), and (6), Colorado  
7 Revised Statutes 1973, 1977 Repl. Vol., as amended, are repealed.

8           SECTION 15. Effective date. This act shall take effect  
9 July 1, 1980.

10          SECTION 16. Safety clause. The general assembly hereby  
11 finds, determines, and declares that this act is necessary for  
12 the immediate preservation of the public peace, health, and  
13 safety.

**LEGISLATIVE COUNCIL**  
**COMMITTEE ON AGRICULTURE - WATER**

**Members of the Committee**

Rep. Walt Younglund, Chairman	Rep. Forrest Burns
Sen. Harold McCormick, Vice-Chairman	Rep. John Davoren
Sen. Polly Baca-Barragan	Rep. Melba Hastings
Sen. Ken Clark	Rep. W. P. "Wad" Hinman
Sen. Barbara Holme	Rep. James Lillpop
Sen. Robert Wham	Rep. Jim Reeves
	Rep. Robert Shoemaker
	Rep. Mick Spano
	Rep. Nick Theos

**Council Staff**

Duane L. Barnard  
Research Associate

Dianna Y. Martinez  
Research Assistant

The Committee on Agriculture - Water was charged with conducting a "comprehensive study of the state's statutes concerning water and its use, including consultation with the state engineer, the Colorado Water Conservation Board, and water users throughout the state."

### Introduction

At its first meeting, the committee received specific study suggestions from the State Engineer, the Colorado Water Conservation Board, and others in attendance. The suggested topics were listed and prioritized by the committee. The list, reflecting the committee's interpretation of the charge in House Joint Resolution 1052, contains a broad range of water issues and problems facing Colorado. The topics are listed below in order of priority.

1. Form legal and engineer committees to study matters of law and fact concerning the administration of nontributary underground water not located in designated groundwater basins.
2. Impact of energy development on water resources.
3. Prioritize water project funds.
4. Study alternative sites for water storage projects on the South Platte River.
5. Protect ability to appropriate water to which Colorado is entitled.
6. Identify conflicts and loopholes in the state's water law.
7. Rio Grande Compact: inability of the river channel to deliver the required amount of water to the State of New Mexico; amend the compact to provide administrative flexibility to handle unusual natural occurrences.
8. The effect of the expansion of irrigated acreage and increased irrigation efficiency on return flows to the river.
9. The advantages and disadvantages of a concept to lease underground water as opposed to granting water rights to underground water.
10. River channel rehabilitation.
11. Salinity problems on the Colorado River.



12. Determine who is responsible for the cost of complying with the new dam safety criteria.
13. Energy costs in agriculture: pump efficiency, high v. low pressure sprinkler systems.
14. Appointment of a subcommittee -- follow the water study being conducted by the Colorado Department of Natural Resources.
15. Reudi Reservoir -- possible state purchase of 47,700 acre feet of water.
16. Senator Hart -- cooperative effort on his initiative with the federal government to reexamine water development alternatives on the South Platte River.
17. Well drillers -- examine severity of penalties for violations.
18. Rio Grande Reservoir improvements.
19. Phreatophyte control.
20. High plains study.
21. Platora Reservoir -- agreement with federal government is needed to clarify who is responsible for the administration of the reservoir.
22. Radioactive contamination of underground water -- regulation of mining test holes.

In addition to the study of the above topics, the committee devoted one meeting to water quality issues facing the state, and a portion of one meeting to gasohol.

Realizing that a thorough review of each of the topics would be impossible, the committee endeavored to briefly review as many areas as possible in order to identify and make recommendations on problems of immediate concern. On this basis, the committee recommends eight bills for consideration by the General Assembly in the areas of water project funding, water quality, river channel rehabilitation, and gasohol. The committee further recommends three resolutions concerning federal land acquisitions in Colorado.

#### Water Project Funding

The committee recommends two alternative proposals for funding water projects through the Colorado Water Conservation Board Construction Fund. One proposal would allocate a percentage of revenues from

sales and use taxes to the fund. The alternative proposal would allocate a percentage of the special reserve fund, established for tax relief, to the Colorado Water Conservation Board Construction Fund.

### The Need for Increased Funding

The committee learned from the Colorado Water Conservation Board that the increased funding provided by the General Assembly in 1979 is sufficient for funding the present two-year backlog of projects. However, an increased number of applications for financial assistance is expected. Four factors contributing to the increased demand on the fund in the future are discussed below.

1) Water quality standards, resulting from federal and state water quality legislation, have placed financial burdens on water users throughout the state, particularly municipalities.

2) The Dam Safety Act requires that dams meet certain safety standards. The State Engineer testified that 25 percent of the 94 dams inspected in 1978 failed to meet the standards. The State Engineer estimated that the total cost of bringing 134 dams up to the established standards would exceed \$35 million over the next three to four years. Many of the special districts and municipalities will not be able to secure financing through private means and will apply to the Colorado Water Conservation Board for assistance.

3) Energy development, primarily in the Colorado River Basin, will impact the availability of water to meet the needs of existing domestic, agricultural, and industrial enterprises. Growth associated with energy development will necessitate the building of water storage projects and municipal water supply systems.

4) Several federal reclamation projects authorized by Congress have not been funded, and it appears that some may never be funded. The committee concluded that these projects are vital to Colorado and may eventually have to be built using state funds. The Colorado Water Conservation Board is the logical agency to administer the funds and oversee the construction of the projects.

### Allocation of Revenues from Sales and Use Taxes to the Colorado Water Conservation Board Construction Fund -- Bill 20

Revenues provided by Bill 20 to the Colorado Water Conservation Board Construction Fund would be in addition to moneys appropriated by Senate Bill 537 enacted in 1979. Senate Bill 537 credits a fixed dollar amount to the fund for each fiscal year beginning in July, 1979, and ending in June of 1982. For fiscal year 1979-80, \$8 million is credited to the construction fund, and \$10 million will be credited to the fund in each of the following two years.

The method of funding proposed in Bill 20 was originally conceived in S.B. 325, which was considered but not enacted by the General Assembly in 1979. Many of the provisions of S.B. 325 were added to S.B. 537 before enactment, including specific projects to be funded.

Bill 20 would divert a portion of the fifteen percent of net revenue, not required by the State Constitution to be credited to the Old Age Pension Fund, to the Colorado Water Conservation Board Construction Fund beginning in FY 1979-1980 and ending in FY 1988-1989. Presently, the fifteen percent of revenue not required for the Old Age Pension Fund is divided between the General Fund and the Highway Users Tax Fund, pursuant to S.B. 536, enacted by the General Assembly in 1979.

The allocations to the Highway Users Tax Fund would probably not be affected by this proposal. It is the committee's intent that the allocations to the Colorado Water Conservation Board Construction Fund impact only on the General Fund's share of the 15 percent of total net revenues from sales and use taxes as allocated by S.B. 537. The table below shows the proposed percentage distribution of the General Fund portion of the 15 percent of sales and use taxes not required for the Old Age Pension Fund. The last column contains an estimate of the maximum amount of revenue accruing to the construction fund for the first five fiscal years, using Office of State Planning and Budgeting estimates of sales and use taxes. Projections further into the future are too speculative to use.

<u>Fiscal Year</u>	<u>Percentage Allocated to the General Fund by S.B. 536</u>	<u>Percentage Allocated to the General Fund Under the Proposal</u>	<u>Percentage Allocated to the Construction Fund Under the Proposal</u>	<u>Revenue Accruing to the Construction Fund Under the Proposal</u>
1979-80	9%	9%	0	0
1980-81	8	3	0	\$26 M
1981-82	7	2	0	\$30 M
1982-83	6	1	5	\$34 M
1983-84	5	0	5	\$33 M
1984-85	4	0	4	
1985-86	3	0	3	
1986-87	15 <u>1/</u>	10 - 12	3 - 5	
1987-88	15 <u>1/</u>	10 - 12	3 - 5	
1988-89	15 <u>1/</u>	10 - 12	3 - 5	

1/ After distribution to the Highway Users Tax Fund.

Utilization for Water Resource Development of a Portion of the Special Reserve Fund -- Bill 21

Bill 21 provides that a percentage of the special reserve fund for tax relief be utilized for water resource development. The committee submits this bill as an alternative to the method of funding proposed in Bill 20.

Bill 21 provides that thirty percent of the reserve fund on or after July 1, 1980, would be credited to the Colorado Water Conservation Board Construction Fund. The diversion of thirty percent would continue indefinitely, in contrast to the July 1, 1990 cut off proposed in Bill 20.

The Governor's Revenue Estimating Committee, recognized as the official authority for estimating state revenues and expenditures, developed in September 1979, estimates of the reserve fund for the next five fiscal years. Below is a table showing projections of the reserve fund, the amount anticipated to be credited (30%) to the Colorado Water Conservation Board Construction Fund, and the amount that would be available (70%) for tax relief if Bill 21 was enacted (amounts are in millions of dollars).

The table is presented to show the maximum amount that could be credited to the construction fund under the proposed bill. The above allocation to the Colorado Water Conservation Board Construction Fund assumes that no portion of the reserve fund is actually allocated for tax relief. Any amount allocated for tax relief would reduce the balance in the reserve fund by the same amount, as the reserve fund balances in the table are cumulative over the five years and only reflect reductions due to allocations to the Construction Fund. The allocations to the Construction Fund appearing in the table would therefore be reduced if allocations are made from the fund for tax relief.

<u>Fiscal Year</u>	<u>Reserve Fund Estimate 1/</u>	<u>70% Available for Tax Relief But Not Used</u>	<u>30% Allocated for Water Projects</u>
1979-80	\$254	\$254	\$ 0
1980-81	207	145	62
1981-82	208	146	62
1982-83	495	346	149
1983-84	582	407	<u>175</u>
TOTAL			\$448

1/ These estimates are cumulative from year-to-year and assume that no funds are allocated for tax relief. If funds are allocated for tax relief the reserve fund estimates would be reduced and less money would be available for water projects.

## Water Quality

The committee recommends three bills concerning water quality. One bill would amend the "Colorado Water Quality Control Act" in substantially the same manner as proposed by S.B. 480, which was considered but not enacted by the General Assembly in 1979. However, two major provisions of S.B. 480 are recommended as separate bills. One bill would require Senate confirmation of appointments to the Colorado Water Quality Control Commission. The second bill would provide the enabling legislation necessary for the state to assume the dredge and fill permit program contained in section 404 of the federal "Clean Water Act."

### Concerning Water Quality -- Bill 22

Bill 22 would repeal and reenact the "Colorado Water Quality Control Act" to make the law consistent with the legislative intent expressed in S.B. 480 and affirmed by the committee as a result of testimony received at the meeting devoted to water quality. The legislative declaration in the present water quality act does not contemplate the conflict arising between the doctrine of prior appropriation and water quality requirements of federal and state law.

The legislative declaration in Bill 22 defines the relationship between water quality and the constitutional right to appropriate water and apply it to beneficial use. Key expressions of legislative intent are enumerated below.

1) It is the policy of the state to prevent injury to beneficial uses made of state water and to develop waters to which Colorado and its citizens are entitled, and within that context, to achieve the maximum practical degree of water quality.

2) To develop a water quality control program in which the benefits of water quality control measures utilized bears a reasonable relationship to the economic, environmental, and energy costs of such measures.

3) Control new or existing water pollution so as to obtain the highest water quality which is technically feasible and economically reasonable.

4) No provision of the article is to be interpreted in derogation or contravention of the provisions of sections 5 and 6 of article XVI of the Constitution of the State of Colorado. In recognition of the supremacy of these constitutional provisions and guarantees, the General Assembly declares that nothing in the article shall be construed, enforced, or applied to, in any manner, supersede, abrogate, impair, affect, or impose restrictions or conditions upon the rights to quantities of water which have been appropriated, the right to apply such waters to beneficial uses, or the right to the appropriation of water in the future.

The bill consistent with this declaration, would make several changes to the existing water quality control act. The major changes are summarized below.

1) Members of the commission would no longer be authorized to designate someone from their staff to serve in their place on the commission.

2) Members of the commission appointed after July 1, 1980, would be subject to Senate confirmation.

3) The commission would be prohibited from taking any action which would interfere with the constitutional right to appropriate state waters and apply them to beneficial use. No such restriction exists.

4) The bill would specify considerations for the commission to observe when promulgating standards and regulations, including benefits achieved as compared to costs, and present uses of water in particular streams. In addition, a fiscal impact statement would be required whenever a standard or regulation is adopted.

5) Standards, regulations, or permits would be required to be no more stringent than those required by federal law or regulation.

6) Part 7 of the act concerning sewage treatment works would be rewritten.

#### Appointments to the Colorado Water Quality Control Commission -- Bill 23

The testimony of experts in water law who have been involved in proceedings before the commission, indicated that the commission's decisions profoundly affect the citizens of Colorado. As a result, the committee concludes that increased public accountability of the commission is necessary.

Bill 23 would require that the citizen members of the commission appointed by the Governor on or after July 1, 1980, be confirmed by the Senate. The bill would prohibit the members of the commission representing state agencies from appointing or designating another person on their agency staff to serve on the commission.

#### Permits for Discharge of Dredged or Fill Material -- Bill 24

The committee concluded that the state should assume the dredge and fill permit system presently administered by the Environmental Protection Agency (EPA) and the Army Corp of Engineers pursuant to section 404 of the federal "Clean Water Act". Administration by the state would have several advantages:

1) persons would not encounter unreasonable delays in obtaining permits;

2) unique characteristics and behaviors of streams in Colorado would be recognized;

3) flexibility in the granting of permits in response to unexpected events could be built into the program; and

4) the state would be more responsive to the needs of permit applicants, and more cognizant of the kinds of problems faced by applicants in Colorado.

Bill 24 would provide the statutory authority for the State Engineer and the Division of Water Resources to assume control of the dredge and fill permit program required by section 404 of the federal "Clean Water Act". The Environmental Protection Agency by federal law would have to approve a plan for the program submitted by the state. The EPA would also retain authority to review permits issued by the state, and have final authority regarding any permit issued.

The committee was advised that the fiscal impact of state administration of the dredge and fill permit program is difficult to estimate. Estimates range from \$90,000 to \$900,000 per year. The cost of the program would be directly related to the number of applications for permits received, and the size and nature of the projects contemplated.

#### River Channel Restoration

The State Engineer expressed concern over problems he is encountering in the administration of the Rio Grande River Compact. Colorado is alleged to have a 695,000 acre feet deficit in water delivery to the State of New Mexico under the compact. Although the deficit has been reduced over the past few years from an estimated one million acre feet, there is a real potential that the deficit will increase in the immediate future. If the deficit reaches a million acre feet, a federal water master would assume the administration of the compact. This could have an adverse impact on water users located on the Conejos and Rio Grande rivers.

The Rio Grande Compact differs from all other river compacts to which Colorado belongs. Instead of a set amount of water that must be delivered each year, the Rio Grande Compact requires a percentage of the water to be delivered each year. The amount of water to be delivered is not precisely known until December 31 of the year of delivery. In addition, as the volume of the flow increases, the percentage that Colorado must deliver increases correspondingly.

According to the State Engineer, the condition of the Rio Grande channel and the channel of the tributary Conejos River are

major factors contributing to the deficit under the compact. At the committee's meeting in Alamosa, local citizens and officers of water conservation districts confirmed the State Engineer's opinion. They indicated that the channel cannot convey the amount of water necessary to meet the compact commitment, particularly during the spring runoff. The water overruns the banks and is lost for all practical purposes. Because of the condition of the channel, the State Engineer has found it necessary to put "calls" on the river, causing hardships to junior appropriators during the irrigation season.

The committee concluded from the testimony of the State Engineer and residents of the San Luis Valley that channel improvements are necessary. Limited work to remove dead trees and sand bars would be preferable to major channel restoration both from an environmental and economic standpoint. Furthermore, such work should be completed before the spring runoff begins next year. Representatives of the Rio Grande Water Conservation District informed the committee that improvements should be made to the channels of both the Rio Grande River and the Conejos River. They added that the district would actively participate in the effort.

#### Supplemental Appropriations to the Colorado Water Conservation Board for Channel Rehabilitation -- Bills 25 and 26

Bill 25 would provide a \$10,000 supplemental appropriation to the Colorado Water Conservation Board for rehabilitation of the channel of the Conejos River. Bill 26 would provide a supplemental appropriation in an equal amount for rehabilitation of the channel of the Rio Grande.

The committee recommends the use of supplemental appropriations to enable the rehabilitation projects to be completed prior to the spring runoff next year. The State Engineer estimated that the combined flow of the two rivers would be increased by 900 second feet when the projects contemplated by these two proposals are completed. According to the State Engineer, this increased flow would provide considerable relief to the problems of meeting Colorado's commitment to the Rio Grande Compact.

#### Problem Areas in Present Water Law

The committee focused its efforts on the problems associated with the administration of nontributary underground water as defined by Senate Bill 213, enacted by the General Assembly in 1973. The committee concluded, with the advice of the State Engineer, that recommendations for legislation in this area is premature and inadvisable at this time. Litigation involving applications for nontributary underground water rights, commonly referred to as the Huston filings, has not been completed. Until the questions involved in the litigation are resolved and the courts reach a decision, legislation is



inappropriate and could conceivably jeopardize the position taken by the state in the proceedings.

Although no recommendations for legislation are proposed, the committee concluded that particular problems encountered in the management of nontributary underground water should be addressed.

### Senate Bill 213

In 1973, the General Assembly adopted S.B. 213 which added a new provision to Colorado's water law. This provision was meant to provide for the management of those underground aquifers which:

- 1) are not defined as "designated ground water" (37-90-103 (6), C.R.S. 1973);
- 2) are not defined as "underground water" (37-90-103 (11), C.R.S. 1973);
- 3) do not meet the qualifications for exemption for small capacity wells under the "Colorado Underground Water Management Act" (37-90-105, C.R.S. 1973); and
- 4) do not meet the qualifications for exemptions as provided under the "Water Right Determination and Administration Act of 1969" (37-92-602, C.R.S. 1973).

Senate Bill 213 stated that to construct a well in those aquifers which do not fall under the above definitions, the user must obtain a permit from the State Engineer. The applicant for a permit must specify the aquifer from which the water is to be diverted; the beneficial use to which the water is to be applied; the location of the well; the average annual amount of water to be used in acre feet; and, if the proposed use is irrigation, a description of the land to be irrigated, the name of the owner, and any other reasonable information as the State Engineer may designate (37-90-137 (1), C.R.S. 1973).

The State Engineer must make a determination as to whether the exercise of the permit will materially injure the vested water rights of others. If the State Engineer finds that there is unappropriated water available and that vested water rights will not be materially injured (substantiated by hydrological and geological facts), he shall issue a permit to construct a well (37-90-137 (2), C.R.S. 1973).

In addition to the above requirements for those certain aquifers the State Engineer must, in considering whether the permit shall be issued, consider:

... only that quantity of water underlying the land owned by the applicant or by the owners of the area, by their consent, to be served is considered to be unappropriated; the minimum useful life of the aquifer is one

hundred years, assuming that there is no substantial artificial recharge within said period; and no material injury to vested water rights would result from the issuance of said permit .... (37-90-137 (4), C.R.S. 1973)

It is presumed that S.B. 213 was passed to protect existing wells in nontributary, nondesignated groundwater basins and to conserve these waters to ensure an adequate supply. However, it has been maintained that S.B. 213 has not provided a workable framework for the administration and withdrawal of nontributary, nondesignated groundwater.

The ability of the State Engineer to administer the waters delineated by S.B. 213 is dependent upon the availability of accurate hydrological and geological data. The committee received testimony from the State Engineer and others that the data is incomplete and inaccurate in many cases. Based on this testimony, the committee adopted the following motion:

Request the State Engineer to form a committee of engineers and lawyers to investigate the engineering and geological parameters necessary to allow [for] the equitable depletion and maximum utilization of the waters of the confined aquifers of the state.

The State Engineer agreed to conduct the study and will submit findings and recommendations to the standing Agriculture Committees next session, or to the appropriate interim committee if the study has not been completed before the General Assembly adjourns.

Exemptions for Wells Used in the Production of Alcohol for Use in Motor Fuel and Derived from Agricultural Commodities and Forest Products -- Bill 27

The committee learned that the State Engineer had denied a small capacity well permit for a gasohol plant in southeastern Colorado. The individual seeking a permit had applied for a permit for a well not exceeding fifty gallons per minute used in commercial businesses. Such a well is exempted from the permit requirements of the "Colorado Ground Water Management Act" (section 37-90-105 (1) (c), Colorado Revised Statutes 1973).

The State Engineer pointed out to the committee that the term "commercial businesses" was not defined in the "Colorado Ground Water Management Act". In denying the application for the well permit, the State Engineer applied the restriction on the use of wells by commercial businesses found in section 37-90-602 of the "Colorado Water Right Determination and Administration Act of 1969". Section 37-92-602 exempts wells used by commercial businesses for drinking and sanitary purposes. The State Engineer added that granting a well permit in such cases only invites litigation.

It was the committee's conclusion that an exemption for gasohol plants is necessary in view of the energy shortages facing Colorado and the rest of the nation. The impact of permits granted under this exemption would be negligible, as a maximum of twelve gasohol plants are proposed to be built.

Bill 27 exempts small capacity wells used by facilities engaged in the production of alcohol for use in motor fuel from the provisions of the "Colorado Ground Water Management Act" and the "Water Right Determination and Administration Act of 1969".

### Federal Land Acquisitions in Colorado

The committee adopted three resolutions concerning federal land acquisition in Colorado. One resolution would call for Colorado to support the "Sagebrush Rebellion". A second resolution would call for the federal government to offer federal land to private ownership in an amount equal to that amount of land the federal government proposes to acquire. A third resolution would oppose the acquisition of an estimated 200,000 acres of land by Fort Carson (to be used for military training purposes) until the acquisition is reviewed and an equitable settlement can be reached.

BILL 20

A BILL FOR AN ACT

1 CONCERNING AN ALLOCATION OF REVENUES FROM SALES AND USE TAXES TO  
2 THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Diverts a percentage of sales and use tax revenues from the general fund to the Colorado water conservation board construction fund.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 39-26-123(2)(b), the introductory portion to  
5 39-26-123 (2)(c)(I), and 39-26-123 (2)(c)(I)(B), (2)(c)(I)(C),  
6 (2)(c)(I)(D), (2)(c)(I)(E), (2)(c)(I)(F), (2)(c)(I)(G),  
7 (2)(c)(II), and(2)(c)(IV), Colorado Revised Statutes 1973, as  
8 amended, are amended, and the said 39-26-123 (2) (c) is further  
9 amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

10 39-26-123. Receipts - disposition. (2) (b) For the fiscal  
11 year commencing July 1, 1979, and for each fiscal year  
12 thereafter, the state treasurer shall credit an amount equal to  
13 sales and use taxes attributable to sales or use of vehicles and

1 related items to the highway users tax fund A PERCENTAGE OF THE  
2 TOTAL NET REVENUE FROM SALES AND USE TAXES TO THE COLORADO WATER  
3 CONSERVATION BOARD CONSTRUCTION FUND CREATED PURSUANT TO SECTION  
4 37-60-121, C.R.S. 1973, AS PROVIDED IN paragraph (c) of this  
5 subsection (2). Such credit CREDITS shall be out of the fifteen  
6 percent of net revenue from sales and use taxes not required by  
7 section 2 of article XXIV of the state constitution to be  
8 credited to the old age pension fund.

9 (c) (I) In each of the following fiscal years, the  
10 remaining fifteen percent of net revenue from sales and use taxes  
11 shall be allocated between and credited to the general fund, THE  
12 COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND, and the  
13 highway users tax fund (as a portion of the sales and use taxes  
14 attributable to sales or use of vehicles and related items) as  
15 follows:

16 (B) For the fiscal year beginning July 1, 1980, seven  
17 percent of net revenue from sales and use taxes to the highway  
18 users tax fund, FIVE PERCENT TO THE COLORADO WATER CONSERVATION  
19 BOARD CONSTRUCTION FUND, and eight THREE percent thereof to the  
20 general fund; except that such moneys credited to the highway  
21 users tax fund shall not exceed thirty-three million dollars, and  
22 any excess shall be credited to the general fund;

23 (C) For the fiscal year beginning July 1, 1981, eight  
24 percent of net revenue from sales and use taxes to the highway  
25 users tax fund, FIVE PERCENT TO THE COLORADO WATER CONSERVATION  
26 BOARD CONSTRUCTION FUND, and seven TWO percent thereof to the

1 general fund; except that such moneys credited to the highway  
2 users tax fund shall not exceed thirty-six million dollars, and  
3 any excess shall be credited to the general fund;

4 (D) For the fiscal year beginning July 1, 1982, nine  
5 percent of net revenue from sales and use taxes to the highway  
6 users tax fund, FIVE PERCENT TO THE COLORADO WATER CONSERVATION  
7 BOARD CONSTRUCTION FUND, and ~~six~~ ONE percent thereof to the  
8 general fund;

9 (E) For the fiscal year beginning July 1, 1983, ten percent  
10 of net revenue from sales and use taxes to the highway users tax  
11 fund five percent thereof to the ~~general-fund~~ COLORADO WATER  
12 CONSERVATION BOARD CONSTRUCTION FUND;

13 (F) For the fiscal year beginning July 1, 1984, eleven  
14 percent of net revenue from sales and use taxes to the highway  
15 users tax fund and four percent thereof to the ~~general--fund~~  
16 COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND;

17 (G) For the fiscal year beginning July 1, 1985, twelve  
18 percent of the net revenue from sales and use taxes to the  
19 highway users tax fund three percent thereof to the ~~general-fund~~  
20 COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND.

21 (II) (A) For the fiscal year beginning July 1, 1986, and  
22 each fiscal year thereafter, all sales and use taxes attributable  
23 to sales or use of vehicles and related items shall be allocated  
24 and credited to the highway users tax fund; EXCEPT THAT, BEFORE  
25 THE FISCAL YEAR BEGINNING JULY 1, 1990, SUCH MONEYS CREDITED TO  
26 THE HIGHWAY USERS TAX FUND SHALL NOT EXCEED TWELVE PERCENT OF THE

1 TOTAL NET REVENUE FROM SALES AND USE TAXES.

2 (B) FOR THE FISCAL YEARS BEGINNING JULY 1, 1986, JULY 1,  
3 1987, JULY 1, 1988, AND JULY 1, 1989, NOT LESS THAN THREE PERCENT  
4 NOR MORE THAN FIVE PERCENT OF THE TOTAL NET REVENUE FROM SALES  
5 AND USE TAXES SHALL BE ALLOCATED AND CREDITED TO THE COLORADO  
6 WATER CONSERVATION BOARD CONSTRUCTION FUND.

7 (C) FOR THE FISCAL YEAR BEGINNING JULY 1, 1986, AND EACH  
8 FISCAL YEAR THEREAFTER, ANY PORTION OF THE FIFTEEN PERCENT OF NET  
9 REVENUE FROM SALES AND USE TAXES, NOT REQUIRED BY SECTION 2 OF  
10 ARTICLE XXIV OF THE STATE CONSTITUTION TO BE CREDITED TO THE OLD  
11 AGE PENSION FUND, WHICH REMAINS AFTER THE ALLOCATIONS AND CREDITS  
12 REQUIRED BY SUB-SUBPARAGRAPHS (A) AND (B) OF THIS SUBPARAGRAPH  
13 (II) ARE MADE SHALL BE ALLOCATED AND CREDITED TO THE GENERAL  
14 FUND.

15 (IV) Sub-subparagraphs (D) to (G) of subparagraph (I) of  
16 this paragraph (c) and subparagraph (II) of this paragraph (c)  
17 are repealed, effective July 1, 1982, and, on and after said  
18 date, AND BEFORE JULY 1, 1990, OF the remaining fifteen percent  
19 of net revenue from sales and use taxes, TEN PERCENT shall be  
20 credited to the general fund AND FIVE PERCENT SHALL BE CREDITED  
21 TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND. ON  
22 AND AFTER JULY 1, 1990, THE REMAINING FIFTEEN PERCENT OF NET  
23 REVENUE FROM SALES AND USE TAXES SHALL BE CREDITED TO THE GENERAL  
24 FUND.

25 (V) Notwithstanding sections 37-60-121 and 37-60-122,  
26 C.R.S. 1973, personal services, operating expenses, and travel

1 and subsistence expenses associated with a project which is  
2 funded using revenues allocated and credited to the Colorado  
3 water conservation board construction fund pursuant to this  
4 section may be paid from such revenues. Any proposed use of such  
5 revenues for personal services, operating expenses, and travel  
6 and subsistence expenses shall be included in the annual report  
7 to the general assembly pursuant to section 37-60-122, C.R.S.  
8 1973.

9 SECTION 2. Effective date. This act shall take effect July  
10 1, 1980.

11 SECTION 3. Safety clause. The general assembly hereby  
12 finds, determines, and declares that this act is necessary for  
13 the immediate preservation of the public peace, health, and  
14 safety.



BILL 21

A BILL FOR AN ACT

1 CONCERNING UTILIZATION FOR WATER RESOURCE DEVELOPMENT OF A  
2 PORTION OF THE SPECIAL RESERVE FUND CREATED PURSUANT TO  
3 SECTION 24-75-201.1, COLORADO REVISED STATUTES 1973.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that a percentage of the special reserve fund for tax relief shall be utilized for water resource development.

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4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. 24-75-201.1, Colorado Revised Statutes 1973, as  
6 amended, is amended to read:

7 24-75-201.1. Restriction on state spending. For the fiscal  
8 year 1978-79 and each fiscal year thereafter, state general fund  
9 spending shall be limited to seven percent over the previous  
10 year. ON AND AFTER JULY 1, 1980, OF any amount of general fund  
11 revenues in excess of seven percent, and REMAINING after  
12 retention of unrestricted general fund year-end balances of no  
13 less than four percent of the amount appropriated for expenditure

1 from the general fund for the current fiscal year, SEVENTY  
2 PERCENT shall be placed in a special reserve fund to be utilized  
3 for tax relief AND THIRTY PERCENT SHALL BE PLACED IN THE COLORADO  
4 WATER CONSERVATION BOARD CONSTRUCTION FUND CREATED PURSUANT TO  
5 SECTION 37-60-121, C.R.S. 1973.

6 SECTION 2. Safety clause. The general assembly hereby  
7 finds, determines, and declares that this act is necessary for  
8 the immediate preservation of the public peace, health, and  
9 safety.

BILL 22

A BILL FOR AN ACT

1 CONCERNING WATER QUALITY.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

States the policy of the state to be to obtain the highest water quality which is technically feasible and economically reasonable. Provides that no water quality statute shall be construed to supersede the state constitutional right to appropriate waters and apply them to beneficial uses. Prohibits the imposition of a permit or fee requirement for the diversion of water from natural surface streams. Requires senate confirmation of members of the water quality control commission in the department of health.

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2 Be it enacted by the General Assembly of the State of  
3 Colorado:

4 SECTION 1. Article 8 of title 25, Colorado Revised  
5 Statutes 1973, as amended, is REPEALED AND REENACTED, WITH  
6 AMENDMENTS, to read:

7 ARTICLE 8

8 Water Quality Control

9 PART 1

10 GENERAL PROVISIONS

1           25-8-101. Short title. This article shall be known and  
2 may be cited as the "Colorado Water Quality Control Act".

3           25-8-102. Legislative declaration. (1) In order to  
4 foster the health, welfare, convenience, and comfort of the  
5 inhabitants of the state of Colorado and to facilitate the  
6 enjoyment and use of the scenic and natural resources of the  
7 state, it is declared to be the policy of this state to  
8 prevent injury to beneficial uses made of state waters and to  
9 develop waters to which Colorado and its citizens are entitled  
10 and, within that context, to achieve the maximum practical  
11 degree of water quality in the waters of the state consistent  
12 with the welfare of the state. It is the purpose of this  
13 article to require the use of all available practical methods  
14 which are technically feasible and economically reasonable to  
15 reduce, prevent, and control water pollution throughout the  
16 entire state of Colorado; to require the development of a  
17 water quality control program in which the water quality  
18 benefit of the pollution control measures utilized bears a  
19 reasonable relationship to the economic, environmental, and  
20 energy costs of such measures; and to maintain a cooperative  
21 program between the state and units of local government. It  
22 is further declared that pollution of state waters may  
23 constitute a menace to public health and welfare, may create  
24 public nuisances, may be harmful to wildlife and aquatic life,  
25 and may impair beneficial uses of state waters and that the  
26 problem of water pollution in this state is closely related to

1 the problem of water pollution in adjoining states.

2 (2) It is further declared to be the public policy of  
3 this state to conserve state waters and to protect, maintain,  
4 and improve, where necessary and reasonable, the quality  
5 thereof for public water supplies, for protection and  
6 propagation of wildlife and aquatic life, and for domestic,  
7 agricultural, industrial, recreational, and other beneficial  
8 uses, taking into consideration the requirements of such uses;  
9 to provide that no pollutant be released into any state waters  
10 without first receiving the treatment or other corrective  
11 action necessary to reasonably protect the legitimate and  
12 beneficial uses of such waters; to provide for the prevention,  
13 abatement, and control of new or existing water pollution so  
14 as to obtain the highest water quality which is technically  
15 feasible and economically reasonable; and to cooperate with  
16 other states and the federal government in carrying out these  
17 objectives.

18 (3) It is further declared that protection of the  
19 quality of state waters and the prevention, abatement, and  
20 control of water pollution to obtain the highest water quality  
21 which is technically feasible and economically reasonable are  
22 matters of statewide concern and affected with a public  
23 interest, and the provisions of this article are enacted in  
24 the exercise of the police powers of this state for the  
25 purpose of protecting the health, peace, safety, and general  
26 welfare of the people of this state.

1           (4) This article and the agencies authorized under this  
2 article shall be the final authority in the administration of  
3 water pollution prevention, abatement, and control.  
4 Notwithstanding any other provision of law, no department or  
5 agency of the state, and no municipal corporation, county, or  
6 other political subdivision, having jurisdiction over water  
7 pollution prevention, abatement, and control, shall issue any  
8 authorization for the discharge of pollutants into state  
9 waters unless authorized to do so in accordance with this  
10 article.

11           (5) The general assembly further determines and declares  
12 that no provision of this article shall be interpreted in  
13 derogation or contravention of the provisions of sections 5  
14 and 6 of article XVI of the constitution of the state of  
15 Colorado. In recognition of the supremacy of these  
16 constitutional provisions and guarantees, the general assembly  
17 declares that nothing in this article shall be construed,  
18 enforced, or applied to in any manner supersede, abrogate,  
19 impair, affect, or impose restrictions or conditions upon the  
20 rights to quantities of water which have been appropriated,  
21 the right to apply such waters to beneficial uses, or the  
22 right to the appropriation of water in the future. The  
23 general assembly further declares that nothing in this article  
24 shall be construed as enhancing or diminishing rights to the  
25 use of property guaranteed or protected by the state  
26 constitution or the constitution of the United States nor as

1 modifying or amending existing laws or court decrees with  
2 respect to the determination and administration of water  
3 rights nor shall anything in this article supersede or  
4 abrogate the provisions of articles 80 to 93 of title 37,  
5 C.R.S. 1973.

6 25-8-103. Definitions. As used in this article, unless  
7 the context otherwise requires:

8 (1) "Commission" means the water quality control  
9 commission created by section 25-8-201.

10 (2) "Control regulation" means any regulation  
11 promulgated pursuant to section 25-8-205.

12 (3) "Department" means the department of health.

13 (4) "Discharge of pollutants" means the introduction or  
14 addition of a pollutant into state waters, but the term does  
15 not include the diversion, conveyance, impoundment, release,  
16 or nonrelease of water for the exercise of water rights in  
17 accordance with articles 80 to 93 of title 37, C.R.S. 1973.

18 (5) "Effluent limitation" means any restriction or  
19 prohibition established under this article or federal law on  
20 quantities, rates, and concentrations of chemical, physical,  
21 biological, and other constituents which are discharged from  
22 point sources into state waters, including but not limited to  
23 standards of performance for new sources, toxic effluent  
24 standards, and schedules of compliance.

25 (6) "Executive director" means the executive director of  
26 the department of health.

1           (7) "Federal act" means the "Federal Water Pollution  
2 Control Act", commonly referred to as the "Clean Water Act".

3           (8) "Individual sewage disposal system" means a system  
4 or facility for treating, neutralizing, stabilizing, or  
5 disposing of sewage which is not a part of or connected to a  
6 sewage treatment works.

7           (9) "Irrigation return flow" means tailwater, tile  
8 drainage, or surfaced groundwater flow from irrigated land in  
9 a system operated by individuals or public or private  
10 organizations.

11           (10) "Municipality" means any regional commission,  
12 county, metropolitan district offering sanitation service,  
13 sanitation district, water and sanitation district, water  
14 conservancy district, metropolitan sewage disposal district,  
15 service authority, city and county, city, town, Indian tribe  
16 or authorized Indian tribal organization, or any two or more  
17 of them which are acting jointly in connection with a sewage  
18 treatment works.

19           (11) "Permit" means a permit issued under this article.

20           (12) "Person" means an individual, corporation,  
21 partnership, association, state or political subdivision  
22 thereof, federal agency, state agency, municipality,  
23 commission, or interstate body.

24           (13) "Point source" means any discernible, confined, and  
25 discrete conveyance, including but not limited to any pipe,  
26 ditch, channel, tunnel, conduit, well, discrete fissure,



1 container, rolling stock, concentrated animal feeding  
2 operation, or vessel or other floating craft, from which  
3 pollutants are or may be discharged. "Point source" does not  
4 include irrigation return flow.

5 (14) "Pollutant" means dredged spoil, dirt, slurry,  
6 solid waste, incinerator residue, sewage, sewage sludge,  
7 garbage, trash, chemical waste, biological nutrient,  
8 biological material, radioactive material, heat, wrecked or  
9 discarded equipment, rock, sand, or any industrial, municipal,  
10 or agricultural waste.

11 (15) "Pollution" means the man-made, man-induced, or  
12 natural alteration of the physical, chemical, biological, and  
13 radiological integrity of water.

14 (16) "Promulgate" means and includes authority to adopt,  
15 and from time to time amend, modify, publish, and put into  
16 effect.

17 (17) "Schedule of compliance" means a schedule of  
18 remedial measures and times including an enforceable sequence  
19 of actions or operations leading to compliance with any  
20 control regulation or effluent limitation.

21 (18) "Sewage treatment works" means a system or facility  
22 for treating, neutralizing, stabilizing, or disposing of  
23 sewage which system or facility has a designed capacity to  
24 receive more than two thousand gallons of sewage per day. The  
25 term "sewage treatment works" includes appurtenances such as  
26 outfall and outlet sewers, pumping stations, interceptors,

1 collection lines, and related equipment.

2 (19) "State waters" means any and all surface and  
3 subsurface waters which are contained in or flow in or through  
4 this state and wetlands adjacent thereto, but does not include  
5 waters in sewage systems, waters in treatment works of  
6 disposal systems, waters in potable water distribution  
7 systems, water in irrigation ditches, reservoirs, or systems,  
8 and all other water withdrawn for use until use or reuse and  
9 treatment have been completed.

10 (20) "Water quality standard" means any standard  
11 promulgated pursuant to section 25-8-204.

12 (21) "Wetlands" means those areas that are inundated or  
13 saturated by surface or ground water at a frequency and  
14 duration sufficient to support, and that under normal  
15 circumstances do support, a prevalence of vegetation typically  
16 adapted for life in saturated soil conditions. Wetlands  
17 generally include swamps, marshes, bogs, and similar areas.

18 PART 2

19 WATER QUALITY CONTROL COMMISSION

20 25-8-201. Water quality control commission created. (1)  
21 There is hereby created in the department a water quality  
22 control commission which shall exercise its powers and perform  
23 its duties and functions as if it were transferred to said  
24 department by a type 1 transfer. The commission shall consist  
25 of eleven members as follows:

26 (a) The executive director of the department of health;

1 (b) The commissioner of agriculture;

2 (c) The executive director of the department of natural  
3 resources;

4 (d) One member of the Colorado water conservation board;

5 (e) Seven citizens of the state who shall be appointed  
6 by the governor, with the consent of the senate, for terms of  
7 three years each, as follows:

8 (I) The governor shall appoint one member from each  
9 congressional district and the remainder from the state at  
10 large.

11 (II) Appointed members of the commission serving on July  
12 1, 1980, shall continue to serve the remainder of the terms to  
13 which they were appointed. On and after July 1, 1980, citizen  
14 appointments shall be made in accordance with the provisions  
15 of this paragraph (e).

16 (III) Whenever a vacancy exists, the governor shall  
17 appoint a member for the remaining portion of the unexpired  
18 term created by the vacancy, subject to confirmation by the  
19 senate.

20 (2) (a) The governor may remove any appointed member of  
21 the commission for malfeasance in office, failure to regularly  
22 attend meetings, or for any cause that renders such a member  
23 incapable or unfit to discharge the duties of his office; and  
24 any such removal, when made, shall not be subject to review.

25 (b) If any member of the commission, ex officio or  
26 appointed, is absent from two consecutive meetings, the

1 chairman of the commission shall determine whether the cause  
2 of such absences was reasonable. If he determines that the  
3 cause of the absences was unreasonable, he shall so notify the  
4 governor, who may remove him and appoint a qualified person  
5 for the unexpired portion of the regular term.

6 (3) Each member of the commission not otherwise in  
7 full-time employment of the state shall receive a per diem  
8 equal to that received by members of the general assembly  
9 pursuant to the provisions of section 2-2-307 (9) (a), C.R.S.  
10 1973; and all members, ex officio and those appointed by the  
11 governor, shall receive traveling and other necessary expenses  
12 actually incurred in the performance of his official duties.

13 (4) The commission shall select from its own membership  
14 a chairman, a vice-chairman, and a secretary. The commission  
15 shall keep a record of its proceedings.

16 (5) The commission shall hold regular public monthly  
17 meetings and may hold special meetings on the call of the  
18 chairman or vice-chairman at such other times as deemed  
19 necessary. At least five days advance written notice of the  
20 time and place of each meeting shall be mailed to each member.

21 (6) All members, both ex officio and those appointed by  
22 the governor, shall have a vote. A majority of the commission  
23 shall constitute a quorum, and the concurrence of a majority  
24 of the whole commission in any matter within its powers and  
25 duties shall be required for any determination made by the  
26 commission.

1           25-8-202. Duties of the commission. (1) The commission  
2 shall develop and maintain a comprehensive and effective  
3 program for prevention, control, and abatement of water  
4 pollution and for water quality protection throughout the  
5 entire state and, in connection therewith, shall:

6           (a) Classify state waters in accordance with section  
7 25-8-203;

8           (b) Promulgate water quality standards in accordance  
9 with section 25-8-204;

10          (c) Promulgate control regulations in accordance with  
11 section 25-8-205;

12          (d) Promulgate waste discharge permit regulations in  
13 accordance with sections 25-8-501 to 25-8-506;

14          (e) Perform duties assigned to the commission in part 7  
15 of this article with respect to the location, design,  
16 construction, financing, and operation of sewage treatment  
17 plants;

18          (f) Perform duties assigned to the commission in section  
19 25-8-207 with respect to the location, design, construction,  
20 and operation of individual sewage disposal systems;

21          (g) Review applications for underground detonations and  
22 discharges in accordance with section 25-8-505;

23          (h) Review from time to time, at intervals of not more  
24 than three years, classification of waters, water quality  
25 standards, and control regulations which it has promulgated;

26          (i) Perform such other duties as may lawfully be

1 assigned to it.

2 (2) The commission shall hold a public hearing during  
3 the month of October of each year in order to hear public  
4 comment on water pollution problems within the state, alleged  
5 sources of water pollution within this state, and the  
6 availability of practical remedies therefor; and at such  
7 hearing the commission and department personnel shall answer  
8 reasonable questions from the public concerning administration  
9 and enforcement of the various provisions of this article, as  
10 well as rules and regulations promulgated under the authority  
11 of this article.

12 (3) On or before November 1 of each year, the commission  
13 shall report to the governor on the effectiveness of the  
14 provisions of this article in carrying out the legislative  
15 intent, as declared in section 25-8-102, and shall include in  
16 such report such recommendations as it may have with respect  
17 to any legislative changes that may be needed or desirable.

18 (4) The commission is hereby designated as the state  
19 water pollution control agency for this state for all purposes  
20 of the federal act and is hereby authorized to take all action  
21 necessary and appropriate to secure to this state, its  
22 municipalities, or intermunicipal or interstate agencies the  
23 benefits of said act.

24 (5) In fulfilling its duties and responsibilities, the  
25 commission shall recognize and uphold the decisions of cities  
26 and counties regarding land use, planning, zoning, special

1 permits, and other matters which normally are the  
2 responsibility of local government, so long as such decisions  
3 are not contrary to federal and state laws and regulations and  
4 local ordinances.

5 (6) The commission shall perform its duties in such  
6 manner as to protect and promote the water appropriation and  
7 allocation system of the state. The commission shall not take  
8 any action which would interfere with the constitutional right  
9 to appropriate the waters of the state and to apply them to  
10 beneficial use. The commission shall not take any action  
11 which would have the effect of superseding or abrogating the  
12 provisions of articles 80 to 93 of title 37, C.R.S. 1973.

13 25-8-203. Classification of state waters. (1) The  
14 commission shall classify all state waters.

15 (2) The types of classes shall be determined by  
16 regulations and may be based upon or intended to indicate or  
17 describe any relevant characteristic, such as:

18 (a) The existing extent of pollution or the maximum  
19 extent of pollution to be tolerated as a goal;

20 (b) Whether or not pollution arises from natural  
21 sources;

22 (c) Present uses of the water, the uses for which the  
23 water is suitable in its present condition, or the uses for  
24 which it is to become suitable as a goal;

25 (d) The character and uses of the land area bordering  
26 the water;

1 (e) The need to protect the quality of the water for  
2 human purposes and also for the protection and propagation of  
3 wildlife and aquatic life; or

4 (f) Type and character of the water, such as surface or  
5 subsurface, lake, stream or ditch, together with volume, flow,  
6 depth, stream gradient, temperature, surface area involved,  
7 and daily or seasonal variability of any of such  
8 characteristics.

9 (3) The particular class into which any particular  
10 segment of state waters is placed shall be determined by  
11 regulation.

12 25-8-204. Water quality standards. (1) Water quality  
13 standards shall be promulgated by the commission by  
14 regulations which describe water characteristics or the extent  
15 of specifically identified pollutants for state waters.

16 (2) Water quality standards may be promulgated with  
17 respect to any measurable characteristic of water, such as:

18 (a) Toxic substances;

19 (b) Suspended solids, colloids, and combinations of  
20 solids with other suspended substances;

21 (c) Bacteria, fecal coliform, fungi, viruses, and other  
22 biological constituents and characteristics;

23 (d) Dissolved oxygen, and the extent of oxygen demanding  
24 substances;

25 (e) Phosphates, nitrates, and other dissolved nutrients;

26 (f) pH and hydrogen compounds;



1 (g) Chlorine, heavy metals, and other chemical  
2 constituents;

3 (h) Salinity, acidity, and alkalinity;

4 (i) Trash, refuse, oil and grease, and other foreign  
5 material;

6 (j) Taste, odor, color, and turbidity;

7 (k) Temperature.

8 (3) Water quality standards may be promulgated for use  
9 in connection with any one or more of the classes of state  
10 waters established by the commission pursuant to section  
11 25-8-203 and may be made applicable with respect to any  
12 designated portion of state water or to all state waters.

13 25-8-205. Control regulations. (1) The commission shall  
14 promulgate control regulations for the following purposes:

15 (a) To describe prohibitions, standards, concentrations,  
16 and effluent limitations on the extent of specifically  
17 identified pollutants, such as any of those mentioned in  
18 section 25-8-204, that any person may discharge into any  
19 specified class of state waters;

20 (b) To describe pretreatment requirements, prohibitions,  
21 standards, concentrations, and effluent limitations on wastes  
22 any person may discharge into any specified class of state  
23 water from any specified type of facility, process, activity,  
24 or waste pile including, but not limited to, all types  
25 specified in Section 306 (b) (1) (A) of the federal act;

26 (c) To describe precautionary measures, both mandatory

1 and prohibitory, that must be taken by any person owning,  
2 operating, conducting, or maintaining any facility, process,  
3 activity, or waste pile that does or might cause pollution of  
4 any state waters in violation of control regulations or cause  
5 the quality of any state waters to be in violation of any  
6 applicable water quality standard;

7 (d) To adopt toxic effluent standards and pretreatment  
8 standards for pollutants which interfere with, pass through,  
9 or are otherwise incompatible with sewage treatment works.

10 (2) In the formulation of each control regulation the  
11 commission shall consider the following:

12 (a) The need for regulations that control discharges of  
13 specified pollutants that are the subject of water quality  
14 standards for the receiving state waters;

15 (b) The need for regulations that specify treatment  
16 requirements for various types of discharges;

17 (c) The degree to which any particular type of discharge  
18 is subject to treatment, the availability, practicality, and  
19 technical and economic feasibility of treatment techniques,  
20 and the extent to which the discharge to be controlled is  
21 significant;

22 (d) Control requirements promulgated by agencies of the  
23 federal government;

24 (e) The continuous, intermittent, or seasonal nature of  
25 the discharge to be controlled;

26 (f) Whether a regulation that is to be applicable to

1 discharges into flowing water should be written in such a way  
2 that the degree of pollution tolerated or treatment required  
3 will be dependent upon the volume of flow of the receiving  
4 water or the extent to which the discharge is diluted therein,  
5 or the capacity of the receiving water to assimilate the  
6 discharge; and

7 (g) The need for specification of safety precautions  
8 that should be taken to protect water quality including, but  
9 not limited to, requirements for the keeping of logs and other  
10 records, requirements to protect subsurface waters in  
11 connection with mining and the drilling and operation of  
12 wells, and requirements as to settling ponds, holding tanks,  
13 and other treatment facilities for water that will or might  
14 enter state waters.

15 (3) Control regulations may be promulgated for use in  
16 connection with any one or more of the classes of state waters  
17 authorized pursuant to section 25-8-203 and may be made  
18 applicable with respect to any designated portion of state  
19 waters or to all state waters.

20 (4) The commission shall consult with the state  
21 engineer, the Colorado water conservation board, the oil and  
22 gas commission, the state board of health, and other state  
23 agencies having regulatory powers in order to avoid adopting  
24 control regulations that would be either redundant or  
25 unnecessary.

26 25-8-206. Considerations in classifying state waters and

1 promulgating standards and regulations. (1) In classifying  
2 state waters, promulgating water quality standards, and  
3 promulgating control regulations, the commission shall  
4 consider the objectives and intent of the general assembly as  
5 set forth in section 25-8-102 and particularly shall consider  
6 the following:

7 (a) The benefits to be achieved by the classification,  
8 standard, or regulation and the relationship of such benefits  
9 to the cost to the state and citizens of the state in  
10 complying with the requirements imposed by the classification,  
11 standard, or regulation;

12 (b) The availability, practicality, and technical and  
13 economic feasibility of treatment techniques required to  
14 comply with the requirements imposed by the classification,  
15 standard, or regulation;

16 (c) The present actual uses of water in a particular  
17 stream or stream segment, the reasonableness of classifying  
18 such water in accordance with such uses, and the need to  
19 impose additional restrictions or requirements in order to  
20 protect such uses and other reasonably foreseeable needs and  
21 uses.

22 (2) Whenever a stream classification, water quality  
23 standard, or control regulation is adopted under sections  
24 25-8-203 to 25-8-205, a fiscal impact statement as set forth  
25 in section 24-4-103 (8) (d), C.R.S. 1973, is required.

26 (3) Water quality standards and control regulations

1 shall not be more stringent than required by the federal act  
2 or final regulations issued pursuant to the federal act, nor  
3 shall any permit be more stringent than or contain any  
4 condition or requirement for monitoring or reporting in excess  
5 of the requirements of the federal act or any final  
6 regulations issued pursuant to the federal act.

7 25-8-207. Individual sewage disposal system. Upon  
8 request of any person, the commission shall review the  
9 adequacy of local governmental regulations for individual  
10 sewage disposal systems that are applicable in any portion of  
11 the state in which the soil, geological conditions, or other  
12 factors indicate that unregulated outflow from one or more  
13 individual sewage disposal systems would or might pollute the  
14 waters of the state. After such review and upon any finding  
15 of inadequacy, the commission shall promulgate a control  
16 regulation for the area involved which shall identify such  
17 area by legal description and shall also specify the terms and  
18 conditions for individual sewage disposal systems  
19 construction, use, design, maintenance, spacing, and location  
20 that shall be applicable in such area.

21 25-8-208. Additional authority of the commission. (1)  
22 In addition to the other powers and duties of the commission  
23 specified in this article, the commission has power to:

24 (a) Accept and supervise the administration of loans and  
25 grants from the federal government and from other public  
26 sources, which loans and grants shall not be expended for

1 other than the purposes for which provided;

2 (b) Advise, consult, cooperate, and enter into  
3 agreements with other agencies of the state, the federal  
4 government, and other states, and with groups, political  
5 subdivisions, and industries affected by the provisions of  
6 this article and the policies of the commission, but any such  
7 agreement involving authorizing, or requiring compliance in  
8 this state with any water quality standard or control  
9 regulation shall not be effective unless or until the  
10 commission has held a hearing with respect to such standard or  
11 regulation and has adopted the same in compliance with section  
12 25-8-402.

13 (c) Exercise all incidental powers necessary or proper  
14 for the carrying out of the purposes of the article including  
15 the powers to issue and enforce rules and orders, but the  
16 commission shall not act as an appellate body to review  
17 determinations of the department.

18 25-8-209. Prior acts validated. All acts, hearings,  
19 orders, rules, regulations, and standards adopted by the water  
20 pollution control commission as constituted and empowered by  
21 the laws of this state prior to July 6, 1973, and adopted by  
22 the commission as constituted and empowered by the laws of  
23 this state prior to July 1, 1980, shall be deemed and held to  
24 be legal and valid in all respects, as though issued by the  
25 commission under the authority of this article, and no  
26 provision of this article shall be construed to repeal or in

1 any way invalidate any actions, orders, rules, regulations, or  
2 water quality standards adopted by said commission prior to  
3 said date.

4 PART 3

5 ADMINISTRATION

6 25-8-301. Administration of water quality control  
7 programs. The department shall administer and enforce the  
8 water quality control programs adopted by the commission. The  
9 executive director shall employ such technical, clerical, and  
10 other personnel as may be necessary pursuant to section 13 of  
11 article XII of the state constitution.

12 25-8-302. Duties of the department. (1) The department  
13 shall:

14 (a) Carry out the enforcement provisions of this  
15 article, including the seeking of criminal prosecution of  
16 violations and such other judicial relief as may be  
17 appropriate;

18 (b) Administer the waste discharge permit system as  
19 provided in sections 25-8-501 to 25-8-506;

20 (c) Monitor waste discharges and the state waters as  
21 provided in section 25-8-303;

22 (d) Submit an annual report to the commission as  
23 provided in section 25-8-305;

24 (e) Perform such other duties as may lawfully be  
25 assigned to it.

26 25-8-303. Monitoring. (1) The department shall take

1 such samplings as may be necessary to enable it to determine  
2 the quality of every reasonably accessible segment of state  
3 waters. In sampling such waters the department shall give  
4 consideration to characteristics such as those listed in  
5 section 25-8-204 (2), but if pollution is suspected the  
6 sampling shall not be limited or restricted by reason of the  
7 fact that no water quality standard has been promulgated for  
8 the suspected type of pollution.

9 (2) As to every segment of state waters so sampled, the  
10 department shall endeavor to determine the nature and amount  
11 of each pollutant, whether a new or different water quality  
12 standard is needed, the source of each pollutant, the place  
13 where each such pollutant enters the water, and the names and  
14 addresses of each person responsible for or in control of each  
15 entry.

16 (3) As to each separate pollution source identified, the  
17 department shall:

18 (a) Determine what control regulation is applicable, if  
19 any;

20 (b) Determine whether the discharge is covered by a  
21 permit and whether or not any condition of the permit is being  
22 violated;

23 (c) Determine what further control measures with respect  
24 to such pollution source are practicable.

25 (4) The department shall inform the commission of any  
26 unusual problem which creates difficulties in abating



1 pollution.

2 25-8-304. Monitoring, recording, and reporting. (1) The  
3 owner or operator of any facility, process, or activity from  
4 which a discharge of pollutants is made into state waters or  
5 into any municipal sewage treatment works shall, in such form  
6 and in accordance with such specifications as the department  
7 may require:

8 (a) Establish and maintain records;

9 (b) Make reports;

10 (c) Install, calibrate, use, and maintain monitoring  
11 methods and equipment, including biological monitoring  
12 methods;

13 (d) Sample discharges;

14 (e) Provide additional reasonably available information  
15 relating to discharges into public sewage treatment works.

16 25-8-305. Annual report. On or before October 1 of each  
17 year, the department shall report to the commission on the  
18 effectiveness of the provisions of this article and shall  
19 include in such report such recommendations as it may have  
20 with respect to any regulatory or legislative changes that may  
21 be needed or desired. Such report shall include the then  
22 current information that has been obtained pursuant to section  
23 25-8-303.

24 25-8-306. Authority to enter and inspect premises and  
25 records. (1) The department has the power, upon presentation  
26 of proper credentials, to enter and inspect at any reasonable

1 time and in a reasonable manner any property, premise, or  
2 place for the purpose of investigating any actual, suspected,  
3 or potential source of water pollution, or ascertaining  
4 compliance or noncompliance with any control regulation or any  
5 order promulgated under this article. Such entry is also  
6 authorized for the purpose of inspecting and copying of  
7 records required to be kept concerning any effluent source.

8 (2) In the making of such inspections, investigations,  
9 and determinations, the department, insofar as practicable,  
10 may designate as its authorized representatives any qualified  
11 personnel of the department of agriculture. The department  
12 may also request assistance from any other state or local  
13 agency or institution.

14 (3) If such entry or inspection is denied or not  
15 consented to, the department is empowered to and shall obtain,  
16 from the district or county court for the judicial district or  
17 county in which such property, premise, or place is located, a  
18 warrant to enter and inspect any such property, premise, or  
19 place prior to entry and inspection. The district and county  
20 courts of the state of Colorado are empowered to issue such  
21 warrants upon a proper showing of the need for such entry and  
22 inspection.

23 25-8-307. Emergencies. Whenever the department  
24 determines, after investigation, that any person is  
25 discharging or causing to be discharged or is about to  
26 discharge into any state waters, directly or indirectly, any

1 pollutant which in the opinion of the department constitutes a  
2 clear, present, and immediate danger to the health or  
3 livelihood of members of the public, the department shall  
4 issue its written order to said person that he must  
5 immediately cease or prevent the discharge of such pollutant  
6 into such waters and thereupon such person shall immediately  
7 discontinue such discharge. Concurrently with the issuance of  
8 such order the department may seek a restraining order or  
9 injunction pursuant to section 25-8-607.

10 25-8-308. Additional authority and duties of the  
11 department. (1) In addition to the authority specified  
12 elsewhere in this article, the department has the power to:

13 (a) Conduct or cause to be conducted studies, research,  
14 and demonstrations with respect to water pollution and the  
15 control, abatement, or prevention thereof, as requested by the  
16 commission;

17 (b) Furnish technical advice and services relating to  
18 water pollution problems and control techniques;

19 (c) Designate one or more persons or agencies in any  
20 area of the state as a water quality control authority, as  
21 agent of the department, to exercise and perform such powers  
22 and duties of the department as may be specified in such  
23 designation;

24 (d) To administer loans and grants from the federal  
25 government and from other sources;

26 (e) To advise, consult, cooperate, and enter into

1 agreements with other agencies of the state, the federal  
2 government, other states, and interstate agencies, and with  
3 groups, political subdivisions, and industries affected by the  
4 provisions of this article and the policies of the commission;  
5 but any such agreement involving, authorizing, or requiring  
6 compliance in this state with any standard or regulation shall  
7 not be effective unless or until the commission has held a  
8 hearing with respect to such standard or regulation and has  
9 adopted the same in compliance with this article;

10 (f) To certify, when requested, the existence of any  
11 facility, land, building, machinery, equipment, treatment  
12 works, sewage or disposal systems, as have been acquired,  
13 constructed, or installed in conformity with the purposes of  
14 this article;

15 (g) To take such action in accordance with rules and  
16 orders promulgated by the commission as may be necessary to  
17 prevent, abate, and control pollution.

18 (2) All fees and penalties collected by the department  
19 shall be transmitted to the department of the treasury for  
20 deposit to the credit of the general fund.

21 PART 4

22 PROCEDURES

23 25-8-401. Authority and procedures for hearings. (1)  
24 The commission or, upon designation by the commission, the  
25 department may hold public hearings, issue notice of hearings,  
26 issue subpoenas requiring the attendance of witnesses and the

1 production of evidence, administer oaths, take such testimony  
2 as is deemed necessary, make findings and determinations, and  
3 issue orders, all in conformity with article 4 of title 24,  
4 C.R.S. 1973, and with this article.

5 (2) The commission may adopt such rules and regulations  
6 governing procedures and hearings before the commission or  
7 department as may be necessary to assure that such procedures  
8 and hearings will be fair and impartial.

9 (3) At any hearing, any person who is affected by the  
10 proceeding and whose interests are not already adequately  
11 represented, shall have the opportunity to be a party thereto  
12 upon prior application to and in the sole discretion of and  
13 approval by the commission or department, as the case may be,  
14 and such person shall have the right to be heard and to  
15 cross-examine any witness.

16 (4) After due consideration of the written and oral  
17 statements, the testimony, and the arguments presented at any  
18 such hearing, the commission or department shall enter its  
19 written findings and final order, based upon evidence in the  
20 record.

21 (5) In all proceedings before the commission or the  
22 department with respect to any alleged violation of any  
23 control regulation, permit, or order, the burden of proof  
24 shall be upon the department.

25 (6) The commission or department may designate a hearing  
26 officer pursuant to part 10 of article 30 of title 24, C.R.S.

1 1973, subject to appropriations made to the department of  
2 administration, who shall have the power to issue notices of  
3 hearing, to issue subpoenas requiring the attendance of  
4 witnesses and the production of evidence, to administer oaths,  
5 and to take such testimony as may be necessary or in  
6 conformity with article 4 of title 24, C.R.S. 1973; and such  
7 hearing officer shall certify and file recommended findings  
8 and conclusions and a proposed order with the commission or  
9 department, as appropriate, for adoption or modification by  
10 such commission or department. If the hearing for which a  
11 hearing officer is to be designated is a hearing for the  
12 purpose of developing control regulations or for the purpose  
13 of a hearing held pursuant to section 25-8-502, the hearing  
14 officer may be an employee of the department.

15 25-8-402. Procedures to be followed in setting standards  
16 and control regulations. (1) Prior to promulgating any water  
17 quality standard or any control regulation authorized in this  
18 article, the commission shall conduct a public hearing thereon  
19 as provided in section 24-4-105, C.R.S. 1973. Notice of any  
20 such hearing shall conform to the requirements of section  
21 24-4-103, C.R.S. 1973, but such notice shall be given at least  
22 sixty days prior to the hearing, shall include each proposed  
23 regulation, and shall be mailed to all persons who have filed  
24 with the commission a written request to receive such notices.

25 (2) Any person desiring to propose a regulation  
26 differing from the regulation proposed by the commission shall

1 file such other written proposal with the commission not less  
2 than twenty days prior to the hearing, and, when on file, such  
3 proposal shall be open for public inspection.

4 (3) Witnesses at the hearing shall be subject to  
5 cross-examination by or on behalf of the commission, and by or  
6 on behalf of persons who have proposed regulations pursuant to  
7 subsection (2) of this section.

8 (4) Regulations promulgated pursuant to this section  
9 shall not take effect until thirty days after they have been  
10 filed with the secretary of state.

11 25-8-403. Administrative reconsideration. During the  
12 time permitted for seeking judicial review of any final order  
13 or determination of the commission or department, any party  
14 directly affected by such order or determination may apply to  
15 the commission or department, as appropriate, for a hearing or  
16 rehearing with respect to, or reconsideration of, such order  
17 or determination. The determination by the commission or  
18 department of whether to grant or deny the application for a  
19 hearing, rehearing, or reconsideration shall be made within  
20 ten days after receipt by the commission or department of such  
21 application. Such determination by the commission may be made  
22 by telephone, mail, or at a meeting, but in any event shall be  
23 confirmed at the next meeting of the commission. If the  
24 application for a hearing, rehearing, or reconsideration is  
25 granted, the order or determination to which such application  
26 pertains shall not be considered final for purposes of

1 judicial review, and the commission or the department may  
2 affirm, reverse, or modify, in whole or in part, the pertinent  
3 order or determination; thereafter such order or determination  
4 shall be final and not subject to stay or reconsideration  
5 under this section.

6 25-8-404. Enforcement hearings - judicial review. (1)  
7 Any final order or determination by the department or the  
8 commission (including classification of state waters, approval  
9 of areawide waste treatment management plans, promulgation of  
10 water quality standards, and promulgation of control  
11 regulations) shall be in writing and subject to judicial  
12 review in accordance with the provisions of this article and  
13 the provisions of article 4 of title 24, C.R.S. 1973. Any  
14 enforcement order or similar determination shall be supported  
15 by written findings. Any party to a proceeding which results  
16 in classification of state waters, promulgation of water  
17 quality standards, approval of an areawide waste treatment  
18 management plan, or promulgation of control regulations shall  
19 be entitled to initiate judicial review of such proceeding.

20 (2) Any proceeding for judicial review of a  
21 determination by the commission, including classification of  
22 state waters, approval of areawide waste treatment management  
23 plans, promulgation of water quality standards, and  
24 promulgation of control regulations, shall be filed in  
25 accordance with the provisions of this article and article 4  
26 of title 24, C.R.S. 1973, except that any such proceeding



1 concerning determinations which have a statewide impact or  
2 effect may be filed in the district court of the district in  
3 which any party to such proceeding has his residence.

4 (3) Any proceeding for judicial review of an  
5 enforcement-type order or a determination of the department or  
6 commission shall be filed in the district court for the  
7 district in which the pollution source affected is located.  
8 Any such proceeding for judicial review shall be filed within  
9 thirty days after said order or determination has been served  
10 upon the party affected. Such period shall be stayed while  
11 any application for a hearing, rehearing, or reconsideration  
12 is pending pursuant to section 25-8-403, and the period during  
13 which any such application is pending shall extend the time  
14 for filing a proceeding for judicial review an equal length of  
15 time.

16 (4) (a) Except with respect to emergency orders issued  
17 pursuant to section 25-8-307, any person to whom a cease and  
18 desist order, clean-up order, or other order has been issued  
19 by the department or commission, or against whom an adverse  
20 determination has been made, may petition the district court  
21 for a stay of the effectiveness of such order or  
22 determination. Such petition shall be filed in the district  
23 court in which the pollution source affected is located.

24 (b) Such petitions may be filed prior to any such order  
25 or determination becoming final or during any period in which  
26 such order or determination is under judicial review.

1 (c) Such stay shall be granted by the court if there is  
2 probable cause to believe that refusal to grant a stay will  
3 cause serious harm to the affected person or any other person,  
4 and:

5 (I) That the alleged violation or activity to which the  
6 order or determination pertains will not continue, or if it  
7 does continue, any harmful effects on state waters will be  
8 alleviated promptly after the cessation of the violation or  
9 activity; or

10 (II) That the refusal to grant a stay would be without  
11 sufficient corresponding public benefit.

12 (5) Any party may move the court to remand the case to  
13 the department or the commission in the interests of justice,  
14 for the purpose of adducing additional specified and material  
15 evidence, and findings thereon; but such party shall show  
16 reasonable grounds for the failure to adduce such evidence  
17 previously before the department or the commission.

18 (6) If the court does not stay the effectiveness of an  
19 order of the commission or department, the court shall enforce  
20 compliance with that order by issuing a temporary restraining  
21 order or injunction at the request of the commission or  
22 department.

23 25-8-405. Samples, secret processes. (1) If samples of  
24 water or water pollutants are taken for analysis and a  
25 violation of any permit or control regulation is suspected, a  
26 representative portion of the sample shall be furnished upon

1 request to the person who is believed to be responsible for  
2 such suspected violation. A representative portion of such  
3 sample shall be furnished to any suspected violator whenever  
4 any remedial action is taken with respect thereto by the  
5 department. A duplicate of every analytical report pertaining  
6 to such sample shall also be furnished as soon as practicable  
7 to such person.

8 (2) Any information relating to any secret process,  
9 method of manufacture or production, or sales or marketing  
10 data, which may be acquired, ascertained, or discovered,  
11 whether in any sampling investigation, emergency  
12 investigation, or otherwise, shall not be publicly disclosed  
13 by any member, officer, or employee of the commission or the  
14 department, but shall be kept confidential. Any person  
15 seeking to invoke the protection of this subsection (2) in any  
16 hearing shall bear the burden of proving its applicability.  
17 This section shall never be interpreted as preventing full  
18 disclosure of effluent data.

19 25-8-406. Rules of civil procedure - applicability.  
20 Except as otherwise specified in this article, service of  
21 process, notices, and other papers shall be in accordance with  
22 the Colorado rules of civil procedure.

23 PART 5

24 POINT SOURCE PERMIT SYSTEM

25 25-8-501. Permits required for discharge of pollutants -  
26 administration. (1) No person shall discharge any pollutant

1 into any state water from a point source without first having  
2 obtained a permit from the department for such discharge.  
3 Each application for a permit duly filed under the federal act  
4 shall be deemed to be a permit application filed under this  
5 article, and each permit issued pursuant to the federal act  
6 shall be deemed to be a temporary permit issued under this  
7 article which shall expire upon expiration of the federal  
8 permit.

9 (2) The department shall examine applications for and  
10 may issue, suspend, revoke, modify, deny, and otherwise  
11 administer permits for the discharge of pollutants into state  
12 waters. Such administration shall be in accordance with the  
13 provisions of this article and regulations promulgated by the  
14 commission.

15 (3) The commission shall promulgate such regulations as  
16 may be necessary and proper for the orderly and effective  
17 administration of permits for the discharge of pollutants.  
18 Such regulations shall be consistent with the provisions of  
19 this article and with federal requirements, shall be in  
20 furtherance of the policy contained in section 25-8-102, and  
21 may pertain to and implement, among other matters, permit and  
22 permit application contents, procedures, requirements, and  
23 restrictions with respect to the following:

24 (a) Identification and address of the owner and operator  
25 of the activity, facility, or process from which the discharge  
26 is to be permitted;

1 (b) Location and quantity and quality characteristics of  
2 the permitted discharge;

3 (c) Effluent limitations and requirements for treatment  
4 prior to discharge;

5 (d) Equipment and procedures required for mandatory  
6 monitoring as well as record-keeping and reporting  
7 requirements;

8 (e) Schedules of compliance;

9 (f) Procedures to be followed by department personnel  
10 for entering and inspecting premises;

11 (g) Submission of pertinent plans and specifications for  
12 the facility, process, or activity which is the source of a  
13 waste discharge;

14 (h) Restrictions on transfers of the permit;

15 (i) Procedures to be followed in the event of expansion  
16 or modification of the process, facility, or activity from  
17 which the discharge occurs or the quality, quantity, or  
18 frequency of the discharge;

19 (j) Duration of the permit, not to exceed five years,  
20 and renewal procedures;

21 (k) Authority of the department to require changes in  
22 plans and specifications for control facilities as a condition  
23 for the issuance of a permit;

24 (l) Identification of control regulations over which the  
25 permit takes precedence and identification of control  
26 regulations over which a permit may never take precedence;

1           (m) Notice requirements of any intent to construct,  
2 install, or alter any process, facility, or activity that is  
3 likely to result in a new or altered discharge;

4           (n) Effectiveness under this article of permit  
5 applications submitted to and permits issued by the federal  
6 government under the federal act.

7           (4) The commission may authorize temporary permits to be  
8 issued by the department pending completion of review  
9 procedures otherwise required prior to issuance of a permit,  
10 but no temporary permit may be issued for more than a period  
11 of two years nor shall any temporary permit be renewed.

12           (5) Nothing in any permit shall ever be construed to  
13 prevent or limit the application of any emergency power of the  
14 department.

15           (6) Every permit issued for a sewage treatment works  
16 shall contain such terms and conditions as the department  
17 determines to be necessary or desirable to assure continuing  
18 compliance with applicable control regulations. Such terms  
19 and conditions may require that whenever deemed necessary by  
20 the department to assure such compliance the permittee shall:

21           (a) Require pretreatment of effluent from industrial,  
22 governmental, or commercial facilities, processes, and  
23 activities before such effluent is received into the gathering  
24 and collection system of the permittee;

25           (b) Prohibit any connection to any municipal permittee's  
26 interceptors and collection system that would result in

1 receipt by such municipal permittee of any effluent other than  
2 sewage required by law to be received by such permittee;

3 (c) Include specified terms and conditions of its permit  
4 in all contracts for receipt by the permittee of any effluent  
5 not required to be received by a municipal permittee;

6 (d) Initiate engineering and financial planning for  
7 expansion of the sewage treatment works whenever throughput  
8 and treatment reaches eighty percent of design capacity;

9 (e) Commence construction of such sewage treatment works  
10 expansion whenever throughput and treatment reaches  
11 ninety-five percent of design capacity or, in the case of a  
12 municipality, either commence such construction or cease  
13 issuance of building permits within such municipality until  
14 such construction is commenced; except that building permits  
15 may continue to be issued for any construction which would not  
16 have the effect of increasing the input of sewage to the  
17 sewage treatment works of the municipality involved.

18 (f) Inclusion of the requirements authorized by  
19 paragraph (d) of this subsection (6) shall be presumed  
20 unnecessary to assure compliance upon a showing that the area  
21 served by a governmental sewage treatment works has a stable  
22 or declining population; but this provision shall not be  
23 construed as preventing periodic review by the department  
24 should it be felt that growth is occurring or will occur in  
25 the area.

26 (7) Every permit issued for a discharge from any

1 facility, process, or activity that includes any dam, settling  
2 pond, or hazard within or related to its system shall include  
3 such terms and conditions as the department determines  
4 necessary to prevent or minimize the discharge of any  
5 pollutant into any state waters in potentially dangerous  
6 quantities.

7 (8) This part 5 shall not be administered so as to  
8 supersede or abrogate in any way the provisions of articles 80  
9 to 93 of title 37, C.R.S. 1973.

10 25-8-502. Application - definitions - fees - public  
11 participation. (1) (a) For the purposes of this subsection

12 (1):

13 (I) "Major municipal discharge" is a discharge from a  
14 publicly owned wastewater treatment plant which:

15 (A) Discharges a total volume of more than five million  
16 gallons on any one day of the year;

17 (B) Serves a population in excess of ten thousand  
18 persons; or

19 (C) Receives waste from an industrial user and such  
20 wastes have a total volume of more than fifty thousand gallons  
21 on any day of the year or have a total volume which  
22 constitutes more than five percent of the volume of the total  
23 discharge from the facility on any day of the year.

24 (II) "Minor municipal discharge" is a discharge from a  
25 publicly owned wastewater treatment plant which is less than  
26 all cases in subparagraph (I) of this paragraph (a).



1 (III) "Major industrial discharge" is one in which the  
2 discharge from the facility:

3 (A) Has a total volume of more than fifty thousand  
4 gallons on any one day of the year from one or more discharge  
5 points; or

6 (B) Contains or may contain toxic pollutants.

7 (IV) "Minor industrial discharge" is one which does not  
8 discharge over fifty thousand gallons in the aggregate on any  
9 one day of the year from one or more discharge points and  
10 which does not contain toxic pollutants.

11 (V) "Feedlots" includes:

12 (A) "Small feedlots", by type and capacity:

13 Slaughter and feeder cattle - 1,000 to 4,999

14 Mature dairy cattle - 700 and over

15 Swine weighing over 55 lbs. - 2,500 to 12,499

16 Sheep - 10,000 to 49,999

17 Turkeys - 55,000 to 274,999

18 Chickens, with continuous overflowing watering - 100,000  
19 to 499,999

20 Chickens, with liquid manure handling systems - 30,000 to  
21 149,999

22 Ducks - 5,000 to 24,999

23 (B) "Medium feedlots", by type and capacity:

24 Slaughter and feeder cattle - 5,000 to 9,999

25 Swine weighing over 55 lbs. - 12,500 and over

26 Sheep - 50,000 and over

1           Turkeys - 275,000 and over

2           Chickens, with continuous overflowing watering - 500,000

3 and over

4           Chickens, with liquid manure handling systems - 150,000

5 and over

6           (C) "Large feedlots" with a capacity to handle 10,000

7 and over slaughter and feeder cattle.

8           (b) (I) Annual fees for discharge of pollutants are as

9 follows:

10          (A) Major municipal and industrial discharges.....\$250

11          (B) Minor municipal and industrial discharges..... 50

12          (C) Small feedlots..... 10

13          (D) Medium feedlots..... 40

14          (E) Large feedlots..... 60

15          (II) The permits shall run from the dates of issuance,

16 and the annual fees shall be paid to the department.

17          (2) Upon receipt of an application, the department shall

18 prepare a tentative determination to issue or deny the permit

19 and, if it is to be issued, its tentative determination as to

20 the terms and conditions of such permit.

21          (3) Public notice of every complete application for a

22 discharge permit shall be circulated in a manner designed to

23 inform interested and potentially interested persons of the

24 proposed discharge and of the proposed determination to issue

25 or deny a permit. Procedures for the circulation of public

26 notice shall be established by the commission and shall

1 include at least the following:

2 (a) Notice shall be circulated within the geographical  
3 areas of the proposed discharge.

4 (b) Notice shall be mailed to any person or group upon  
5 request.

6 (c) The department shall add the name of any person or  
7 group upon request to a mailing list to receive copies of  
8 notices for all discharge applications within the state or  
9 within a certain geographical area.

10 (4) The commission shall promulgate such regulations as  
11 are necessary and appropriate to provide an opportunity for  
12 public hearing, when appropriate, prior to granting or denial  
13 of a discharge permit by the department.

14 25-8-503. Permits - when required and when prohibited.

15 (1) The department shall issue a waste discharge permit in  
16 accordance with regulations promulgated under this article  
17 when the department has determined that federal requirements  
18 and the provisions of this article have been met with respect  
19 to both the application and proposed permit.

20 (2) No discharge shall be permitted which will violate  
21 any duly promulgated state, regional, or local land use plan  
22 unless all requirements and conditions of applicable statutes  
23 and regulations have been met or will be met pursuant to a  
24 schedule of compliance.

25 (3) No discharge shall be permitted which will violate a  
26 control regulation unless the waste discharge permit contains

1 effluent limitations and a schedule of compliance specifying  
2 treatment requirements as determined by the department. Such  
3 requirements shall require the best practical or available  
4 treatment consistent with the federal act.

5 (4) No discharge shall be permitted that by itself or in  
6 combination with other pollution will result in pollution of  
7 the receiving waters in excess of the pollution permitted by  
8 an applicable water quality standard unless the permit  
9 contains effluent limitations and a schedule of compliance  
10 specifying treatment requirements.

11 (5) Applicants for permits shall be advised within  
12 twenty days after receipt of any application, or supplement  
13 thereto, if and in what respect the application or supplement  
14 is incomplete. Upon failure of the department to notify the  
15 applicant as provided in this subsection (5), the application  
16 shall be deemed complete. Within thirty days after receipt of  
17 a complete permit application or, if public comment or hearing  
18 is required, within thirty days after the comment period or  
19 hearing, the department shall grant the permit application if  
20 it finds that the proposed source or activity will meet the  
21 requirements of applicable provisions of this article and the  
22 regulations of the commission and will not cause a violation  
23 of water quality standards.

24 (6) In any case in which a permit for a discharge has  
25 been applied for but final administrative disposition of such  
26 complete application, as provided in subsection (5) of this

1 section, has not been made within thirty days, such discharge  
2 shall not be a violation of any provisions of this article or  
3 regulations promulgated under this article unless the  
4 department proves that absence of final administrative  
5 disposition of such application has resulted from the failure  
6 of the applicant to furnish information reasonably required or  
7 requested in order to process the application.

8 25-8-504. Individual sewage disposal systems. The  
9 department shall issue permits for individual sewage disposal  
10 systems in accordance with regulations promulgated by the  
11 commission pursuant to section 25-8-206. Permits issued for  
12 individual sewage disposal systems shall be issued under this  
13 section, and such permits shall be in lieu of permits  
14 otherwise required under section 25-8-502. The terms and  
15 conditions of each such permit shall be recited in full in the  
16 permit, and compliance therewith shall be deemed to be full  
17 compliance with regulations for individual sewage disposal  
18 systems permits promulgated by any unit of local government  
19 within the state. The fee for such a permit shall be  
20 seventy-five dollars.

21 25-8-505. Nuclear, toxic, and radioactive wastes. (1)  
22 It is unlawful for any person to discharge, deposit, generate,  
23 or dispose of any radioactive, toxic, or other hazardous waste  
24 underground in liquid, solid, or explosive form unless the  
25 commission, upon application of the person desiring to  
26 undertake such activity, and after investigation and hearing,

1 has first found beyond a reasonable doubt that there will be  
2 no pollution resulting therefrom or that the pollution, if  
3 any, will be limited to waters in a specified limited area  
4 from which there is no risk of significant migration and that  
5 the proposed activity is justified by public need.

6 (2) If the commission has made the findings specified in  
7 subsection (1) of this section, the department may issue a  
8 permit for the proposed activity, upon the payment of a fee of  
9 one thousand dollars. The commission may require, in any  
10 permit issued pursuant to this subsection (2), such reasonable  
11 terms and conditions as it may from time to time require to  
12 implement this section in a manner consistent with the  
13 purposes of this article. The terms or conditions which may  
14 be imposed shall include, without limitation, those with  
15 respect to duration of use or operation; monitoring;  
16 reporting; volume of discharge or disposal; treatment of  
17 wastes; and the deposit with the state treasurer of a bond,  
18 with or without surety as the department may in its discretion  
19 require, or other security, to assure that the permitted  
20 activities will be conducted in compliance with the terms and  
21 conditions of the permit, and that upon abandonment,  
22 cessation, or interruption of the permitted activities or  
23 facilities, appropriate measures will be taken to protect the  
24 waters of the state. Other than relief from provisions of  
25 this article to the extent specified in this subsection (2),  
26 no permit issued pursuant to this subsection (2) shall relieve

1 any person of any duty or liability to the state or to any  
2 other person existing or arising under any statute or under  
3 common law.

4 25-8-506. Agricultural wastes. (1) Neither the  
5 commission nor the department shall require any permit for any  
6 flow or irrigation return flow into state waters except as may  
7 be required by the federal act or regulations. The provisions  
8 of any permit that are so required shall not be any more  
9 stringent than, and shall not contain any condition for  
10 monitoring or reporting in excess of, the minimum required by  
11 the federal act or regulations.

12 (2) Neither the commission nor the department shall  
13 require any permit for animal or agricultural waste on farms  
14 and ranches except as may be required by the federal act or  
15 regulations. The provisions of any permit that are so  
16 required shall not be any more stringent than, and shall not  
17 contain any condition for monitoring or reporting in excess  
18 of, the minimum required by the federal act or regulations.

19 (3) No permit or fee shall ever be required for the  
20 diversion of water from natural surface streams.

21 25-8-507. Permit conditions concerning publicly owned  
22 sewage treatment works. The department is authorized to  
23 impose, as conditions in permits for the discharge of  
24 pollutants from publicly owned sewage treatment works,  
25 appropriate measures to establish and insure compliance by  
26 industrial users with any system of user charges or industrial

1 cost recovery required pursuant to section 25-8-705.

2 PART 6

3 VIOLATIONS, REMEDIES, AND PENALTIES

4 25-8-601. Department to be notified of suspected  
5 violations and accidental discharges - penalty. (1) Any  
6 person or any agency of the state or federal government may  
7 apply to the department to investigate and take action upon  
8 any suspected or alleged violation of any provision of this  
9 article or of any order, permit, or regulation issued or  
10 promulgated under authority of this article.

11 (2) Any person engaged in any operation or activity  
12 which results in a spill or discharge of oil or other  
13 substance which may cause pollution of the waters of the state  
14 contrary to the provisions of this article, as soon as he has  
15 knowledge thereof, shall notify the department of such  
16 discharge. Any person who fails to notify the department as  
17 soon as practicable is guilty of a misdemeanor and, upon  
18 conviction thereof, shall be punished by a fine of not more  
19 than ten thousand dollars, or by imprisonment in the county  
20 jail for not more than one year, or by both such fine and  
21 imprisonment. Notification received pursuant to this  
22 subsection (2) or information obtained by the exploitation of  
23 such notification shall not be used against any such person in  
24 a criminal case except prosecution for perjury, for false  
25 swearing, or for failure to comply with a clean-up order  
26 issued pursuant to section 25-8-606.



1           25-8-602. Notice of alleged violations. (1) Whenever  
2 the department has reason to believe that a violation of an  
3 order, permit, or control regulation issued or promulgated  
4 under authority of this article has occurred, the department  
5 shall cause written notice to be served personally or by  
6 certified mail, return receipt requested, upon the alleged  
7 violator or his agent for service of process. The notice shall  
8 state the provision alleged to be violated and the facts  
9 alleged to constitute a violation, and it may include the  
10 nature of any corrective action proposed to be required.

11           (2) Each cease and desist and clean-up order issued  
12 pursuant to sections 25-8-605 and 25-8-606 shall be  
13 accompanied by or have incorporated in it the notice provided  
14 for in subsection (1) of this section unless such notice has  
15 been given prior to issuance of such cease and desist or  
16 clean-up order.

17           25-8-603. Hearing procedures for alleged violations.  
18 (1) In any notice given under section 25-8-602, the department  
19 shall require the alleged violator to answer each alleged  
20 violation and may require the alleged violator to appear  
21 before it for a public hearing to provide such answer. Such  
22 hearing shall be held no sooner than fifteen days after  
23 service of the notice; except that the department may set an  
24 earlier date for hearing if it is requested by the alleged  
25 violator.

26           (2) If the department does not require an alleged

1 violator to appear for a public hearing, the alleged violator  
2 may request the department to conduct such a hearing. Such  
3 request shall be in writing, and shall be filed with the  
4 department no later than thirty days after service of a notice  
5 under section 25-8-602. If such a request is filed, a hearing  
6 shall be held within a reasonable time.

7 (3) If a hearing is held pursuant to the provisions of  
8 this section, it shall be public and, if the department deems  
9 it practicable, shall be held in any county in which the  
10 violation is alleged to have occurred. The department shall  
11 permit all parties to respond to the notice served under  
12 section 25-8-602, to present evidence and argument on all  
13 issues, and to conduct cross-examination required for full  
14 disclosure of the facts.

15 (4) Hearings held pursuant to this section shall be  
16 conducted in accordance with section 24-4-105, C.R.S. 1973.

17 25-8-604. Suspension, modification, and revocation of  
18 permit. Upon a finding and determination, after hearing, that  
19 a violation of a permit provision has occurred, the department  
20 shall suspend, modify, or revoke the pertinent permit, or take  
21 such other action with respect to the violation as may be  
22 authorized pursuant to regulations promulgated by the  
23 commission.

24 25-8-605. Cease and desist orders. If the department  
25 determines, with or without hearing, that a violation of any  
26 provision of this article or of any order, permit, or control

1 regulation issued or promulgated under authority of this  
2 article exists, the department may issue a cease and desist  
3 order. Such order shall set forth the provision alleged to be  
4 violated, the facts alleged to constitute the violation, and  
5 the time by which the acts or practices complained of must be  
6 terminated.

7 25-8-606. Clean-up orders. The department may issue  
8 orders to any person to clean up any material which he, his  
9 employee, or his agent has accidentally or purposely dumped,  
10 spilled, or otherwise deposited in or near state waters which  
11 may pollute them. The department may also request the district  
12 attorney to proceed and take appropriate action under section  
13 16-13-305 and sections 16-13-307 to 16-13-315, or section  
14 18-4-511, C.R.S. 1973.

15 25-8-607. Restraining orders and injunctions. (1) If  
16 any person fails to comply with a cease and desist order or  
17 clean-up order that is not subject to a stay pending  
18 administrative or judicial review, the department may request  
19 the district attorney for the judicial district in which the  
20 alleged violation exists or the attorney general to bring, and  
21 if so requested it shall be the duty of such district attorney  
22 or the attorney general to bring, a suit for a temporary  
23 restraining order, preliminary injunction, or permanent  
24 injunction to prevent any further or continued violation of  
25 such order. In any such suit the final findings of the  
26 department, based upon evidence in the record, shall be prima

1 facie evidence of the facts found in such record.

2 (2) Suits under this section shall be brought in the  
3 district or county court where the discharge occurs.  
4 Emergencies shall be given precedence over all other matters  
5 pending in such court. The institution of such injunction  
6 proceeding by the department shall confer upon such court  
7 exclusive jurisdiction to determine finally the subject matter  
8 of the proceeding.

9 25-8-608. Civil penalties. (1) Any person who violates  
10 any provision of any permit issued under this article or any  
11 final cease and desist order or clean-up order shall be  
12 subject to a civil penalty of not more than ten thousand  
13 dollars per day for each day during which such violation  
14 occurs.

15 (2) Upon application of the department, penalties shall  
16 be determined by the commission after hearing as to the amount  
17 thereof and may be collected by the department by action  
18 instituted in a court of competent jurisdiction for collection  
19 of such penalty. A stay of any order of the department  
20 pending judicial review shall not relieve any person from any  
21 liability under subsection (1) of this section, but the reason  
22 for the request for judicial review shall be considered in the  
23 determination of the amount of the penalty.

24 25-8-609. Criminal pollution of state waters -  
25 penalties. (1) Any person who discharges any pollutant into  
26 any state waters commits criminal pollution of state waters if

1 such discharge is made:

2 (a) In violation of any permit issued under this  
3 article; or

4 (b) In violation of any cease and desist order or  
5 clean-up order issued by the department which is final and not  
6 stayed by court order; or

7 (c) Without a permit, if a permit is required by the  
8 provisions of this article for such discharge, unless there is  
9 then pending an application for such a permit; or

10 (d) In violation of any applicable control regulation,  
11 unless a permit has been issued therefor or unless there is  
12 then pending an application for such permit.

13 (2) Prosecution under paragraphs (a) and (d) of  
14 subsection (1) of this section shall be commenced only upon  
15 complaint filed by the department.

16 (3) Any person who commits criminal pollution of state  
17 waters shall be fined, for each day the violation occurs, as  
18 follows:

19 (a) If the violation is committed with criminal  
20 negligence or recklessly, as defined in section 18-1-501,  
21 C.R.S. 1973, the maximum fine shall be twelve thousand five  
22 hundred dollars.

23 (b) If the violation is committed knowingly or  
24 intentionally, as defined in section 18-1-501, C.R.S. 1973,  
25 the maximum fine shall be twenty-five thousand dollars.

26 (c) If two separate offenses under this article occur in

1 two separate occurrences during a period of two years, the  
2 maximum fine for the second offense shall be double the  
3 amounts specified in paragraph (a) or (b) of this subsection  
4 (3), whichever is applicable.

5 25-8-610. Falsification and tampering. Any person who  
6 knowingly makes any false statement, representation, or  
7 certification in any application, record, report, plan, or  
8 other document filed or required to be maintained under this  
9 article, or who falsifies, tampers with, or knowingly renders  
10 inaccurate any monitoring device or method required to be  
11 maintained under this article is guilty of a misdemeanor and,  
12 upon conviction thereof, shall be punished by a fine of not  
13 more than ten thousand dollars, or by imprisonment in the  
14 county jail for not more than six months, or by both such fine  
15 and imprisonment.

16 25-8-611. Proceedings by other parties. (1) The factual  
17 or legal basis for proceedings or other actions that result  
18 from a violation of any control regulation inure solely to,  
19 and shall be for the benefit of the people of the state  
20 generally, and it is not intended by this article, in any way,  
21 to create new private rights or to enlarge existing private  
22 rights. A determination that water pollution exists or that  
23 any standard has been disregarded or violated, whether or not  
24 a proceeding or action may be brought by the state, shall not  
25 create any presumption of law or finding of fact which shall  
26 inure to or be for the benefit of any person other than the

1 state.

2 (2) A permit issued pursuant to this article may be  
3 introduced in any court of law as evidence that the  
4 permittee's activity is not a public or private nuisance.  
5 Introduction into evidence of such permit and evidence of  
6 compliance with the permit conditions shall constitute a prima  
7 facie case that the activity to which the permit pertains is  
8 not a public or private nuisance.

9 25-8-612. Remedies cumulative. (1) It is the purpose of  
10 this article to provide additional and cumulative remedies to  
11 prevent, control, and abate water pollution and protect water  
12 quality.

13 (2) No action pursuant to section 25-8-609 shall bar  
14 enforcement of any provision of this article or of any rule or  
15 order issued pursuant to this article by any authorized means.

16 (3) Nothing in this article shall abridge or alter  
17 rights of action or remedies existing on or after July 1,  
18 1980, nor shall any provision of this article or anything done  
19 by virtue of this article be construed as estopping  
20 individuals, cities, towns, counties, cities and counties, or  
21 duly constituted political subdivisions of the state from the  
22 exercise of their respective rights to suppress nuisances.

23

#### PART 7

24

#### SEWAGE TREATMENT WORKS

25 25-8-701. Definitions. As used in this part 7, unless  
26 the context otherwise requires:

1           (1) "Construction" means the erection, building,  
2 acquisition, alteration, reconstruction, improvement, or  
3 extension of sewage treatment works; the inspection and  
4 supervision thereof; and the engineering, architectural,  
5 legal, fiscal, and economic investigations and studies,  
6 surveys, design, plans, working drawings, specifications,  
7 procedures, and other actions necessary thereto; and any other  
8 related activity which is eligible for federal aid and  
9 assistance under provisions of the federal act.

10           (2) "Division" means the division of local government in  
11 the department of local affairs.

12           (3) "Eligible project" means a project for the  
13 construction of public sewage treatment works or construction  
14 of facilities for the discharge of wastewater or backwash  
15 water from public water treatment plants which is, in the  
16 judgment of the commission, necessary for the accomplishment  
17 of the state water quality control program, which conforms  
18 with applicable rules and regulations of the commission, and  
19 which is eligible for federal assistance under provisions of  
20 the federal act.

21           (4) "Federal assistance" means funds available to a  
22 municipality, either directly or through allocation by the  
23 state, from the federal government as grants for construction  
24 of sewage treatment works, or funds which are used for such  
25 construction, under provisions of the federal act.

26           25-8-702. Contracts for construction of water, sewer,



1 and sewage treatment works. (1) (a) For the purpose of  
2 discharging state responsibility with respect to the  
3 protection of public health and in order to assist  
4 municipalities, the commission, in the name of the state and  
5 to the extent of state funds appropriated therefor, shall  
6 enter into contracts with municipalities concerning the  
7 following types of eligible projects:

8 (I) Construction of sewage treatment works excluding  
9 their interceptor and collection lines and pumps and  
10 appurtenances associated with such lines;

11 (II) Replacement of interceptor and collection lines and  
12 pumps and appurtenances associated with such lines of sewage  
13 treatment works which works were in existence on January 1,  
14 1953.

15 (b) (I) The commission shall be the agency for  
16 administration of such funds as are granted by the state for  
17 the program and shall contract for projects only to the extent  
18 state general funds have been appropriated. Such funds shall  
19 be administered in coordination with administration of federal  
20 funds granted for water quality control programs under the  
21 provisions of the federal act. The state contribution, except  
22 when such percentages are altered pursuant to subparagraphs  
23 (III) and (IV) of this paragraph (b), shall not exceed  
24 twenty-five percent of the eligible project cost, as  
25 determined by the commission, and any state contribution shall  
26 be limited to those eligible projects funded with a minimum

1 local contribution of twenty percent of eligible project  
2 costs.

3 (II) Notwithstanding the provisions of paragraph (a) of  
4 this subsection (1), in the administration of federal and  
5 state funds, the commission shall not establish priorities  
6 which preclude distribution of federal or state funds for  
7 interceptor or collection lines and may contract and make  
8 grants under this subsection (1) for construction or  
9 replacement projects which include interceptor and collection  
10 lines and pumps and appurtenances associated with such lines.  
11 The total of federal and state grants to municipalities, as  
12 defined in section 25-8-103 (10), with a population of five  
13 thousand persons or less according to the latest federal  
14 census, shall be at least five percent of the total annual  
15 state and federal funds granted. Grants to municipalities  
16 with a population of less than five thousand persons shall be  
17 considered based upon the priority of financial need first.

18 (III) Any municipality having a population of five  
19 thousand or less may apply to the division for financial  
20 assistance in the construction, expansion, or modernization of  
21 the municipality's facilities, and the division shall conduct  
22 a fiscal analysis of the municipality's application, in  
23 accordance with fiscal criteria established by the division.

24 (IV) The division, based upon its fiscal analysis, shall  
25 issue or deny a certificate of financial need. If a  
26 certificate of need is issued, the commission shall authorize

1 a greater state percentage of contribution and a lesser  
2 municipal percentage of contribution in accordance with the  
3 recommendations of the division. The municipality's  
4 contribution may include any funds made available to it from  
5 any other source available for emergency situations.

6 (V) No provision of this subsection (1) shall apply to  
7 the extent that its application would contravene any federal  
8 law or regulation.

9 (2) Any contract entered into pursuant to this section  
10 shall include but not be limited to provisions which set  
11 forth:

12 (a) An estimate of the reasonable cost of the project as  
13 determined by the commission;

14 (b) That the municipality will proceed expeditiously and  
15 complete the project in accordance with approved plans;

16 (c) That the municipality will commence operation of the  
17 sewage treatment works on completion of the project and not  
18 discontinue operation or dispose of the sewage treatment works  
19 without the prior approval of the commission;

20 (d) That the municipality shall operate and maintain the  
21 sewage treatment works;

22 (e) That the municipality shall apply for and make  
23 reasonable effort to secure federal assistance for the  
24 project;

25 (f) That the municipality shall provide for the payment  
26 of its share of the cost of the project.

1           (3) Municipalities shall be eligible pursuant to this  
2 article for grants for construction commenced on or after July  
3 1, 1973. This section shall not impair or affect grants  
4 awarded pursuant to sections 66-28-22 to 66-28-27, C.R.S.  
5 1963, prior to July 1, 1973.

6           (4) In connection with each contract concerning an  
7 eligible project, the commission shall keep adequate records  
8 of the amount of the payment by the state and of the amount of  
9 federal assistance received by the municipality. Such records  
10 may establish the basis for application for federal  
11 reimbursement of such payments made by the state, and the  
12 commission is authorized to make such application in  
13 appropriate cases.

14           (5) The commission may promulgate procedures and  
15 regulations pursuant to which continuing technical assistance  
16 may be provided municipalities at the expense of the  
17 commission after the construction of such sewage treatment  
18 plants to assist such municipalities with compliance with  
19 regulations of the commission.

20           25-8-703. Continuing planning process and coordinated  
21 waste treatment management. The department shall establish  
22 and conduct a continuing planning process for coordinated  
23 waste treatment management as required by sections 303 (e) and  
24 208 of the federal act, and the department shall from time to  
25 time submit its proposals to the commission for hearing and  
26 approval.

1           25-8-704. Approval of sewage treatment works. (1) No  
2 person shall commence the construction or expansion of any  
3 domestic sewage treatment plant, interceptor, or pumping  
4 station intended to serve more than twenty persons unless:

5           (a) Site location and the construction or expansion have  
6 been approved and designs therefor reviewed by the commission;  
7 and

8           (b) A permit for the discharge therefrom has been issued  
9 pursuant to section 25-8-501 (6).

10          (2) In determining the suitability of a site location  
11 for any sewage treatment plant, interceptor, or pumping  
12 station, the commission shall consider the long-range  
13 comprehensive planning for the area and the consolidation of  
14 sewage treatment plants, interceptors, or pumping stations to  
15 avoid a proliferation of small sewage treatment plants,  
16 interceptors, or pumping stations.

17          25-8-705. Industrial cost recovery and user charges.

18          (1) (a) Any municipality owning or operating a sewage  
19 treatment works is authorized to adopt:

20           (I) A system of user charges to assure that each  
21 recipient of services within the municipality's jurisdiction  
22 or service area will pay the recipient's proportionate share  
23 of the costs of operation, maintenance, and replacement of any  
24 sewage treatment works, facilities, or services provided by  
25 the municipality;

26           (II) A system of industrial cost recovery to assure that

1 industrial users of the municipality's sewage treatment works  
2 pay to the municipality that portion of the cost of  
3 construction of the treatment works which is allocable to the  
4 treatment of such industrial wastes.

5 (b) The municipality is authorized to retain the  
6 revenues derived from the industrial cost recovery payments  
7 made by industrial users of its sewage treatment works and  
8 expend such revenues for:

9 (I) Reimbursement of any grants or loans made to the  
10 municipality for construction of the sewage treatment works;

11 (II) Future expansion and reconstruction of the sewage  
12 treatment works; or

13 (III) Other municipal purposes associated with the  
14 sewage treatment works.

15 (c) The municipality shall keep records concerning  
16 rates, charges, and amounts collected and how such revenues  
17 were allocated.

18 (2) In the event the federal act permits a system of  
19 user charges and a system of industrial cost recovery charges  
20 other than one described in subsection (1) of this section,  
21 any municipality owning or operating a sewage treatment works  
22 is authorized to adopt the system described in the federal act  
23 in lieu of the systems described in subsection (1) of this  
24 section. No municipality shall apply a system described in  
25 subsection (1) of this section concurrently with a system  
26 described in this subsection (2).

1 SECTION 2. 13-6-104, Colorado Revised Statutes 1973, as  
2 amended, is amended BY THE ADDITION OF A NEW SUBSECTION to  
3 read:

4 13-6-104. Original civil jurisdiction. (7) The county  
5 court shall have concurrent original jurisdiction with the  
6 district court to hear actions brought pursuant to section  
7 25-8-607, C.R.S. 1973.

8 SECTION 3. 24-1-135, Colorado Revised Statutes 1973, as  
9 amended, is amended to read:

10 24-1-135. Effect of congressional redistricting.  
11 Effective January 1, 1973, the terms of office of persons  
12 appointed pursuant to sections 11-2-102, 12-22-103, 12-35-104,  
13 12-54-104, 23-60-104, 24-32-308, 24-32-706, 24-65-103,  
14 25-1-103, ~~25-8-201~~, 26-10-101, 33-42-105, 34-60-104, and  
15 35-65-105, C.R.S. 1973, shall terminate. Prior thereto, the  
16 appointing authority designated by law shall appoint members  
17 to such boards, commissions, and committees for terms to  
18 commence on January 1, 1973, and to expire on the date the  
19 terms of the predecessors in office of such members would have  
20 expired, and any person whose term of office is terminated by  
21 this section may be reappointed effective January 1, 1973,  
22 and, for the purposes of such reappointment, shall not be  
23 deemed to succeed himself. Appointments thereafter shall be  
24 made as prescribed by law.

25 SECTION 4. 39-1-102 (12.1) (b), Colorado Revised  
26 Statutes 1973, as amended, is amended to read:

1           39-1-102. Definitions. (12.1) (b) For the purpose of  
2 eliminating, reducing, or preventing the release of  
3 pollutants, as defined in section ~~25-8-103-(11)~~ 25-8-103 (14),  
4 C.R.S. 1973, into state waters to the extent that such  
5 property is certified as pollution control property in  
6 accordance with the provisions of section 39-4-110 or  
7 39-5-131. The term includes any treatment works, control  
8 devices, disposal systems, machinery, equipment, structures,  
9 or property, or any parts or accessories thereof, installed or  
10 acquired for the primary purpose of reducing, controlling, or  
11 disposing of pollutants which if released into state waters  
12 could cause water pollution. It does not include any  
13 residential sewage disposal system.

14           SECTION 5. Effective date. This act shall take effect  
15 July 1, 1980.

16           SECTION 6. Safety clause. The general assembly hereby  
17 finds, determines, and declares that this act is necessary  
18 for the immediate preservation of the public peace, health,  
19 and safety.



BILL 23

A BILL FOR AN ACT

1 CONCERNING APPOINTMENTS TO THE COLORADO WATER QUALITY CONTROL  
2 COMMISSION.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that all appointments to the Colorado water quality control commission shall be approved by the senate.

---

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 25-8-201 (1)(a), (1) (b), (1) (c), and (1) (d)  
5 and the introductory portion to 25-8-201 (1)(e), Colorado Revised  
6 Statutes 1973, as amended, are amended to read:

7 25-8-201. Water quality control commission created.

8 (1) (a) One member ~~designated-and--appointed--by~~ OF the state  
9 board of health; ~~but-the-state-board-of-health-shall-not-appoint~~  
10 ~~any-employee-or-other-staff-member-of-the-department--of--health;~~

11 (b) A member of the wildlife commission; ~~or-a-member-of-its~~  
12 ~~administrative-staff;-designated-by-said-commission;~~

13 (c) A member of the water conservation board; ~~or-a-member~~

1 ~~of-its-administrative-staff;-designated-by-said-board;~~

2 (d) The executive director of the department of natural  
3 resources; ~~or-his-designee;~~

4 (e) Seven citizens of the state who shall be appointed by  
5 the governor WITH THE CONSENT OF THE SENATE, FOR TERMS OF THREE  
6 YEARS EACH, as follows:

7 SECTION 2. 25-8-201 (1)(e)(II), Colorado Revised Statutes  
8 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

9 25-8-201. Water quality control commission created.

10 (1) (e) (II) Appointed members of the commission serving on July  
11 1, 1980, shall continue to serve the remainder of the terms to  
12 which they were appointed. On and after July 1, 1980, citizen  
13 appointments shall be made in accordance with the provisions of  
14 this paragraph (e).

15 SECTION 3. Effective date. This act shall take effect July  
16 1, 1980.

17 SECTION 4. Safety clause. The general assembly hereby  
18 finds, determines, and declares that this act is necessary for  
19 the immediate preservation of the public peace, health, and  
20 safety.

BILL 24

A BILL FOR AN ACT

1 CONCERNING PERMITS FOR DISCHARGE OF DREDGED OR FILL MATERIAL.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides statutory authority for the state engineer and the division of water resources of the department of natural resources to assume control of the permit program required by section 404 of the federal "Clean Water Act".

---

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. Title 37, Colorado Revised Statutes 1973, as  
4 amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

5 ARTICLE 94

6 Dredge and Fill Permit System

7 37-94-101. Definitions. As used in this article, unless  
8 the context otherwise requires:

9 (1) "Division" means the division of water resources of the  
10 department of natural resources.

11 (2) "Dredged material" means material that is excavated or  
12 dredged from surface state waters or wetlands.

1           (3) "Federal act" means the "Federal Water Pollution  
2 Control Act", commonly referred to as the "Clean Water Act".

3           (4) "Fill material" means any material used for the primary  
4 purpose of replacing an aquatic area with dry land or of changing  
5 the bottom elevation of a water way.

6           (5) "State engineer" means the state engineer appointed  
7 pursuant to section 37-80-101.

8           37-94-102. Permits required for discharge of dredged or  
9 fill material - administration. (1) No person shall discharge  
10 any dredged or fill material into any state water without first  
11 having obtained a permit from the division for such discharge.  
12 The purpose for requiring permits for dredge and fill activity is  
13 solely related to protection and maintenance of water quality  
14 standards and minimizing adverse impacts on the aquatic  
15 environment. Each application for a permit duly filed under the  
16 federal act shall be deemed to be a permit application filed  
17 under this article, and each permit issued pursuant to the  
18 federal act shall be deemed to be a temporary permit issued under  
19 this article.

20           (2) The division shall examine applications for and may  
21 issue, suspend, revoke, modify, deny, and otherwise administer  
22 permits for the discharge of dredged or fill material into state  
23 waters. Such administration shall be in accordance with the  
24 provisions of this article and regulations promulgated by the  
25 state engineer and with the provisions of article 8 of title 25,  
26 C.R.S. 1973, and regulations promulgated pursuant thereto.

1           (3) The state engineer shall promulgate such regulations as  
2 may be necessary and proper for the orderly and effective  
3 administration of permits for the discharge of dredged or fill  
4 material. Such regulations shall be consistent with the  
5 provisions of this article and of article 8 of title 25, C.R.S.  
6 1973, and regulations promulgated pursuant thereto and with  
7 federal requirements, and shall be in furtherance of the policy  
8 contained in section 25-8-102, C.R.S. 1973, and may pertain to  
9 and implement, among other matters, permit and permit application  
10 contents, procedures, requirements, and restrictions with respect  
11 to the following:

12           (a) Identification and address of the owner and operator of  
13 the activity which is to be permitted;

14           (b) Location, quantity, and quality characteristics of the  
15 permitted discharge;

16           (c) Equipment and procedures required for mandatory  
17 monitoring as well as record-keeping and reporting requirements;

18           (d) Schedules of compliance;

19           (e) Procedures to be followed by division personnel for  
20 entering and inspecting premises;

21           (f) Submission of pertinent plans and specifications for  
22 the activity which is to be permitted;

23           (g) Restrictions on transfers of the permit;

24           (h) Procedures to be followed in the event of expansion or  
25 modification of the activity to be permitted;

26           (i) Duration of the permit, not to exceed five years, and

1 renewal procedures;

2 (j) Authority of the division to require changes in plans  
3 and specifications for the activity which is to be permitted as a  
4 condition for the issuance of a permit;

5 (k) Identification of control regulations over which the  
6 permit takes precedence and identification of control regulations  
7 over which a permit may never take precedence;

8 (l) Notice requirements of any intent to take an action  
9 that is likely to result in a new or altered discharge;

10 (m) Effectiveness under this article of permit applications  
11 submitted to and permits issued by the federal government under  
12 the federal act;

13 (n) Applicable standards and requirements which assure  
14 compliance with sections 307, 403, and 404(b)(1) of the federal  
15 act;

16 (o) Procedures for issuing appropriate notice of pending  
17 permit applications;

18 (p) Procedures for notifying and consulting with another  
19 state whose waters may be affected by the issuance of a permit;

20 (q) Procedures to coordinate with federal and federal-state  
21 water-related planning and review processes.

22 (4) The state engineer may authorize temporary permits to  
23 be issued by the division pending completion of review procedures  
24 otherwise required prior to issuance of a permit, but no  
25 temporary permit may be issued for a period of more than two  
26 years nor shall any temporary permit be renewed.

1 (5) Nothing in any permit shall ever be construed to  
2 prevent or limit the application of any emergency power of the  
3 division.

4 (6) The state engineer may authorize general permits to be  
5 issued by the division which authorize certain dredge or fill  
6 activities on a state or regional basis for certain clearly  
7 described categories of activities which will cause minimal  
8 adverse environmental effects on water quality and which are in  
9 furtherance of the policy contained in section 25-8-102, C.R.S.  
10 1973.

11 (7) The state engineer may authorize the division to  
12 develop best management practices for construction and  
13 maintenance of farm roads, forest roads, or temporary roads for  
14 moving mining equipment.

15 37-94-103. Activities exempted. (1) A dredge and fill  
16 permit for the discharge of dredged or fill material shall not be  
17 required for the following activities except as may be  
18 necessitated by the federal act or lawful regulations:

19 (a) Normal farming, silva culture, and ranching activities;

20 (b) Operations for the purpose of maintenance of existing  
21 structures;

22 (c) Operations for the purpose of construction or  
23 maintenance of farm or stock ponds, irrigation ditches, drainage  
24 ditches, sedimentation basins, farm roads, forest roads, or  
25 mining roads.

26 (2) The provisions of any dredge and fill permit which is

1 required shall not be any more stringent than, and shall not  
2 contain any condition for monitoring or reporting in excess of,  
3 the minimum required by the federal act or regulations. Nothing  
4 in this article shall supersede the provisions of articles 80 to  
5 93 of this title.

6 37-94-104. Application - fee - public participation.

7 (1) The permits shall run from the dates of issuance, and the  
8 annual fees shall be paid to the division. The state engineer  
9 shall establish a fee schedule designed to defray the cost of  
10 administering the dredge and fill permit program.

11 (2) Upon receipt of an application, the division shall  
12 prepare a tentative determination to issue or deny the permit  
13 and, if it is to be issued, its tentative determination as to the  
14 terms and conditions of such permit.

15 (3) Public notice of every complete application for a  
16 dredge and fill permit shall be circulated in a manner designed  
17 to inform interested and potentially interested persons of the  
18 proposed discharge and of the proposed determination to issue or  
19 deny a permit. Procedures for the circulation of public notice  
20 shall be established by the state engineer and shall include at  
21 least the following:

22 (a) Notice shall be circulated within the geographical  
23 areas of the proposed discharge.

24 (b) Notice shall be mailed to any person or group upon  
25 request.

26 (c) The division shall add the name of any person or group



1 upon request to a mailing list to receive copies of notices for  
2 all permit applications within the state or within a certain  
3 geographic area.

4 (4) The state engineer shall promulgate such regulations as  
5 are necessary and appropriate to provide an opportunity for  
6 public hearing, when appropriate, prior to the granting or denial  
7 of a dredge and fill permit by the division.

8 37-94-105. Permits - when required and when prohibited.

9 (1) The division shall issue dredge and fill permits in  
10 accordance with regulations promulgated under this article, but  
11 only if the division has determined that all federal and state  
12 statutory and regulatory requirements have been met with respect  
13 to both the application and proposed permit.

14 (2) No discharge shall be permitted that by itself or in  
15 combination with other pollution will result in pollution of the  
16 receiving waters in excess of the pollution permitted by an  
17 applicable water quality standard, unless the permit is  
18 conditioned to prevent such a violation.

19 (3) In any case in which a permit for a discharge has been  
20 applied for but final administrative disposition of such  
21 application has not been made, such discharge shall not be a  
22 violation of any provisions of this article or regulations  
23 promulgated under this article unless the division proves that  
24 absence of final administrative disposition of such application  
25 has resulted from the failure of the applicant to furnish  
26 information reasonably required or requested in order to process

1 an application.

2 SECTION 2. Effective date. This act shall take effect July  
3 1, 1980.

4 SECTION 3. Safety clause. The general assembly hereby  
5 finds, determines, and declares that this act is necessary for  
6 the immediate preservation of the public peace, health, and  
7 safety.

BILL 25

A BILL FOR AN ACT

1 MAKING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF NATURAL  
2 RESOURCES FOR REHABILITATION OF THE CHANNEL OF THE CONEJOS  
3 RIVER IN THE SAN LUIS VALLEY.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Makes a supplemental appropriation to the Colorado water conservation board for the purposes of river channel rehabilitation.

---

4 Be it enacted by the General Assembly of the State of Colorado:  
5 SECTION 1. Appropriation. (1) In addition to any other  
6 appropriation heretofore made for the current fiscal year, there  
7 is hereby appropriated, out of any moneys in the state treasury  
8 not otherwise appropriated, to the department of natural  
9 resources for allocation to the Colorado water conservation  
10 board, the sum of ten thousand dollars (\$10,000), or so much  
11 thereof as may be necessary, for rehabilitation of the channel of  
12 the Conejos river in the San Luis valley. The moneys  
13 appropriated by this section shall be used to relieve degradation

1 of the existing river channel and shall not be used for  
2 channelization.

3 SECTION 2. Safety clause. The general assembly hereby  
4 finds, determines, and declares that this act is necessary for  
5 the immediate preservation of the public peace, health, and  
6 safety.

BILL 26

A BILL FOR AN ACT

1 MAKING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF NATURAL  
2 RESOURCES FOR REHABILITATION OF THE CHANNEL OF THE RIO  
3 GRANDE RIVER IN THE SAN LUIS VALLEY.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Makes a supplemental appropriation to the Colorado water conservation board for the purposes of river channel rehabilitation.

---

4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. Appropriation. (1) In addition to any other  
6 appropriation heretofore made for the current fiscal year, there  
7 is hereby appropriated, out of any moneys in the state treasury  
8 not otherwise appropriated, to the department of natural  
9 resources for allocation to the Colorado water conservation  
10 board, the sum of ten thousand dollars (\$10,000), or so much  
11 thereof as may be necessary, for rehabilitation of the channel of  
12 the Rio Grande river in the San Luis valley. The moneys  
13 appropriated by this section shall be used to relieve degradation

1 of the existing river channel and shall not be used for  
2 channelization.

3 SECTION 2. Safety clause. The general assembly hereby  
4 finds, determines, and declares that this act is necessary for  
5 the immediate preservation of the public peace, health, and  
6 safety.

BILL 27

A BILL FOR AN ACT

1 CONCERNING EXEMPTIONS FOR WELLS USED IN THE PRODUCTION OF ALCOHOL  
2 FOR USE IN MOTOR FUEL AND DERIVED FROM AGRICULTURAL  
3 COMMODITIES AND FOREST PRODUCTS.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Exempts small wells used by facilities engaged in the production of alcohol for use in motor fuel from the provisions of the "Colorado Ground Water Management Act" and the "Water Right Determination and Administration Act of 1969".

---

4 Be it enacted by the General Assembly of the State of Colorado:

5  
6 SECTION 1. 37-90-105(1)(b) and (1)(c), Colorado Revised  
7 Statutes 1973, are amended, and the said 37-90-105(1) is further  
8 amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

9 37-90-105. Small capacity wells. (1) (b) Wells not  
10 exceeding fifty gallons per minute and used for watering of  
11 livestock on range and pasture; or

12 (c) One well not exceeding fifty gallons per minute and  
13 used in commercial businesses; OR

1 (d) One well not exceeding fifty gallons per minute and  
2 used by facilities in the production of alcohol for use in motor  
3 fuel and derived from agricultural commodities and forest  
4 products and with a purity of at least ninety-five percent, if  
5 the annual production of the facility which produces alcohol is  
6 two and one-half million gallons or less of said alcohol per  
7 year.

8 SECTION 2. 37-92-602(1)(d) and (1)(e), Colorado Revised  
9 Statutes 1973, are amended, and the said 37-92-602(1) is further  
10 amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

11 37-92-602. Exemptions - presumptions. (1) (d) Wells to be  
12 used exclusively for fire-fighting purposes if said wells are  
13 capped, locked, and available for use only in fighting fires; and

14 (e) Wells not exceeding fifty gallons per minute which are  
15 in production as of May 22, 1971, and were and are used for  
16 ordinary household purposes for not more than three single-family  
17 dwellings, fire protection, the watering of poultry, domestic  
18 animals, and livestock on farms and ranches, and the irrigation  
19 of not over one acre of gardens and lawns; AND

20 (f) One well not exceeding fifty gallons per minute and  
21 used by facilities in the production of alcohol for use in motor  
22 fuel and derived from agricultural commodities and forest  
23 products and with a purity of at least ninety-five percent, if  
24 the annual production of the facility which produces alcohol is  
25 two and one-half million gallons or less of said alcohol per  
26 year.



1           SECTION 3. Safety clause. The general assembly hereby  
2 finds, determines, and declares that this act is necessary for  
3 the immediate preservation of the public peace, health, and  
4 safety.

BILL 28

HOUSE JOINT RESOLUTION NO.

1           WHEREAS, Of all land controlled by the federal  
2 government, ninety-three and one-half percent is located in  
3 the states of Colorado, Alaska, Arizona, California, Idaho,  
4 Montana, Nevada, New Mexico, Oregon, Utah, Washington, and  
5 Wyoming; and

6           WHEREAS, The question of the constitutionality of the  
7 retention of public lands by the federal government in  
8 perpetuity is a significant question in the West; and

9           WHEREAS, Nevada has passed legislation challenging the  
10 right of the federal government to hold lands in the public  
11 domain indefinitely; now, therefore,

12           Be It Resolved by the House of Representatives of the  
13 Fifty-second General Assembly of the State of Colorado, the  
14 Senate concurring herein:

15           That we, the members of the Fifty-second General  
16 Assembly, support Nevada's effort to force a test of the  
17 federal control of land.

18           Be It Further Resolved, That a copy of this resolution be  
19 sent to the President of the Senate and the Speaker of the  
20 House of the Nevada State Legislature.

BILL 29

HOUSE JOINT RESOLUTION NO.

1           WHEREAS, The federal government presently controls  
2 thirty-six percent of the land in Colorado; and

3           WHEREAS, Federal control of land lowers local tax  
4 revenues, including revenues which are essential to the  
5 operation of school districts; and

6           WHEREAS, Federal control of land frequently precludes use  
7 of the land for the benefit of the people of this state and of  
8 the entire United States; and

9           WHEREAS, The federal government has not set a limit on  
10 the amount of land which it may control in any state; and

11           WHEREAS, From time to time the federal government has sought  
12 and will seek to acquire additional land for various purposes;  
13 now, therefore,

14           Be It Resolved by the House of Representatives of the  
15 Fifty-second General Assembly of the State of Colorado, the  
16 Senate concurring herein:

17           That the Congress of the United States is urged to pass  
18 legislation to require, at the time of any acquisition of  
19 lands by the federal government, the disposition of an  
20 equivalent area of federal land to private ownership.

21           Be It Further Resolved, That copies of this Resolution be  
22 sent to the President of the Senate and to the Speaker of the  
23 House of Representatives of the Congress of the United States  
24 and to each member of Congress from the state of Colorado.

BILL 30

SENATE JOINT RESOLUTION NO.

1           WHEREAS, The United States presently holds title to  
2 thirty-six percent of the land in Colorado; and

3           WHEREAS, Federal ownership of land reduces the local tax  
4 base, thereby creating problems for local districts, school  
5 districts, and special districts; and

6           WHEREAS, The Department of the Army has proposed the  
7 expansion of Fort Carson through acquisition of approximately  
8 two hundred thousand acres in either Pueblo and Huerfano  
9 counties or Las Animas and Otero counties; and

10           WHEREAS, The acquisition of such lands by the Department  
11 of the Army will displace rural homesteads, reduce the local  
12 tax base, and reduce the amount of agricultural acreage  
13 available to enable the United States to continue both to feed  
14 its citizens and to export food to help feed a hungry world;  
15 and

16           WHEREAS, The Southeastern Colorado Watershed Association  
17 of Soil Conservation Districts has opposed the acquisition of  
18 such lands by the Department of the Army because of fragile  
19 soil conditions in the area; now, therefore,

20           Be It Resolved by the Senate of the Fifty-second General  
21 Assembly of the State of Colorado, the House of  
22 Representatives concurring herein:

23           That we, the members of the Fifty-second General Assembly  
24 of the State of Colorado, urge the Department of the Defense  
25 to abandon the proposed expansion of Fort Carson and urge the  
26 Congress of the United States to prevent the proposed  
27 expansion of Fort Carson.

28           Be It Further Resolved that copies of this resolution be  
29 sent to the Secretary of the Army of the United States, the  
30 commanding officer at Fort Carson, and each member of Congress  
31 of the United States from Colorado.