

*Report to the Colorado General Assembly:*

**RECOMMENDATIONS FOR 1984  
COMMITTEES ON:**

**Crime Classification and  
Correctional Facilities**

**Legislative Procedures  
Sunset Reviews  
Hazardous Waste**



Law Lib.  
KFC  
1820  
.L4  
no. 282

**COLORADO LEGISLATIVE COUNCIL**

**RESEARCH PUBLICATION NO. 282**

**December, 1983**

LEGISLATIVE COUNCIL  
OF THE  
COLORADO GENERAL ASSEMBLY

Senators

Sen. Ted L. Strickland,  
Chairman  
Sen. Martha M. Ezzard  
Sen. Regis F. Groff  
Sen. Don MacManus  
Sen. Dan D. Noble  
Sen. Ray Powers  
Sen. Ronald K. Stewart

Representatives

Rep. Carl B. "Bev" Bledsoe,  
Vice Chairman  
Rep. Frank DeFilippo  
Rep. Charles W. Heim  
Rep. Jerry Kopel  
Rep. Bob Martinez  
Rep. David E. Skaggs  
Rep. Ronald H. Strahle

\* \* \* \* \*

The fourteen-member Legislative Council serves as the fact-finding and information-collecting agency of the General Assembly. The Speaker of the House and the Majority Leader of the Senate serve ex officio with twelve appointed legislators -- six senators and six representatives.

Between sessions, the interim legislative committees concentrate on specific study assignments approved by resolution of the General Assembly or directed by the council. Committee documents, data, and reports are prepared with the aid of the council's professional staff.

During sessions, the council staff provides support services to the various committees of reference and furnishes individual legislators with facts, figures, arguments, and alternatives.

*Report to the Colorado General Assembly:*

**RECOMMENDATIONS FOR 1984  
COMMITTEES ON:**

**Crime Classification and  
Correctional Facilities**

**Legislative Procedures  
Sunset Reviews  
Hazardous Waste**



**COLORADO LEGISLATIVE COUNCIL**

**RESEARCH PUBLICATION NO. 282**

**December, 1983**

Law Lib.  
KFC  
1820  
.L4  
no. 282



LEGISLATIVE COUNCIL  
OF THE  
COLORADO GENERAL ASSEMBLY

Senators

Sen. Ted L. Strickland,  
Chairman  
Sen. Martha M. Ezzard  
Sen. Regis F. Groff  
Sen. Don MacManus  
Sen. Dan D. Noble  
Sen. Ray Powers  
Sen. Ronald K. Stewart

Representatives

Rep. Carl B. "Bev" Bledsoe,  
Vice Chairman  
Rep. Frank DeFilippo  
Rep. Charles W. Heim  
Rep. Jerry Kopel  
Rep. Bob Martinez  
Rep. David E. Skaggs  
Rep. Ronald H. Strahle

\* \* \* \* \*

The fourteen-member Legislative Council serves as the fact-finding and information-collecting agency of the General Assembly. The Speaker of the House and the Majority Leader of the Senate serve ex officio with twelve appointed legislators -- six senators and six representatives.

Between sessions, the interim legislative committees concentrate on specific study assignments approved by resolution of the General Assembly or directed by the council. Committee documents, data, and reports are prepared with the aid of the council's professional staff.

During sessions, the council staff provides support services to the various committees of reference and furnishes individual legislators with facts, figures, arguments, and alternatives.

Law Lib.  
KFC  
1820  
. L4  
no. 282-

COLORADO LEGISLATIVE COUNCIL  
" "  
RECOMMENDATIONS FOR 1984

COMMITTEES ON:

Crime Classification and  
Correctional Facilities  
Legislative Procedures  
Sunset Reviews  
Hazardous Waste

Legislative Council  
Report to the  
Colorado General Assembly

Research Publication No. 282  
December, 1983

# COLORADO GENERAL ASSEMBLY

## OFFICERS

SEN. TED L. STRICKLAND  
*Chairman*

REP. CARL B. "BEV" BLEDSOE  
*Vice Chairman*

*Staff*

LYLE C. KYLE  
*Director*

DAVID F. MORRISSEY  
*Assistant Director*



## LEGISLATIVE COUNCIL

ROOM 46 STATE CAPITOL  
DENVER, COLORADO 80203  
866-3521  
AREA CODE 303

## MEMBERS

SEN. MARTHA M. EZZARD  
SEN. REGIS F. GROFF  
SEN. DON MACMANUS  
SEN. DAN D. NOBLE  
SEN. RAY POWERS  
SEN. RONALD K. STEWART  
REP. FRANK DEFILIPPO  
REP. CHARLES W. HEIM  
REP. JERRY KOPEL  
REP. BOB MARTINEZ  
REP. DAVID E. SKAGGS  
REP. RONALD H. STRAHL

To Members of the Fifty-fourth Colorado General Assembly:

Submitted herewith are the final reports of the Committees on Crime Classification and Correctional Facilities, Legislative Procedures, and Hazardous Waste. These committees were appointed by the Legislative Council pursuant to Senate Joint Resolution No. 19, 1983 session.

At its meeting of December 12, the Legislative Council approved motions to transmit these reports to the Fifty-fourth General Assembly.

In accordance with the provisions of section 24-34-104, C.R.S., the Legislative Council held public hearings and conducted sunset reviews of the three divisions within the Department of Regulatory Agencies scheduled for review this year. The council's recommendations are also included in this report.

Respectfully submitted,

/s/ Senator Ted L. Strickland  
Chairman  
Colorado Legislative Council

## TABLE OF CONTENTS

	<u>Page</u>
LETTER OF TRANSMITTAL.....	iii
TABLE OF CONTENTS.....	v
LIST OF BILLS AND RESOLUTIONS.....	vii
 COMMITTEE ON CRIME CLASSIFICATION AND CORRECTIONAL FACILITIES	
Members of the Committee.....	1
Summary of Recommendations.....	3
Committee Procedure.....	5
Crime Classification.....	5
Overview of Renovation and Construction Projects.....	5
Review of Prison Overcrowding Project Recommendations.....	5
Committee Recommendations.....	6
Crime Classification Proposals.....	6
Continuing Review of the Implementation of the Determinate Sentencing Law.....	7
Renovation Projects -- Intensive Community Supervision.....	8
Recommendations of Prison Overcrowding Project.....	9
 COMMITTEE ON LEGISLATIVE PROCEDURES	
Members of the Committee.....	43
Summary of Recommendations.....	45
Deadline to Reconvene for Adjournment Sine Die.....	47
Subpoenas, Summoning of Witnesses, Contempt of the General Assembly and Punishments.....	47
Other Recommendations.....	48
APPENDIX A: Committee Schedule.....	65
 SUNSET REVIEWS	
Members of the Committee.....	69
Summary of Recommendations.....	71

	<u>Page</u>
COMMITTEE ON HAZARDOUS WASTE	
Members of the Committee.....	79
Summary of Committee Recommendations.....	81
Management of Hazardous Wastes.....	83
Federal Resource Conservation and Recovery Act.....	83
Colorado's Hazardous Waste Law.....	84
Status of Colorado's Hazardous Waste Regulatory Program.....	86
Remediation of Inactive Hazardous Waste Disposal Sites.....	87
Federal Comprehensive Environmental Response, Compensation, and Liability Act.....	87
Colorado Law Regarding State Participation in CERCLA.....	87
Hazardous Substance Incidents.....	88
Committee Activities.....	89
Hazardous Waste Generation in Colorado.....	89
Alternatives to the Land Disposal of Hazardous Waste.....	89
Siting.....	92
Geologically Appropriate Areas for Land Disposal.....	93
Superfund.....	94
Universe of Wastes Regulated in Colorado.....	95
Regulation of Resource Recoverers.....	95
Current Funding of Hazardous Waste Regulatory Program.....	96
APPENDIX A: Hazardous Wastes in Colorado -- Volume and Percentage of Various Categories of Hazardous Waste.....	129
APPENDIX B: Flow Chart of Waste Management and Disposal Technologies.....	131



LIST OF BILLS AND RESOLUTIONS

	<u>Page</u>
BILL 22 -- Concerning Release from Confinement in Correctional Facilities.....	13
BILL 23 -- Concerning Creation of Intensive Supervision Programs in the Department of Corrections.....	27
BILL 24 -- Concerning a Formula for Projecting the Maximum Capacity of Prisons, and Providing for Appropriations for Construction of Correctional Facilities Thereunder.....	33
BILL 25 -- Concerning the Recommendation of a Site by the Department of Corrections for a Correctional Facility, and Making an Appropriation Therefor.....	37
BILL 26 -- Concerning Costs Incurred by Reason of the Housing of Persons in the Custody of the Department of Corrections, and Relating to Contracts for Housing Such Persons, and Reimbursement of Counties Therefor.....	39
BILL 27 -- Concerning Legislative Procedures Relating to the Summoning of Witnesses and Punishment for Contempt.....	57
BILL 28 -- Concerning the Continuation of the Division of Banking.....	73
BILL 29 -- Concerning the Continuation of the Division of Savings and Loan.....	75
BILL 30 -- Concerning the Continuation of the Division of Securities.....	77
BILL 31 -- Concerning the Definition of "Hazardous Waste".....	97
BILL 32 -- Concerning the Prohibition of Land Disposal of Hazardous waste.....	99
BILL 33 -- Concerning Fees for a Hazardous Waste Disposal Site.....	101
BILL 34 -- Concerning a Graduated Fee Paid by the Operator of a Hazardous Waste Treatment, Storage, or Disposal Site, and Providing Uses Thereof.....	105

BILL 35 -- Concerning the Regulation of Resource Recoverers of Hazardous Waste.....	109
BILL 36 -- Concerning Safeguards for the Transportation of Hazardous Materials.....	119
BILL 37 -- Concerning Fees to be Paid by Generators and Transporters of Hazardous Wastes.....	121
BILL 38 -- Concerning State Participation in the Federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980".....	125
JOINT RESOLUTION 3 -- Concerning the Deadline for Reconvening for Adjournment Sine Die in an Even-Year Session.....	51
JOINT RESOLUTION 4 -- Concerning Legislative Subpoenas.....	55

LEGISLATIVE COUNCIL  
COMMITTEE ON CRIME CLASSIFICATION  
AND CORRECTIONAL FACILITIES

Members of the Committee

Sen. Cliff Dodge, Chairman	Rep. Bonnie Allison
Rep. Ronald Strahle, Vice Chairman	Rep. David Bath
Sen. Kathy Arnold	Rep. Ron Burkhardt
Sen. Dennis Gallagher	Rep. Charles Heim
Sen. Don MacManus	Rep. Margaret Markert
Sen. Harold McCormick	Rep. Richard Mutzebaugh
Sen. Harvey Phelps	Rep. Robert Shoemaker
Sen. Jeff Wells	

Council Staff

Earl Thaxton Principal Analyst	Dave Ferrill Senior Analyst
-----------------------------------	--------------------------------

Legislative  
Drafting Staff

Matt Flora  
Staff Attorney

## SUMMARY OF RECOMMENDATIONS

Senate Joint Resolution No. 19 (1983 session) directed the Legislative Council to appoint an interim study committee to conduct a study of crime classification and correctional facilities to:

- (a) Give guidance and direction to the Department of Corrections in the renovation of correctional facilities as provided for by line item in the general appropriation bill for the 1983-84 fiscal year, and review the progress of renovation and construction projects, and report to the General Assembly on the status of such projects;
- (b) Consider the recommendations contained in Senate Bill No. 376, 1983 session, and the recommendations of the Advisory Commission on Crime Classification and Sentencing, and review the implementation of the determinate sentencing law.

The Committee on Crime Classification and Correctional Facilities, appointed to conduct the study, held five meetings during the interim, including a tour of the Canon City correctional facilities. The committee equally divided its time among three items of study: (1) studying Colorado's felony classification system and the recommendations of the Advisory Commission on Crime Classification and Sentencing; (2) reviewing the progress in correctional facility renovation and construction projects; and (3) reviewing recommendations for legislation from the Prison Overcrowding Project and the Department of Corrections.

Pursuant to the direction of S.J.R. No. 19, the committee recommends the following five bills for consideration by the 1984 General Assembly:

- Bill 22 -- changes the method for the awarding and vesting of good time.
- Bill 23 -- statutorily creates an intensive community supervision program.
- Bill 24 -- establishes a formula for projecting the maximum capacity of prisons.
- Bill 25 -- authorizes the selection of a site for a correctional facility.
- Bill 26 -- authorizes the reimbursement of counties for use of county jails to house state inmates.

## Committee Procedure

### Crime Classification

At the first meeting of the committee, testimony was received from the chairman, vice-chairman, and project director of the Advisory Commission on Crime Classification and Sentencing. These individuals outlined the commission's studies and recommendations. Briefly, the commission recommended (1) the adoption of a seven-felony-class structure, (2) an increase in the overall non-capital presumptive sentencing range from one to twelve years to one to sixteen years, (3) the promulgation of judicial guidelines for sentencing in the extraordinary case, (4) the repeal of special status offenses, and (5) the reinstatement of fines as a possible penalty in felony cases. The commission's September, 1982, report, "Proposed Revision of the Colorado Criminal Code," more specifically describes the changes recommended by the commission.

Following this initial review of the recommendations of the commission, the committee sent letters to various parties who have an interest in the criminal justice system (district attorneys, public defenders, judges, the criminal defense bar, the appropriate committees of the bar association, the American Civil Liberties Union, etc.), inviting their response to the recommendations of the commission. The third and fourth meetings of the committee were partially devoted to an examination of the responses received and committee discussion with various witnesses as to the merits of the commission's recommendations.

### Overview of Renovation and Construction Projects

At each committee meeting, the members met with Department of Corrections officials and other parties responsible for the planning process, renovation projects, and program implementation, and reviewed the progress being made in renovation projects as provided for by line item in the general appropriation bill for the 1983-84 fiscal year. The committee's objective has been to assist and advise the department in the solution to problems as they arise. At each of the meetings, the committee received progress reports from Department of Corrections personnel concerning the status of renovation and construction projects. In addition, the committee devoted the second meeting to a physical tour of the Canon City correctional facilities and viewed many of the renovation projects.

### Review of Prison Overcrowding Project Recommendations

The overcrowded conditions of Colorado's correctional facilities has been well documented over the past number of years and much legislative discussion has been devoted to various proposals to alleviate this situation. Money appropriated by the General Assembly

over the past two years has been directed to both short-range and long-range solutions to the overcrowding situation. Also in this regard, Colorado was one of four states to receive a grant from the National Institute of Corrections and the Edna McConnell Clark Foundation to fund a Prison Overcrowding Project. Legislative members to the policymaking group were appointed in June, 1982, and this group has spent much time and labor studying prison overcrowding and solutions to such problems.

Because of the amount of research compiled by the Prison Overcrowding Project and the overlapping nature of the subject for study by this committee (solutions to overcrowding problems in the nature of short-range and long-range renovation projects to provide more beds), the committee sought and received briefings from the project staff and from the chairman of the Prison Overcrowding Project (Representative Ronald Strahle). The committee was presented with a number of proposals for legislation from the Prison Overcrowding Project designed to deal with a variety of factors affecting prison overcrowding.

### Committee Recommendations

#### Crime Classification Proposals

None of the legislative changes proposed by the Advisory Commission on Crime Classification and Sentencing were adopted or recommended by the committee. Insufficient evidence was presented to justify changing the five-class-felony system to a seven-class-felony system (with corresponding increases in the presumptive ranges in the higher classes). The present sentencing structure is capable of handling extraordinary cases involving mitigating or aggravating circumstances. Furthermore, in the past several years, serious attention has been given by legislators to the classification and sentencing of certain groups of offenders -- examples include those who commit crimes of violence and repeat offenders. The mandatory sentencing of such offenders and provisions for sentences in the aggravated range address concerns that some offenses may be inappropriately classified.

Likewise, special status offenses have been the subject of a great deal of public concern. These special status offenses (e.g., theft from the elderly and aggravated robbery of drugs) do address very significant problems that are apparent in our society. Various legislators have spent many hours over the past few years on these offenses. For these reasons, the committee does not recommend repeal of special status offenses and substitution of a new list of mitigating and aggravating circumstances which the court could consider.

The proposal to statutorily create judicial guidelines for sentencing in the extraordinary cases was deemed unnecessary because

(1) present law is adequate to handle these cases, (2) the statutory guidelines may be interpreted as being mandatory on the courts, and (3) some of the specified criteria appear to be vague and uncertain.

The recommendation to reinstitute fines on individuals and to increase the amount of criminal fines on corporations was not adopted by the committee.

#### Continuing Review of the Implementation of the Determinate Sentencing Law

Part of the responsibility of the committee under S.J.R. No. 19 was to continue a review of the implementation of the determinate sentencing law. In this regard, several problems concerning the law were pointed out to the committee. These problems concerned (1) the awarding and vesting of good time, and (2) the one-year mandatory parole period.

Bill 22 -- Release from confinement in correctional facilities. Testimony before the committee indicated that the present system of awarding good time and earned time is cumbersome and does not serve as an effective management tool. Good time may be earned at the rate of fifteen days a month, shall vest semiannually, and may not be withdrawn once it is vested. No more than ninety days of good time may be withheld by the department in any one six-month period. Earned time may be granted not to exceed fifteen days for every six months of incarceration. The parole board is responsible for granting earned time. It is argued that the automatic vesting of good time prevents the department from administering the system in a fashion that would award good behavior and punish those who disrupt the institutions. Thus, it does not serve as effective a management tool as it was envisioned when first enacted. In addition, the system is cumbersome in that the department administers the good time provisions and the parole board administers the earned time system.

To aid the department in the administration of the good time system so that it can be utilized as an effective management tool and to create an administratively manageable system for the computing of both good time and earned time, the committee recommends Bill 22. The bill provides that for those offenders sentenced after July 1, 1985, good time shall not vest. In addition, the department may withhold good time earnable in subsequent periods of sentence, but not yet earned, for conduct occurring in a given period of sentence. The bill transfers the responsibility and authority relating to the granting of earned time from the parole board to the Department of Corrections and increases the earned time allowable by fifteen days each six months served to be consistent with the meritorious good-time limits. For inmates sentenced before July 1, 1985, the department shall annually review the record of the inmate and grant the earned time deduction from the sentence. For those inmates sentenced after July 1, 1985, the department shall also annually review the record of the inmate and may grant, withhold, withdraw, or restore earned time deductions. In

other words, the earned time deductions shall not vest upon being granted and may be withdrawn once it is granted.

One-year mandatory parole. Present law provides that each offender sentenced under the determinate sentencing system shall serve one year under parole supervision. This provision of the determinate sentencing law has been criticized from several sources and for several reasons: (1) the one-year period does not make possible the collection of restitution; (2) in some cases it may be appropriate that the offender serve more time under parole supervision; and (3) there is no real meaning to the threat of revocation of parole since good time provisions apply to periods of reincarceration upon revocation.

Several proposals to change the one-year mandatory parole period were submitted and reviewed by the committee. These proposed changes include proposals to: (1) extend the period of parole in appropriate cases (three years, five years, etc.); (2) permit the parole board to grant early releases to inmates in appropriate cases (up to one year prior to his scheduled release); and (3) permit the parole board to modify the conditions of parole in appropriate cases rather than revocation of parole. These proposed changes were not approved by the committee.

#### Renovation Projects -- Intensive Community Supervision

The 1983-84 long bill (S.B. 401) created a new program in the department called "Short-Term Capacity Expansion." Money was included in this appropriation to create an intensive community supervision program for fifty inmates. The nonresidential intensive community supervision program entails the placement of persons directly in their own homes under close supervision. These individuals are persons who have already successfully integrated into a community corrections program and who are thirty to sixty days away from a mandatory parole date. Firm criteria has been designed to identify those who will be placed in their homes, under close staff supervision. The purpose of this program is to make room in the community corrections facilities for other inmates and thereby free more institutional beds.

Bill 23 -- Intensive community supervision. The inmates selected for assignment to this program have been placed in the community under the so-called "furlough" statute. At the initial stages of this program, the executive director of the Department of Corrections requested an opinion from the Department of Law as to the legality of this endeavor under existing statutes. In late November, the attorney general issued an opinion stating that the program could not continue to operate under existing statutes. Anticipating the illegality of the program operation under current law, the Department of Corrections recommended to the committee specific legislation which would provide authority for the implementation and operation of this program. These recommendations are contained in Bill 23.



Bill 23 authorizes the executive director of the Department of Corrections to establish non-residential intensive supervision programs in the community as a supplement to community corrections facilities. The bill provides that the department may transfer an offender from a community corrections facility into an intensive supervision program if such offender has not more than 120 days remaining until his parole date. The bill also provides criteria to be applied in selecting offenders for the program and requires the department to report annually to the General Assembly on the status of such programs.

### Recommendations of Prison Overcrowding Project

Over the past number of years the General Assembly has responded to the need to replace overcrowded and antiquated correctional facilities. In addition, the General Assembly has had to respond to the federal court order in Ramos vs. Lamm (to close old maximum security and to provide medical, mental health, educational resources, etc.). Responses have included the construction of new facilities, the development of new programs, and the appropriation of money to continue the planning process for future needs.

Despite past efforts to correct existing demands and to plan for future demands, the corrections system remains in an overcrowded situation. Over the past year, as many as 274 inmates in county jails have awaited transfer to a state facility. The department has been operating at near capacity level for some time.

The General Assembly appropriated funds in the 1983 session to create short-range solutions to the overcrowding situation and for additional bedspace by the demolition and renovation of old Cellhouses 1 and 7 at the Territorial Correctional Facility. This short-range plan and renovation is anticipated to meet the needs of the system in the immediate future.

However, because the state is growing in population, analysts project that the prison population will continue to increase. Population projections vary depending upon the variables considered in an estimate. Nevertheless, all projections demonstrate a future population growth in corrections. This situation poses the possibility of future federal court involvement unless methods are developed now to handle the population growth. In an effort to avoid this possibility, and the expenditure of large amounts of state tax dollars to defend such law suits, the Prison Overcrowding Project has examined various proposals for realistically estimating the future population growth, methods by which population overcrowding can be avoided or alleviated, and steps necessary to plan for building the appropriate facilities to handle anticipated inmate population growth. In this endeavor, the Prison Overcrowding Project has developed a package of proposals for legislative action which were submitted to the committee for consideration and approval. Several of these proposals were endorsed by the committee and are recommended in succeeding paragraphs.

Bill 24 -- Establishing a formula for projecting the maximum capacity of prisons. Because population projections may vary depending upon what factors are considered in the calculation, and because these projections may influence policy decisions in regard to whether or not the state should invest taxpayer dollars in construction of new correctional facilities, the Prison Overcrowding Project proposed, and the committee recommends, Bill 24. There is need for a common and accepted understanding of what is a reasonable and valid population projection in order to anticipate and plan for future increase or decrease in the prison population. This bill establishes a statutory formula to be used by the General Assembly in projecting maximum facility capacity. The bill provides that the state demographer shall annually certify for the next five years the number of males in the at-risk population. The at-risk population is defined as those individuals residing in Colorado who are eighteen to thirty-five years of age. Based on 600 inmates per 100,000 males in the at-risk population, the maximum capacity of the department necessary to handle this projection is to be calculated at ninety-two percent of the inmates projected. The percentage of ninety-two percent is arrived at because approximately eight percent of the inmate population count on any given day is off-grounds.

Using this formula, the bill establishes the maximum capacity of the correctional facilities for the years 1985 through 1989. The maximum capacity calculation would be the upper limit in calculating appropriations for construction of new correctional facilities to meet this capacity need.

The rationale for this bill is fourfold: (1) the at-risk population incarcerated per 100,000 is a fairly reliable indicator of future growth; (2) Colorado is a growth state with an anticipated large influx of at-risk people; (3) the bill will direct policymakers' attention to the future capacity needs of the system; and (4) the formula may prevent expenditures of money for construction which is unnecessary. For these reasons, the committee recommends favorable consideration of Bill 24.

Bill 25 -- Selection of a site for a correctional facility. Even with the best efforts of the General Assembly to deal with the current overcrowding situation with short-term capacity needs, plus the anticipated replacement of these short-term solutions when additional permanent bedspace comes on-board through the renovation of Cellhouses 1 and 7, it is presently anticipated that the system will be short by approximately 250 beds in 1987 and 1988. In order to begin planning for these facility needs, the Prison Overcrowding Project proposes, and the committee recommends, the enactment of Bill 25.

Bill 25 authorizes the department to study and recommend the selection of a site for a new correctional facility to house 250 inmates. The construction phase would begin in fiscal year 1985-86. The department is to report back to the General Assembly its recommendation no later than January 15, 1985, detailing its findings and making its recommendations for an appropriate site for the

facility. In addition, the bill authorizes the department to update the feasibility studies conducted in 1983 for various proposals to renovate and expand existing facilities. The bill appropriates \$60,000 to the department to fund the authorized studies.

The rationale for this bill is fourfold: (1) the most difficult decision to be made in a new construction project of this type is the location and this determination should be made as quickly as possible; (2) the site location decision depends on many factors and should not be made in haste -- the decision should rest on factors that overall are in the best interests of all parties concerned; (3) the design package and cost estimates for such construction depend on the site selected; and (4) the selected site should be approved by the entire General Assembly.

Bill 26 -- Reimbursement to counties for housing state inmates. Several questions have been raised as to the authority of the department to reimburse counties for housing state inmates due to the shortage of space at the state correctional facilities. House Bills 1285 and 1430, 1983 session, were introduced to clarify the authority of the department in this regard and to set forth procedures to establish the amount and method of reimbursement. Both of these bills were postponed indefinitely. The long appropriations bill, however, included an amount of \$500,000 to reimburse the counties for expenses incurred in housing inmates. This was part of the short-range capacity expansion program. Claims for such reimbursement funds were not forthcoming, and the appropriation was deleted in the September budget-cutting session.

As part of the package of bills submitted to the committee by the Prison Overcrowding Project, a bill similar to H.B. 1285 was recommended for adoption. It is believed that this legislation is necessary in case some county jails have to be used in the future in emergency situations. In addition, several new county jails are presently being built and the possibility exists that these counties may wish to contract with the state to house state inmates. To meet this possibility, the committee recommends the approval of Bill 26.

Bill 26 provides that counties shall be reimbursed by the department for costs incurred in holding persons sentenced to a correctional facility but confined in a county jail prior to transmittal to the facility; in holding persons who are being returned or transferred to a correctional facility or community correctional facility; and in holding persons prior to extradition. The amount of reimbursement is to be negotiated between the department and the counties.

BILL 22

A BILL FOR AN ACT

1 CONCERNING RELEASE FROM CONFINEMENT IN CORRECTIONAL  
2 FACILITIES.

---

Bill Summary

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

Restructures statutes relating to good time and earned time accrued while an inmate is confined to a correctional facility of the department of corrections.

Provides that good time or earned time awarded to an inmate sentenced for a crime committed on or after July 1, 1985, shall not vest. States that an inmate shall be subject to the statute setting forth his rights as of the date of his crime and shall not be eligible for any provision of any statute relating to other dates.

---

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

4 SECTION 1. Article 22.5 of title 17, Colorado Revised  
5 Statutes, 1978 Repl. Vol., as amended, is REPEALED AND  
6 REENACTED, WITH AMENDMENTS, to read:

7 ARTICLE 22.5

8 Inmate and Parole Time Computation

9 PART 1



1 years.

2 (b) No inmate imprisoned under a life sentence for a  
3 crime committed on or after July 1, 1977, shall be paroled  
4 until he has served at least twenty calendar years, and no  
5 application for parole shall be made or considered during such  
6 period of twenty years.

7 PART 2

8 OFFENDERS SENTENCED FOR CRIMES COMMITTED

9 PRIOR TO JULY 1, 1979

10 17-22.5-201. Good time credit allowable. (1) Unless  
11 otherwise provided by law, every inmate confined in a  
12 correctional facility of the department who has committed no  
13 infraction of the rules or regulations of the department or  
14 the laws of the state and who performs in a faithful,  
15 diligent, industrious, orderly, and peaceable manner the work,  
16 duties, and tasks assigned to him to the satisfaction of the  
17 executive director or any of his designees may be allowed time  
18 credit reductions as follows: A deduction of two months in  
19 each of the first two years, four months in each of the next  
20 two years, and five months in each of the remaining years of  
21 his term of confinement, and correspondingly for any part of  
22 the year if such term of confinement is for less than a year.

23 The mode of computing credits shall be as follows:

<u>Number of</u>	<u>Good time</u>	<u>Total good</u>	<u>Time to be served</u>
<u>yrs. of</u>	<u>that may be</u>	<u>time that may</u>	<u>if full credits are</u>
<u>sentence</u>	<u>earned</u>	<u>be earned</u>	<u>earned and allowed</u>

1	1st year	2 months	2 months	10 months
2	2nd year	2 months	4 months	1 year 8 months
3	3rd year	4 months	8 months	2 years 4 months
4	4th year	4 months	1 year	3 years
5	5th year	5 months	1 year 5 months	3 years 7 months
6	6th year	5 months	1 year 10 months	4 years 2 months
7	7th year	5 months	2 years 3 months	4 years 9 months
8	8th year	5 months	2 years 8 months	5 years 4 months
9	9th year	5 months	3 years 1 month	5 years 11 months
10	10th year	5 months	3 years 6 months	6 years 6 months
11	and so continuing through as many years as may be the time of			
12	confinement.			

13           (2) To those inmates whom the executive director or any  
14 of his designees may designate as trustees and who conduct  
15 themselves in accordance with departmental rules and perform  
16 their work in a creditable manner, upon approval of the  
17 executive director or any of his designees, additional good  
18 time to that allowed in the table set forth in subsection (1)  
19 of this section, not to exceed ten days in any one calendar  
20 month, shall be credited upon the time remaining to be served,  
21 such credit to be allowed only upon the actual number of  
22 months served in each year in a correctional facility of the  
23 department.

24           (3) The executive director or any of his designees may  
25 grant to any inmate confined in a correctional facility  
26 additional good time credit to that allowed under subsections

1 (1) and (2) of this section, not to exceed five days per month  
2 for each calendar year remaining to be served, for the  
3 following reasons:

4 (a) Meritorious service by an inmate; or

5 (b) Outstanding performance of assigned tasks in  
6 correctional industries.

7 (4) The executive director or any of his designees may  
8 restore to the credit of any inmate confined in a correctional  
9 facility all or any portion of good time credits which have  
10 been forfeited by the inmate as a result of any disciplinary  
11 action or provision of law.

12 (5) (a) The provisions of this section shall apply to a  
13 defendant whose sentence was stayed pending appeal prior to  
14 July 1, 1972, but who was confined pending disposition of the  
15 appeal. Such credit shall be against the maximum and minimum  
16 terms of his sentence for the entire period of confinement  
17 served while the stay of execution was in effect.

18 (b) A defendant whose sentence is stayed pending appeal  
19 after July 1, 1972, but who is confined pending disposition of  
20 the appeal is entitled to the credit provided by this section  
21 against the maximum and minimum terms of his sentence for the  
22 entire period of confinement served while the stay of  
23 execution was in effect.

24 (6) If any inmate assaults any keeper, guard, foreman,  
25 officer, inmate, or other person, or threatens or endangers  
26 the person or life of anyone, or violates or disregards any



1 departmental rule or regulation, or neglects or refuses to do  
2 the work to which he is assigned, or is guilty of any  
3 misconduct, or violates any of the rules or regulations  
4 governing parole, the department may order the forfeiture of  
5 all time credits theretofore earned by or allowed to him  
6 before the commission of such offense under this section.

7 17-22.5-202. Ticket of leave - discharge - clothes,  
8 money, transportation. (1) Ten days prior to the date on  
9 which any inmate confined in a correctional facility is  
10 entitled to be discharged or to be paroled from said  
11 correctional facility, the executive director or his designee  
12 shall give such inmate a ticket of leave therefrom, which  
13 shall entitle him to depart from said correctional facility.  
14 The executive director or his designee shall at the same time  
15 furnish such inmate with suitable clothing and may furnish  
16 transportation, at the expense of the state, from the place at  
17 which said correctional facility is located to the place of  
18 his residence in Colorado or any other state. The executive  
19 director or his designee shall also furnish to any inmate  
20 being discharged, other than a parolee, one hundred dollars.  
21 The executive director or his designee may furnish any  
22 prisoner being released on parole a reasonable sum of money  
23 not to exceed one hundred dollars; except that, if he  
24 furnishes less than one hundred dollars, the difference  
25 between one hundred dollars and the amount furnished shall be  
26 credited to an account for such parolee. The executive

1 director or his designee shall certify any amount so credited  
2 to the division of adult services, and any such amount shall  
3 be distributed to an inmate in accordance with rules  
4 promulgated by the department.

5 (2) An inmate furnished with a ticket of leave for  
6 discharge shall be deemed to be fully discharged from the  
7 sentence upon which he was confined at the end of said ten-day  
8 period.

9 17-22.5-203. Time of parole not considered when inmate  
10 is reincarcerated. (1) The paroled inmate, upon an order of  
11 the state board of parole, may be returned to the custody of  
12 the department according to the terms of his original  
13 sentence, and, in computing the period of his confinement, the  
14 time between his release and his return to said custody shall  
15 not be considered any part of the term of his sentence.

16 (2) Parole shall not be construed in any sense to  
17 operate as a discharge of any inmate paroled under the  
18 provisions of law but simply a permit to any such inmate to go  
19 outside a correctional facility; and, if, while so at large,  
20 he behaves and conducts himself as not to incur his  
21 reincarceration, he shall be deemed to be still serving out  
22 the sentence imposed upon him by the court and shall be  
23 entitled to good time the same as if he had not been paroled,  
24 except as provided in subsection (3) of this section. If the  
25 said paroled inmate is returned to the department, he shall  
26 serve out his original sentence, as provided for in this part

1 2.

2 (3) No inmate released on parole on or after July 1,  
3 1981, shall be entitled to a good time deduction from his  
4 sentence while on parole. In the event that his parole is  
5 revoked, he shall become eligible for any good time deductions  
6 authorized pursuant to this article on the date he is returned  
7 to the custody of the department.

8 PART 3

9 OFFENDERS SENTENCED FOR CRIMES

10 COMMITTED ON OR AFTER JULY 1, 1979

11 17-22.5-301. Good time. (1) Each person sentenced for  
12 a crime committed on or after July 1, 1979, but before July 1,  
13 1981, whose conduct indicates that he has substantially  
14 observed all of the rules and regulations of the institution  
15 or facility in which he has been confined and has faithfully  
16 performed the duties assigned to him shall be entitled to a  
17 good time deduction of fifteen days a month from his sentence.  
18 The good time authorized by this section shall vest quarterly  
19 and may not be withdrawn once it has vested. No more than  
20 forty-five days of good time may be withheld by the department  
21 in any three-month period of sentence.

22 (2) Each person sentenced for a crime committed on or  
23 after July 1, 1981, but before July 1, 1985, shall be subject  
24 to all the provisions of this part 3; except that the good  
25 time authorized by this section shall vest semiannually and no  
26 more than ninety days of good time may be withheld by the

1 department in any six-month period of sentence.

2 (3) Each person sentenced for a crime committed on or  
3 after July 1, 1985, shall be subject to all the provisions of  
4 this part 3; except that the good time authorized by this  
5 section shall not vest.

6 (4) Nothing in this section shall be so construed as to  
7 prevent the department from withholding good time earnable in  
8 subsequent periods of sentence, but not yet earned, for  
9 conduct occurring in a given period of sentence.

10 17-22.5-302. Earned time. (1) In addition to the good  
11 time authorized in section 17-22.5-301, earned time, not to  
12 exceed thirty days for every six months of incarceration, may  
13 be deducted from the inmate's sentence upon a demonstration to  
14 the department by the inmate that he has made substantial and  
15 consistent progress in each of the following categories:

16 (a) Work and training, including attendance, promptness,  
17 performance, cooperation, care of materials, and safety;

18 (b) Group living, including housekeeping, personal  
19 hygiene, cooperation, and social adjustment;

20 (c) Participation in counseling sessions and involvement  
21 in self-help groups;

22 (d) Progress toward the goals and programs established  
23 by the Colorado diagnostic program.

24 (2) The department shall develop objective standards for  
25 measuring substantial and consistent progress in the  
26 categories listed in subsection (1) of this section. Such

1 standards shall be applied in all evaluations of inmates for  
2 the earned time authorized in this section.

3 (3) For each inmate sentenced for a crime committed on  
4 or after July 1, 1979, but before July 1, 1985, the department  
5 shall review the performance record of the inmate and shall  
6 grant, consistent with the provisions of this section, an  
7 earned time deduction from the sentence imposed. Such review  
8 shall be conducted at least annually; except that, in the case  
9 of an inmate who has one year or less of his sentence  
10 remaining to be served, the review shall be conducted at least  
11 semiannually. The earned time deduction authorized by this  
12 section shall vest upon being granted and may not be withdrawn  
13 once it is granted.

14 (4) For each inmate sentenced for a crime committed on  
15 or after July 1, 1985, the department shall review the  
16 performance record of the inmate and may grant, withhold,  
17 withdraw, or restore, consistent with the provisions of this  
18 section, an earned time deduction from the sentence imposed.  
19 Such review shall be conducted as specified in subsection (3)  
20 of this section; except that the earned time deduction  
21 authorized by this subsection (4) shall not vest upon being  
22 granted and may be withdrawn once it is granted.

23 17-22.5-303. Parole. (1) As to any person sentenced  
24 for a class 2, class 3, class 4, or class 5 felony committed  
25 on or after July 1, 1979, but before July 1, 1981, the  
26 division of adult services shall provide a one-year period of

1 parole supervision and assistance in securing employment,  
2 housing, and such other services as may effect the successful  
3 reintegration of such offender into the community while  
4 recognizing the need for public safety. The conditions of  
5 parole for any such person shall be established by the state  
6 board of parole prior to his release from incarceration. Upon  
7 a determination that the conditions of parole have been  
8 violated in any parole revocation proceeding, the state board  
9 of parole shall order the return of the offender to the  
10 institution in which he was originally received for a period  
11 of six months. For second and subsequent revocations of  
12 parole, the offender shall be reincarcerated; but in no event  
13 shall any person spend more than one year under parole  
14 supervision and reincarceration as provided in this section  
15 and section 18-1-105, C.R.S. The good time deduction  
16 authorized by section 17-22.5-301 shall apply to periods of  
17 reincarceration provided for in this section.

18 (2) As to any person sentenced for a class 2, class 3,  
19 class 4, or class 5 felony committed on or after July 1, 1981,  
20 the division of adult services shall provide a one-year period  
21 of parole supervision and assistance in securing employment,  
22 housing, and such other services as may effect the successful  
23 reintegration of such offender into the community while  
24 recognizing the need for public safety. The conditions of  
25 parole for any such person shall be subject to section  
26 17-2-201 (5) (b) and (5) (c) by the state board of parole

1 prior to his release from incarceration; but in no event shall  
2 any person whose initial parole has not been revoked spend  
3 more than one year under parole supervision as provided in  
4 this section and section 18-1-105, C.R.S. Upon a  
5 determination that the conditions of parole have been violated  
6 in any such parole revocation proceeding, the state board of  
7 parole shall order the return of the offender to the  
8 institution in which he was originally received for a period  
9 of not less than six months nor more than two years; but in no  
10 event shall any period of reincarceration, subsequent term of  
11 parole, and sentence actually served exceed the sentence  
12 imposed pursuant to section 18-1-105, C.R.S. The good time  
13 deduction authorized by section 17-22.5-301 shall apply to  
14 periods of reincarceration provided for in this section.

15 17-22.5-304. Part affects only certain inmates. The  
16 provisions of this part 3 are effective July 1, 1979, and  
17 shall apply only to those persons convicted of crimes  
18 committed on or after said date. No person subject to the  
19 provisions of part 2 of this article shall be eligible for any  
20 of the provisions authorized by this part 3.

21 17-22.5-305. Eligibility for other statutory provisions.  
22 (1) No person subject to the provisions of section  
23 17-22.5-301 (1) shall be eligible for any of the provisions of  
24 section 17-22.5-301 (2) or (3) or 17-22.5-302 (4).

25 (2) No person subject to the provisions of section  
26 17-22.5-301 (2) shall be eligible for any of the provisions of

1 section 17-22.5-301 (1) or (3) or 17-22.5-302 (4).

2 (3) No person subject to the provisions of section  
3 17-22.5-301 (3) shall be eligible for any of the provisions of  
4 section 17-22.5-301 (1) or (2) or 17-22.5-302 (3).

5 17-22.5-306. Transfer of functions. The executive  
6 director shall, on and after July 1, 1985, execute,  
7 administer, perform, and enforce the rights, powers, duties,  
8 functions, and obligations vested in the state board of parole  
9 with respect to the provisions of section 17-22.5-303.  
10 Notwithstanding any other provision of law to the contrary,  
11 the state board of parole shall carry out all of its other  
12 functions as if this section had not been enacted.

13 SECTION 2. Repeal. 17-2-205, 17-2-206, 17-2-207 (1) and  
14 (2), 17-20-104, 17-20-105, 17-20-106, 17-20-107, 17-20-108,  
15 17-20-109, 17-20-110, 17-20-111, 17-20-118, 17-20-119, and  
16 17-20-120, Colorado Revised Statutes, 1978 Repl. Vol., as  
17 amended, are repealed.

18 SECTION 3. Effective date. This act shall take effect  
19 July 1, 1985.

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



BILL 23

A BILL FOR AN ACT

1 CONCERNING CREATION OF INTENSIVE SUPERVISION PROGRAMS IN THE  
2 DEPARTMENT OF CORRECTIONS.

---

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 executive director of the department of corrections to establish non-residential intensive supervision programs in the community as a supplement to community corrections facilities. Provides that the executive director may transfer an offender from a community corrections facility into an intensive supervision program if such offender has not more than one hundred twenty days remaining until his parole date, and if in his judgment the correctional needs of such offender will be better served by such transfer. Provides criteria to be applied by the executive director in selecting offenders for the programs.

Requires that the executive director report to the general assembly and the governor yearly on the status of intensive supervision programs established by the department of corrections.

---

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

4 SECTION 1. Title 17, Colorado Revised Statutes, 1978  
5 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
6 ARTICLE to read:

ARTICLE 27.5

Intensive Supervision Programs

17-27.5-101. Legislative declaration. The general assembly hereby finds and declares that the department of corrections requires additional flexibility in providing supervision of selected offenders in order to expand the capacity of the prison system and minimize the costs of incarceration. It is the purpose of this article to encourage the department to facilitate community programs for intensive supervision of selected offenders in a non-residential status. It is the intent of the general assembly that such programs be formulated so that they protect the safety and welfare of the public in the community where the programs are operating and throughout the state of Colorado.

17-27.5-102. Authority of the department to operate intensive supervision programs. (1) The executive director may establish non-residential intensive supervision programs in the community as a supplement to placement of selected offenders in community corrections facilities operated or contracted for by the department. Prior to establishment of such programs the department shall notify the appropriate unit of local government.

(2) The executive director shall require that offenders in the program receive at least the highest level of supervision that is provided to parolees, including daily contact with the offenders either by on-site visits or

1 telephone communication, and shall, within the resources of  
2 the department, strive to minimize risk to the public.

3 (3) An offender is eligible for transfer from a  
4 community corrections facility specified in subsection (1) of  
5 this section into an intensive supervision program if such  
6 offender has not more than one hundred twenty days remaining  
7 until his parole date, and if the executive director finds  
8 that in his judgment the correctional needs of such offender  
9 will be better served by such transfer. In selecting  
10 offenders for transfer to an intensive supervision program,  
11 the executive director shall consider, but not be limited to,  
12 the following factors:

13 (a) The frequency, severity, and recency of disciplinary  
14 actions against the offender;

15 (b) The offender's escape history, if any;

16 (c) Whether the offender has functioned at a high level  
17 of responsibility in a community corrections program;

18 (d) Whether the offender will have adequate means of  
19 support and suitable housing in the community; and

20 (e) The nature of the offense for which the offender has  
21 been incarcerated.

22 (4) An offender shall not be placed in an intensive  
23 supervision program for more than one hundred twenty days;  
24 except that the executive director may waive this provision  
25 for an offender who he considers to be an exceptional case  
26 involving unusual and extenuating circumstances.

1           (5) The executive director shall have the power to  
2 establish and enforce standards and criteria for  
3 administration of intensive supervision programs.

4           (6) At least two weeks prior to placement of an offender  
5 in an intensive supervision program, the executive director  
6 shall notify or cause to be notified the respective  
7 prosecuting attorney, the sentencing court, and the law  
8 enforcement agency of the affected unit of local government;  
9 and he shall have previously notified the affected corrections  
10 board.

11           17-27.5-103. Confinement in county jail. Where the  
12 administrator of an intensive supervision program has cause to  
13 believe that an offender placed in the program has violated  
14 any rule or condition of his placement or cannot be safely  
15 supervised in that program, the administrator shall certify to  
16 the supervising parole officer and the director of the office  
17 of offender services the facts which are the basis for his  
18 belief and execute a transfer order to the sheriff of the  
19 county in which the program is being operated, who shall  
20 confine the offender in the county jail pending a  
21 determination by the director of the office of offender  
22 services as to whether or not the offender shall remain in the  
23 program.

24           17-27.5-104. Duty to report. No later than January 15,  
25 1985, and each subsequent year thereafter, the executive  
26 director shall submit a report to the governor and the general

1 assembly describing the type of intensive supervision programs  
2 established, the number of offenders assigned to those  
3 programs, progress and problems with operation of the  
4 programs, and his recommendations.

5 17-27.5-105. Escape from custody. If an offender fails  
6 to remain within the extended limits of his confinement as  
7 established under the intensive supervision program, or,  
8 having been ordered by the executive director or the  
9 administrator of the program to return to the correctional  
10 institution, neglects or fails to do so, he shall be deemed to  
11 have escaped from custody and shall, upon conviction thereof,  
12 be punished as provided in section 18-8-208, C.R.S., and all  
13 reductions in sentence authorized by sections 17-20-107 to  
14 17-20-110 or sections 17-22.5-101 and 17-22.5-102 shall be  
15 forfeited.

16 SECTION 2. 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 24

A BILL FOR AN ACT

1 CONCERNING A FORMULA FOR PROJECTING THE MAXIMUM CAPACITY OF  
2 PRISONS, AND PROVIDING FOR APPROPRIATIONS FOR  
3 CONSTRUCTION OF CORRECTIONAL FACILITIES THEREUNDER.

---

Bill Summary

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

Establishes a formula for the general assembly to use in projecting the maximum capacity in the facilities of the department of corrections. Provides that the state demographer shall annually certify for the next five years the number of males in the at-risk population. Defines the at-risk population as those individuals residing in Colorado who are eighteen to thirty-five years of age. Provides that the general assembly shall project that there will be six hundred inmates per one hundred thousand males in the at-risk population and that the maximum capacity of department of corrections facilities shall be ninety-two percent of the inmates projected.

Using this formula establishes the maximum capacity of the facilities for the years 1985 through 1989.

Provides that the maximum capacity of the system shall be used by the general assembly in calculating appropriations for construction of correctional facilities.

---

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

5 SECTION 1. Article 1 of title 17, Colorado Revised

1 Statutes, 1978 Repl. Vol., as amended, is amended BY THE  
2 ADDITION OF A NEW SECTION to read:

3 17-1-112. Prison population planning - construction of  
4 correctional facilities. (1) In order to provide a five-year  
5 planning tool for increasing or decreasing the inmate capacity  
6 of the facilities of the department, the general assembly  
7 shall project inmate population levels by use of the following  
8 formula: The state demographer shall certify the number of  
9 males in the at-risk population, which population shall be the  
10 individuals residing in Colorado who are eighteen to  
11 thirty-five years of age. The general assembly shall project  
12 that there will be six hundred inmates per one hundred  
13 thousand males in the at-risk population. In order to adjust  
14 for the off-grounds population, the maximum capacity of the  
15 department facilities shall be ninety-two percent of the  
16 inmates projected pursuant to this subsection (1). For  
17 purposes of this section only, "maximum capacity" means the  
18 maximum number of permanent beds available in the department  
19 of corrections.

20 (2) On the basis of this formula, the general assembly  
21 finds and declares that the maximum capacity of the system of  
22 the department facilities will be as follows for the following  
23 years:

24 (a) In 1985, the maximum capacity will be three thousand  
25 ninety-five;

26 (b) In 1986, the maximum capacity will be three thousand

1 one hundred twenty;

2 (c) In 1987, the maximum capacity will be three thousand  
3 one forty-seven;

4 (d) In 1988, the maximum capacity will be three thousand  
5 one hundred eighty-eight;

6 (e) In 1989, the maximum capacity will be three thousand  
7 two hundred seven.

8 (3) Unless updated by more recent information, the  
9 maximum capacity of the system, as computed pursuant to this  
10 section, shall be used by the general assembly as the upper  
11 limit of the system in calculating appropriations to the  
12 department for construction of correctional facilities.

13 (4) Beginning January 31, 1985, and no later than  
14 January 31 of each subsequent year thereafter, the state  
15 demographer shall certify to the governor, speaker of the  
16 house of representatives, president of the senate, and  
17 chairman of the judiciary committee of each house the number  
18 of males predicted to be in the at-risk population for each of  
19 the following five years. If the state demographer's  
20 projections vary from the figures upon which the capacities in  
21 subsection (2) of this section are based, the general assembly  
22 may alter the capacity levels accordingly.

23 SECTION 2. Safety clause. The general assembly hereby  
24 finds, determines, and declares that this act is necessary  
25 for the immediate preservation of the public peace, health,  
26 and safety.



BILL 25

A BILL FOR AN ACT

1 CONCERNING THE RECOMMENDATION OF A SITE BY THE DEPARTMENT OF  
2 CORRECTIONS FOR A CORRECTIONAL FACILITY, AND MAKING AN  
3 APPROPRIATION THEREFOR.

---

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 department of corrections to study the selection of a site for an additional correctional facility to house two hundred fifty inmates, which facility is to be begun in fiscal year 1985-86. The department of corrections is to report back to the general assembly no later than January 15, 1985, detailing its findings and making its recommendations for an appropriate site for the facility.

Makes an appropriation to the department of corrections to fund the authorized study.

---

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

5 SECTION 1. Study authorization. The department of  
6 corrections is hereby authorized to study and make  
7 recommendations to the general assembly concerning an  
8 appropriate site or sites for an additional two hundred fifty  
9 bed correctional facility, to be either an addition to an  
10 existing correctional facility or a new facility, construction

1 of which shall be initiated in the fiscal year 1985-86. The  
2 department shall investigate feasible sites throughout the  
3 state, shall consider the feasibility of constructing an  
4 expansible facility with a central core of services capable of  
5 supporting more than two hundred fifty inmates, and shall  
6 utilize and update existing feasibility studies to investigate  
7 expansion of existing correctional facilities.

8 SECTION 2. Duty to report. The department of  
9 corrections shall make a report to the general assembly  
10 detailing its findings and making its recommendations for an  
11 appropriate site for the facility no later than January 15,  
12 1985.

13 SECTION 3. Appropriation. In addition to any other  
14 appropriation, there is hereby appropriated, out of any moneys  
15 in the state treasury not otherwise appropriated, to the  
16 department of corrections, the sum of sixty thousand dollars  
17 (\$60,000.00), or so much thereof as may be necessary, to fund  
18 the study which is authorized by this act. The moneys  
19 appropriated shall become available on passage of this act and  
20 shall remain available until expended or until July 1, 1985,  
21 whichever occurs earlier.

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

BILL 26

A BILL FOR AN ACT

1 CONCERNING COSTS INCURRED BY REASON OF THE HOUSING OF PERSONS  
2 IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS, AND  
3 RELATING TO CONTRACTS FOR HOUSING SUCH PERSONS, AND  
4 REIMBURSEMENT OF COUNTIES THEREFOR.

---

Bill Summary

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

Enables the executive director of the department of corrections to negotiate contracts for the housing of prisoners in its custody with city or county jails within the state of Colorado.

Requires that counties be reimbursed by the department of corrections for actual costs incurred: In holding persons sentenced to a correctional facility but confined in a county jail prior to transmittal to the facility; in holding persons who are being returned or transferred to a correctional facility or community correctional facility; and in holding a person prior to extradition. Directs such moneys to be placed in the county general fund by the county treasurer.

---

5 Be it enacted by the General Assembly of the State of Colorado:  
6 SECTION 1. 17-1-105 (1), Colorado Revised Statutes, 1978  
7 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW

1 PARAGRAPH to read:

2 17-1-105. Powers of executive director. (1) (d) The  
3 power to negotiate contracts for the housing of persons  
4 committed to the care and custody of the executive director in  
5 city or county jails located within the state consistent with  
6 state fiscal rules and pursuant to such rules and regulations  
7 as he may deem appropriate.

8 SECTION 2. Article 1 of title 17, Colorado Revised  
9 Statutes, 1978 Repl. Vol., as amended, is amended BY THE  
10 ADDITION OF A NEW SECTION to read:

11 17-1-112. Costs - reimbursement by department of  
12 corrections. (1) The department shall reimburse any county  
13 for expenses incurred by that county in the confinement and  
14 maintenance of any person sentenced to a term of imprisonment  
15 in a correctional facility, following such sentence but prior  
16 to the person's transmittal to the correctional facility.  
17 Such reimbursement shall be made according to the terms  
18 negotiated by the department and the county.

19 (2) The department shall reimburse any county for  
20 expenses incurred by that county in the confinement and  
21 maintenance of any person sentenced to a correctional facility  
22 or sentenced to a community correctional facility or program,  
23 as defined in section 17-27-102 (1), who is confined in a  
24 county jail pending or during proceedings to return or  
25 transfer such person to a correctional facility or community  
26 correctional facility.

1           (3) The department shall reimburse any county for  
2 expenses incurred by that county in the confinement and  
3 maintenance of any person imprisoned in a correctional  
4 facility, who is subsequently released from such facility and  
5 confined in a county jail pending disposition of extradition  
6 proceedings under article 19 of title 16, C.R.S.

7           (4) Any moneys to which a county is entitled pursuant to  
8 the provisions of this section shall be paid to the county  
9 treasurer and deposited by him in the general fund of the  
10 county and accounted for as provided in part 7 of article 10  
11 of title 30, C.R.S.

12           SECTION 3. Effective date - applicability. This act  
13 shall take effect on July 1, 1984, and shall apply to persons  
14 in the custody of the department of corrections on or after  
15 said date.

16           SECTION 4. 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.

LEGISLATIVE COUNCIL  
COMMITTEE ON LEGISLATIVE PROCEDURES

Members of the Committee

Sen. Ted Strickland, Chairman	Rep. David Skaggs
Rep. Carl "Bev" Bledsoe, Vice Chairman	Rep. Ronald Strahle
Sen. Dan Noble	
Sen. Ron Stewart	

Council Staff

Tina Walls  
Senior Analyst

Legislative  
Drafting Staff

Becky Lennahan Assistant Director	Pat Boyle Staff Attorney
--------------------------------------	-----------------------------

## SUMMARY OF RECOMMENDATIONS

The interim Committee on Legislative Procedures was appointed by the Colorado Legislative Council on June 21, 1983, to study and examine the procedures of the legislative branch of government and to submit recommendations to the council and the General Assembly. The committee's recommendations are outlined below.

### Resolution and Bills

Resolution 3 removes from Joint Rule 23 the 137th day deadline for reconvening for adjournment sine die during the even-year session.

Resolution 4 repeals and reenacts Joint Rule 33 concerning the summoning of witnesses. The resolution sets forth the procedure for issuing and serving subpoenas by the General Assembly or its committees or by the Legislative Council when the General Assembly is not in session.

Bill 27 provides procedures for the issuance of subpoenas by the General Assembly or one of its committees during the session or at other times by the Legislative Council or one of its committees. The act of contempt of the General Assembly is defined and the punishment is provided for such charge. Also the bill authorizes the legislature to access the courts to compel obedience to legislative subpoenas; permits the courts to limit the scope of subpoenas and to prescribe the terms and conditions under which evidence is received; and provides criminal penalties both for witnesses who fail to respond when summoned and for contempt of the General Assembly.

### Miscellaneous Legislative Matters

The committee recommends the following miscellaneous matters related to the legislative branch of government:

1. Authorize the expenditure of funds for a new chiller for the capitol complex to expand the chiller capacity available when the state museum building is remodeled;
2. Allow the Legislative Council staff to assemble a picture gallery of the house and senate members from 1876 to the present. The pictures will be displayed in the senate and house committee rooms and hallways;
3. Implement a new committee schedule for the 1984 legislative session (see Appendix A);
4. Change the procedure for distributing enacted bills during the

interim.

5. Reserve the old supreme court chambers for afternoon legislative committee meetings during the session;
6. Remove the vending machines on the second floor because of lack of use; and
7. As a part of the legislative bill service, provide copies of engrossed and revised bills on a first come basis, and eliminate the pay copier.



## COMMITTEE ON LEGISLATIVE PROCEDURES

Deadline to reconvene for adjournment sine die. Currently Joint Rule 23 designates the 137th legislative day as the deadline to reconvene for adjournment sine die during the even-year session. This deadline was selected to target a date for the General Assembly to receive notice concerning the governor's actions on bills passed by the General Assembly. Also the deadline allows the General Assembly to enact legislation prior to the 140 day constitutional limitation approved by the voters in November, 1982. The deadlines for reconvening for adjournment and adjournment sine die were adjusted during the 1983 legislative session (House Joint Resolution 1014).

Deleting the 137th day deadline provides flexibility when determining the date for reconvening for adjournment sine die. This flexibility allows the legislature to adjourn sine die prior to the 140 day constitutional limitation -- see Resolution 3.

Subpoenas, summoning of witnesses, contempt of the General Assembly and punishments. The 1982 interim Committee on Legislative Procedures considered the contradictory language in the statutes and the joint rules of the General Assembly concerning the summoning of witnesses and contempt of the General Assembly. The committee's recommendations, Senate Bill 194 and Senate Joint Resolution 7, were not approved during the 1983 legislative session. The governor vetoed Senate Bill 194 on May 26, 1983. The veto message accompanying the bill stated:

...It is only under extraordinary circumstances that a bill pertaining to the internal procedures governing the conduct of legislative business should warrant executive intervention. Because of its over-breadth and the potential it contains for possible abuse, I believe Senate Bill 194 represents that extraordinary situation requiring my disapproval.

This sweeping legislation authorizes in camera legislative hearings and provides for legislative findings based on subpoenaed testimony enforced by contempt powers. Of special concern is the provision...which mandates the destruction of evidence gathered through this process after one year, thereby thwarting judicial review in subsequent criminal and civil proceedings....

Senate Joint Resolution 7, the companion change to the joint rules, was postponed indefinitely on June 20, 1983.

The committee again reviewed the statutes and joint rule relating to this subject and recommends Joint Resolution 3 and Bill 27. The resolution repeals and reenacts Joint Rule 33 concerning the summoning of witnesses and specifies procedures for issuing a subpoena. Subpoenas may be issued to summon a person to appear before a

legislative committee with or without documents. The primary provisions are listed below.

- Committees may be vested by the General Assembly or the Legislative Council, during the interim, with the authority to issue a subpoena, take testimony under oath, and assemble records, documents, and other evidence by subpoena duces tecum.
- Subpoenas are required to state the name of the issuing body, the authority for issuing a subpoena, the subject of the inquiry, and that the person serviced is required to attend and testify, with or without documents.
- A sheriff, deputy, or any person eighteen years of age may serve a subpoena.
- Witnesses receive the same fees for attendance and mileage as allowed by law for witnesses in civil cases.
- If a summoned individual believes a subpoena is unreasonable or oppressive, a written request for relief may be submitted to the issuing body.
- A witness may have legal counsel present.
- Subpoenas may be issued only upon the affirmative vote of a majority of a quorum of the issuing body.

Bill 27 provides statutory procedures for: (1) summoning witnesses and documents; (2) a witness to apply to a district court to limit the scope of a subpoena; and (3) the General Assembly to apply to a court to compel obedience to a subpoena and to request the district attorney to prosecute for contempt. The penalty for both refusing to comply with a summons or contempt of the General Assembly is a fine not exceeding \$500 and/or imprisonment in the county jail.

Under Bill 27 the General Assembly or either house may grant authority to a committee to issue a subpoena and take testimony. When the General Assembly is not in session the Legislative Council may vest such power. Also, members of the General Assembly are authorized to administer oaths and affirmations to witnesses. The bill repeals conflicting statutes concerning the procedure for summoning witnesses, the administration of oaths and affirmations to witnesses, punishment of any person who fails or refuses to obey any summons from the General Assembly, and for subpoenas.

#### Other Recommendations

Chiller equipment. In 1982, the committee recommended that a portion of the funds previously appropriated for remodeling the state museum building be used to purchase a 650 ton chiller. The chiller

..as not purchased because the governor restricted the use of the capitol construction fund.

During the 1983 session, Senate Bill 401 appropriated \$2.2 million for remodeling the state museum building. Subsequently, this appropriation was reduced to \$1.2 million in Senate Bill 438. Since \$1.2 million will not adequately remodel the museum building and the current chiller capacity in the capitol complex is insufficient, the committee recommends expending \$550,000 to purchase the chiller equipment. The chiller will provide adequate air conditioning capacity, both for the state museum building when it is remodeled and other buildings in the capitol complex.

Photographs of the house and senate members. The committee recommends that the Legislative Council staff assemble the photographs of the house and senate members who have served in the General Assembly. A partial pictorial history of the senate members is displayed in the ante room of the senate chamber and in the hallway of the senate committee rooms. The committee recommends completing this pictorial history for both houses.

1984 legislative committee schedule. The committee recommends adoption of the committee schedule attached in Appendix A. The new schedule does not significantly change the amount of time available for committee meetings; however, it does allow each committee at least one complete afternoon session. Also, a specific time is specified for committees to commence morning meetings when the General Assembly is not conducting business on the floor.

Distribution of enacted bills during the interim. Because of the large number of requests for enacted bills from the public, the committee recommends the senate services office be the distribution center during the interim. Currently interested persons must contact the house of origin for enacted bills. The committee's recommendation provides one source for enacted bills.

Committee hearings in the old supreme court chambers. Presently the old supreme court hearing room is used for meetings by the General Assembly and other organizations. It is the largest hearing room in the capitol building. Senate committee room 320E and house committee room F are also available for large meetings. On several occasions the old supreme court hearing room was not available to standing committees because it was previously booked by other organizations.

The subject matter of many standing committee meetings attracts a large number of participants. It is difficult for committee members and staff to anticipate the need for a large hearing room. Because of the lack of available large hearing rooms, the committee recommends reserving the old supreme court chamber for afternoon committee meetings. The chamber will continue to be available on a first come basis to other organizations in the mornings during the session and all day during the interim.

Vending machines. The practice of installing vending machines in the hallway west of the senate chamber began during the 1982 session. After two years, the operator of the capitol cafeteria has requested that the machines be removed because of inconsistent use. The committee recommends removing the vending machines.

Legislative bill service. During the previous interim, the committee reviewed the legislative bill service available to the public. In addition to distributing introduced bills, daily calendars and journals, the cumulative subject index and daily status sheet, the committee recommended that the bill service include reengrossed and rerevised bills. This additional service would be available on a first come basis. The policy was implemented in 1983 for boxholders who paid a fee for the bill service.

Upon request, the interim committee considered providing copies of engrossed and revised bills as a part of the bill room service. Staff reported that thirty copies of reengrossed and rerevised bills appear to have been adequate to meet the needs of boxholders. The boxholders now have requested copies of engrossed and revised bills because of the interest in amendments to bills on second reading. The committee recommends providing the same number of engrossed and revised bills as reengrossed and rerevised bills. In addition, the committee finds that the pay copier, first installed for the 1982 session, has been subsidized by the General Assembly because of inconsistent use. The committee recommends discontinuance of this service.

RESOLUTION 3

SENATE JOINT RESOLUTION NO.

1 CONCERNING THE DEADLINE FOR RECONVENING FOR ADJOURNMENT SINE  
2 DIE IN AN EVEN-YEAR SESSION.

3 Be It Resolved by the Senate of the Fifty-fourth General  
4 Assembly of the State of Colorado, the House of  
5 Representatives concurring herein:

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

8 23. DEADLINE SCHEDULE

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

12 Odd-year Session

13 First House  
14 Deadlines:

15 30th day Deadline for bill draft requests to the Legislative  
16 Drafting Office.\*

17 60th day Deadline for the introduction of bills. No bill  
18 delivered by the Legislative Drafting Office on or  
19 before the fiftieth 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 fifty-first legislative day shall be introduced not  
24 later than the sixtieth legislative day.\*

25 80th day Deadline for committees of reference to report  
26 bills originating in their own house.\*

27 95th day Deadline for final passage of bills in the house of  
28 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 175th day Reconvene for adjournment sine die unless earlier  
 9 reconvened by joint notice by the President of the  
 10 Senate and the Speaker of the House of  
 11 Representatives.

12 \*Appropriation bills are excluded from these deadlines.

13 Even-year Session

- 14 First House  
 15 Deadlines:
- 16 10th day Deadline for bill draft requests to the Legislative  
 17 Drafting Office.\*
- 18 30th day Deadline for the introduction of bills. No bill  
 19 delivered by the Legislative Drafting Office on or  
 20 before the twentieth legislative day shall be  
 21 introduced more than ten legislative days after  
 22 such delivery. Any bill delivered by the  
 23 Legislative Drafting Office on or after the  
 24 twenty-first legislative day shall be introduced  
 25 not later than the thirtieth legislative day.\*
- 26 45th day Deadline for committees of reference to report  
 27 bills originating in their own house.\*
- 28 55th day Deadline for final passage of bills in the house of  
 29 introduction.\*

- 30 Second House  
 31 Deadlines:
- 32 70th day Deadline for committees of reference to report  
 33 bills originating in the other house.\*
- 34 80th day Deadline for final passage of all bills originating  
 35 in the other house.
- 36 115th day Deadline for recess.

1 137th-day Reconvene--for--adjournment-sine-die-unless-earlier  
2 reconvened-by-joint-notice-by-the-President-of--the  
3 Senate---and---the---Speaker---of---the---House--of  
4 Representatives:

5 \*Appropriation bills are excluded from these deadlines.

6 (d) The maximum of one hundred forty calendar days  
7 prescribed by section 7 of article V of the state  
8 constitution for regular sessions of the general  
9 assembly convening in even-numbered years shall be  
10 deemed to be one hundred forty consecutive calendar  
11 days.

RESOLUTION 4

SENATE JOINT RESOLUTION NO.

1 CONCERNING LEGISLATIVE SUBPOENAS.

---

Resolution Summary

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

Revises provisions governing the issuance of legislative subpoenas.

---

Be It Resolved by the Senate of the Fifty-fourth General Assembly of the State of Colorado, the House of Representatives concurring herein:

That Joint Rule No. 33 of the Joint Rules of the Senate and House of Representatives is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

33. SUBPOENAS

- (a) (1) The General Assembly or either house thereof may vest in any committee thereof or any legislative committee created by statute or by resolution the power to subpoena witnesses, to take testimony under oath, and to assemble records, documents, and other evidence by subpoena duces tecum or otherwise.
- (2) When the General Assembly is not in session, the legislative council may vest in any interim or other legislative committee established pursuant to statute or resolution the power to subpoena witnesses, to take testimony under oath, and to assemble records, documents, and other evidence by



subpoena duces tecum or otherwise. The power to subpoena vested under this paragraph (2) shall continue until revoked by the General Assembly or the legislative council.

- (b) (1) Whenever a subpoena is issued by the General Assembly, either house thereof, or any committee thereof, such subpoena shall: State the name of the issuing body, the authority under which the subpoena is issued, and the subject of the inquiry and command each person to whom it is issued to attend and give testimony at a time and place specified in such subpoena. A subpoena may also command the person to whom it is directed to produce such books, records, documents, or other tangible evidence as the issuing body may require.
- (2) Service of a subpoena may be made by a sheriff, his deputy, or any other person who is at least eighteen years of age and not interested in the proceeding. Service shall be made by delivering a copy of the subpoena to the person named not later than forty-eight hours before the time specified for appearance in such subpoena unless, for good cause shown, a majority of the issuing body authorizes service within such forty-eight-hour period. The amount of fees for attendance and mileage shall be the same as that allowed by law for witnesses in civil cases and shall be paid after the witness is discharged from further attendance.
- (3) If any person issued a subpoena pursuant to this joint rule believes such subpoena to be unreasonable or oppressive, relief therefrom shall be requested in writing from the issuing body, accompanied by a statement of the reasons for such belief.
- (c) Any witness subpoenaed to give testimony or produce evidence may have legal counsel present to advise him.
- (d) A subpoena shall be signed by the President of the Senate or Speaker of the House of Representatives, or both, or the chairman of a committee, but a subpoena shall be issued only upon the vote of a majority of a quorum of the General Assembly, either house, or the committee, as the case may be.
- (e) The primary purpose of this joint rule is to assist the General Assembly, the houses thereof, and the committees thereof in the performance of their duties through the use of the subpoena power.

BILL 27

A BILL FOR AN ACT

1 CONCERNING LEGISLATIVE PROCEDURES RELATING TO THE SUMMONING OF  
2 WITNESSES AND PUNISHMENTS FOR CONTEMPT.

---

Bill Summary

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

Repeals conflicting existing statutes and provides a single statutory scheme relating to legislative subpoenas, legislative contempt, and legislative investigations. Provides that the general assembly, or either house thereof, may issue subpoenas or vest that power in its committees. (During the interim, the legislative council could vest subpoena powers in interim committees.) Authorizes access to the courts to compel obedience to a legislative subpoena. Permits the courts to limit the scope of subpoenas and to prescribe the terms and conditions under which evidence shall be received. Contemplates the adoption of procedural rules to govern further details relating to legislative investigations. Provides criminal penalties for a witness's failure to respond when summoned and for contempt of the general assembly.

---

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

4 SECTION 1. Article 2 of title 2, Colorado Revised  
5 Statutes, 1980 Repl. Vol., as amended, is amended BY THE  
6 ADDITION OF A NEW PART to read:

7 PART 6

1           LEGISLATIVE PROCEDURES RELATING TO THE SUMMONING OF  
2                   WITNESSES AND PUNISHMENTS FOR CONTEMPT

3           2-2-601. Legislative declaration. The general assembly  
4 hereby declares that this part 6 is enacted under its inherent  
5 legislative powers and under its constitutional powers as  
6 expressed in article III and in section 12 of article V of the  
7 constitution of the state of Colorado. Nothing in this part 6  
8 shall be deemed in any way to limit such powers or to restrict  
9 the general assembly from exercising such powers in any  
10 constitutional manner.

11          2-2-602. Definitions. As used in this part 6, unless  
12 the context otherwise requires:

13           (1) "Committee" or "committee of the general assembly"  
14 includes any committee of the general assembly or of either  
15 house thereof, a subcommittee, an interim committee, or a  
16 committee created by statute or resolution, if all of the  
17 members are members of the general assembly.

18           (2) "Contempt" means the conduct of any person which:

19           (a) Evidences disobedience to the orders, including any  
20 subpoena, of the general assembly, either house thereof, or a  
21 committee thereof; or

22           (b) Interrupts, disturbs, or delays the proceedings of  
23 the general assembly, either house thereof, or a committee  
24 thereof; or

25           (c) Evidences contempt, including, but not limited to,  
26 deception, lies, or insulting or indecorous language or

1 expressions, directed toward and in the presence of the  
2 general assembly or a house, committee, or member thereof and  
3 tending to impair the authority or dignity of the general  
4 assembly, either house thereof, or a committee thereof; or

5 (d) Constitutes a crime or unlawful act committed in the  
6 presence of the general assembly, either house thereof, or a  
7 committee thereof or against the members or property thereof.

8 (3) "Subpoena" includes a subpoena duces tecum.

9 2-2-603. Witnesses - attendance - testimony. (1) The  
10 general assembly, by rule, may prescribe procedures not in  
11 conflict with this part 6, which shall govern the issuance and  
12 enforcement of subpoenas and other matters concerning the  
13 conduct of investigations by the general assembly, either  
14 house thereof, or any committee thereof. Such procedures may  
15 include the taking of testimony through depositions,  
16 interrogatories, or any other method authorized by the  
17 Colorado rules of civil procedure.

18 (2) The general assembly or either house thereof may  
19 issue its subpoena compelling a witness to attend and give  
20 testimony, with or without documents in his possession or  
21 under his control, in a proceeding before the general assembly  
22 or either house thereof. The general assembly or either house  
23 thereof, by resolution or otherwise, as it deems best, may  
24 vest in any committee of the general assembly the power to  
25 issue subpoenas compelling witnesses to attend and give  
26 testimony, with or without documents in their possession or

1 under their control, in a proceeding before such committee.  
2 When the general assembly is not in session, the legislative  
3 council may vest the power to issue such subpoenas in a  
4 subcommittee of the legislative council, any interim  
5 committee, or any other legislative committee established  
6 pursuant to statute or resolution. The issuance of subpoenas  
7 by the general assembly, either house thereof, or any  
8 committee thereof shall be in accordance with the procedures  
9 prescribed pursuant to subsection (1) of this section. When a  
10 subpoena duces tecum directed to a legal entity is properly  
11 served on a representative of that entity, and the things  
12 sought are in the custody of that entity, it shall be no  
13 defense to failure to deliver such things in compliance with  
14 the subpoena that the representative served does not have  
15 personal custody of the things sought.

16 (3) The president of the senate, the speaker of the  
17 house of representatives, or the chairman or any member of any  
18 committee of the general assembly is authorized to administer  
19 oaths and affirmations to witnesses regarding testimony  
20 touching any matter or thing which may be under consideration  
21 or investigation.

22 2-2-604. Protective orders. Any witness or custodian of  
23 records subpoenaed to attend and give testimony before the  
24 general assembly, either house thereof, or a committee thereof  
25 pursuant to this part 6 or a rule enacted pursuant to this  
26 part 6 may apply to a district court for a limitation of the

1 scope of such subpoena. If the court finds the material or  
2 testimony subpoenaed to be irrelevant or privileged or that  
3 its disclosure would be embarrassing, oppressive, or unduly  
4 burdensome, the court may limit the scope of the subpoena,  
5 specify the terms and conditions under which the subpoenaed  
6 testimony or material shall be received by the issuing body,  
7 or take other appropriate action to protect the interests of  
8 the general assembly and the witness or custodian.

9 2-2-605. Violation - penalty. (1) Any person summoned  
10 as a witness by the general assembly, either house thereof, or  
11 a committee thereof who willfully fails or refuses to appear  
12 or, having appeared, willfully refuses to be sworn, to  
13 testify, to produce evidence, or to answer any material and  
14 pertinent question in obedience to such summons is guilty of a  
15 misdemeanor and, upon conviction thereof, shall be punished by  
16 a fine of not more than five hundred dollars, or by  
17 imprisonment in the county jail for not more than one year, or  
18 by both such fine and imprisonment.

19 (2) Any person who evidences contempt for the general  
20 assembly by committing any act described in section 2-2-602  
21 (2) is guilty of a misdemeanor and, upon conviction thereof,  
22 shall be punished as provided in subsection (1) of this  
23 section.

24 (3) This section shall not limit or affect in any manner  
25 the inherent legislative powers or the constitutional powers  
26 of the general assembly to punish for contempt.

1           2-2-606. Application to the courts and district attorney  
2 by the general assembly, either house thereof, or a committee  
3 thereof in relation to subpoena or general contempt  
4 proceedings. (1) The general assembly, either house thereof,  
5 or a committee thereof may apply to a district court to compel  
6 obedience to a subpoena whether disobedience has actually  
7 occurred or is threatened.

8           (2) The general assembly, either house thereof, or a  
9 committee thereof may apply to a district attorney for  
10 prosecution of contempt of the general assembly, either house  
11 thereof, or a committee thereof.

12           (3) Any refusal or failure to obey a lawful order of the  
13 district court issued pursuant to subsection (1) of this  
14 section may be held by such court to be a contempt thereof. A  
15 contempt proceeding shall be commenced by an order to show  
16 cause before the court why the person refusing or failing to  
17 obey the court order should not be held in contempt of court.  
18 Such contempt proceeding shall be tried by the court and shall  
19 be summary in manner.

20           (4) Process in any action commenced in a court pursuant  
21 to this section shall be served in the manner provided by law  
22 and the Colorado rules of civil procedure.

23           (5) No action brought by the district attorney or  
24 sanction imposed by a district court pursuant to this section  
25 shall abate upon adjournment sine die by the general assembly  
26 if the general assembly, either house thereof, or a committee

1           2-2-606. Application to the courts and district attorney  
2 by the general assembly, either house thereof, or a committee  
3 thereof in relation to subpoena or general contempt  
4 proceedings. (1) The general assembly, either house thereof,  
5 or a committee thereof may apply to a district court to compel  
6 obedience to a subpoena whether disobedience has actually  
7 occurred or is threatened.

8           (2) The general assembly, either house thereof, or a  
9 committee thereof may apply to a district attorney for  
10 prosecution of contempt of the general assembly, either house  
11 thereof, or a committee thereof.

12           (3) Any refusal or failure to obey a lawful order of the  
13 district court issued pursuant to subsection (1) of this  
14 section may be held by such court to be a contempt thereof. A  
15 contempt proceeding shall be commenced by an order to show  
16 cause before the court why the person refusing or failing to  
17 obey the court order should not be held in contempt of court.  
18 Such contempt proceeding shall be tried by the court and shall  
19 be summary in manner.

20           (4) Process in any action commenced in a court pursuant  
21 to this section shall be served in the manner provided by law  
22 and the Colorado rules of civil procedure.

23           (5) No action brought by the district attorney or  
24 sanction imposed by a district court pursuant to this section  
25 shall abate upon adjournment sine die by the general assembly  
26 if the general assembly, either house thereof, or a committee



1     thereof certifies to the court that it maintains its interest  
2     in the matter.

3             (6) If any action is brought pursuant to this section,  
4     the court shall assign the action for hearing at the earliest  
5     practicable date and cause the action in every way to be  
6     expedited. Any appeal or petition for review from any order  
7     or judgment in such action shall be expedited in the same  
8     manner.

9             SECTION 2. 24-72-202 (6), Colorado Revised Statutes,  
10     1982 Repl. Vol., is amended to read:

11             24-72-202. Definitions. (6) "Public records" means and  
12     includes all writings made, maintained, or kept by the state  
13     or any agency, institution, or political subdivision thereof  
14     for use in the exercise of functions required or authorized by  
15     law or administrative rule or involving the receipt or  
16     expenditure of public funds. It does not include criminal  
17     justice records which are subject to the provisions of part 3  
18     of this article OR RECORDS SUBPOENAED BY THE GENERAL ASSEMBLY,  
19     EITHER HOUSE THEREOF, OR A COMMITTEE THEREOF AND DESIGNATED BY  
20     A DISTRICT COURT AS EXEMPT FROM THIS PART 2 PURSUANT TO  
21     SECTION 2-2-604, C.R.S.

22             SECTION 3. Repeal. 2-2-313, 2-2-314, 2-2-315, 2-2-406,  
23     and 2-3-306, Colorado Revised Statutes, 1980 Repl. Vol., are  
24     repealed.

25             SECTION 4. Safety clause. The general assembly hereby  
26     finds, determines, and declares that this act is necessary

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

APPENDIX A

1984 Legislative Session

MORNING SENATE COMMITTEE SCHEDULE\*

Senate Committee Room	<u>Monday</u> 10:00 a.m. to 12:00 noon	(Category 1) <u>Tuesday</u> 9:00 a.m. to 11:30 a.m.	(Category 2) <u>Wednesday</u> 9:00 a.m. to 11:30 a.m.	(Category 3) <u>Thursday</u> 9:00 a.m. to 11:30 a.m.	<u>Friday</u>
320A	10:00 a.m. FLOOR ACTION FOR SECOND READING	Business Affairs and Labor Chrm: Staff:	HEWI Chrm: Staff:	Education Chrm: Staff:	11:00 a.m.-12:00 p.m. FLOOR ACTION FOR THIRD READING  The Legislative Audit Committee will meet 1st and 3rd Fridays, 8:00-11:00 a.m., in House Committee Room D; and the Legal Services Committee will meet 1st and 3rd Fridays, 8:00-11:00 a.m., in House Committee Room E.
320B		State Affairs Chrm: Staff:	Local Government Chrm: Staff:	Agriculture Chrm: Staff:	
320C		Judiciary Chrm: Staff:	Transportation Chrm: Staff:	Finance Chrm: Staff:	
320E					

\* The Joint Budget Committee will meet in Room 341 from 9:30 - 11:30 a.m., Tuesday through Thursday.

1984 Legislative Session

AFTERNOON SENATE COMMITTEE SCHEDULE\*

Senate Com- mittee Room	(Category 1) Monday 1:30 p.m. to 5:00 p.m.	(Category 3) Tuesday 2:00 p.m. to 5:00 p.m.	(Category 1) Wednesday 1:30 p.m. to 5:00 p.m.	(Category 2) Thursday 1:30 p.m. to 5:00 p.m.	(Category 4)** Friday
----------------------------------	---	--	--	---	--------------------------

320A	Business Affairs and Labor Chrm:  Staff:	Education Chrm:  Staff:	Business Affairs and Labor Chrm:  Staff:	HEWI Chrm:  Staff:	
320B	State Affairs Chrm:  Staff:	Agriculture Chrm:  Staff:	State Affairs Chrm:  Staff:	Local Government Chrm:  Staff:	
320C	Judiciary Chrm:  Staff:	Finance Chrm:  Staff:	Judiciary Chrm:  Staff:	Transportation Chrm:  Staff:	
320E					

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

\*\* The Committee on Appropriations is considered a Category 4 committee.

1984 Legislative Session

MORNING HOUSE COMMITTEE SCHEDULE\*

House Committee Room	<u>Monday</u> 10:00 a.m. to 12:00 noon	(Category 1) <u>Tuesday</u> 9:30 a.m. to 12:00 noon	(Category 2) <u>Wednesday</u> 9:30 a.m. to 12:00 noon	(Category 3) <u>Thursday</u> 9:30 a.m. to 12:00 noon	<u>Friday</u>
B	10:00 a.m. FLOOR ACTION FOR SECOND READING	Business Affairs and Labor Chrm: Staff:	HEWI Chrm: Staff:	Transportation and Energy Chrm: Staff:	
C		State Affairs Chrm: Staff:	Education Chrm: Staff:	Finance Chrm: Staff:	
D		Judiciary Chrm: Staff:	Local Government Chrm: Staff:	Agriculture, Livestock, and Natural Resources Chrm: Staff:	Legislative Audit Committee 1st & 3rd Fridays of each month 8:00-11:00 a.m.
E					Legal Services Committee 1st & 3rd Fridays of each month 8:00-11:00 a.m.
F					11:00-12:00 pm FLOOR ACTION FOR THIRD READING

\* The Joint Budget Committee will meet in Room 341 from 9:30 - 11:30 a.m., Tuesday through Thursday.

1984 Legislative Session

AFTERNOON HOUSE COMMITTEE SCHEDULE\*

House Com- mittee Room	(Category 2) Monday 1:30 p.m. to 5:00 p.m.	(Category 1) Tuesday 2:00 p.m. to 5:00 p.m.	(Category 3) Wednesday 1:30 p.m. to 5:00 p.m.	(Category 1) Thursday 1:30 p.m. to 5:00 p.m.	(Category 4)** Friday 1:30 p.m. to 5:00 p.m.
---------------------------------	---	--	--	---	---

B	HEWI Chrm:  Staff:	Business Affairs and Labor Chrm:  Staff:	Transportation and Energy Chrm:  Staff:	Business Affairs and Labor Chrm:  Staff:	
C	Education Chrm:  Staff:	State Affairs Chrm:  Staff:	Finance Chrm:  Staff:	State Affairs Chrm:  Staff:	
D	Local Government Chrm:  Staff:	Judiciary Chrm:  Staff:	Agriculture Livestock, and Natural Resources Chrm:  Staff:	Judiciary Chrm:  Staff:	
E					
F					

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

\*\* The Committee on Appropriations is considered a Category 4 committee.

LEGISLATIVE COUNCIL  
EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL  
SUNSET REVIEWS

Members of the Committee

Sen. Ted Strickland, Chairman	Rep. David Skaggs
Rep. Carl "Bev" Bledsoe, Vice Chairman	Rep. Ronald Strahle
Sen. Dan Noble	
Sen. Ronald Stewart	

Council Staff

Tina Walls  
Senior Analyst

Legislative  
Drafting Staff

George Bogart  
Staff Attorney

## SUMMARY OF RECOMMENDATIONS

Pursuant to section 24-34-104, C.R.S., the Legislative Council, on June 21, 1983, directed the executive committee of the Legislative Council to conduct public hearings on the continuation of the Department of Regulatory Agencies' divisions of banking, savings and loan, and securities. The public hearings were held on October 25 and 26, 1983. As a part of the hearing process, the committee reviewed the sunset reports submitted by the department and received testimony from the department, the commissioner of each division, and interested persons.

Each division's sunset report, submitted by the department, contains both an evaluation and analysis of its performance and recommendations for statutory changes. Copies of the sunset reports are available for inspection in the Legislative Council office.

Testimony concerning continuation and suggested statutory changes was presented by the executive director of the department, the commissioner of each division, and interested persons. Testimony differed on which suggested statutory changes listed in the sunset reports were necessary. However, all testimony presented to the committee supported continuation of the divisions. In addition, individuals who testified suggested that the General Assembly consider studying the current statutes and administrative operations of the divisions during the 1984 interim.

### Committee Recommendations

After reviewing the sunset reports submitted by the Department of Regulatory Agencies for the divisions of banking, savings and loan, and securities, and considering the testimony presented, the executive committee recommends that these divisions be continued.

Bill 28 -- continues the Division of Banking until July 1, 1993.

Bill 29 -- continues the Division of Savings and Loan until July 1, 1993.

Bill 30 -- continues the Division of Securities until July 1, 1993.

### Other Matters Relating to the Sunset Reviews

The executive committee also considered the statutory changes listed in the sunset reports submitted by the department. The committee does not recommend any bills which amend the current statutes of these divisions because the testimony differed on what changes are necessary. Also, the department reports that sponsors have been obtained for several of the suggested statutory changes.



The department requested that the executive committee consider cash funding of all divisions of the department, except the Civil Rights Commission. Most divisions and sections in the department are cash funded. Presently, the only divisions or sections in the department receiving general fund appropriations are the Division of Banking, the Division of Savings and Loan, the Division of Insurance, the Racing Commission, the Civil Rights Commission, and the Office of Regulatory Reform. The department does not recommend cash funding the Civil Rights Commission because it does not collect any fees.

The Division of Banking's sunset reports states, in part:

Several fees paid to the division ... e.g., the five dollar credit union application fee, are established in statute and have not been amended for years. ...the current fees do not cover the division's administrative costs. Those fees which are not set in statute are continually adjusted to cover related division expenses.

The department recommended that the executive committee consider cash funding the agencies in the department so that fees paid by those regulated would cover the actual cost of regulating and the indirect costs associated with administrative services.

Because the Legislative Council specifically directed the executive committee only to consider the issue of continuation, the executive committee suggests that the Legislative Council consider the issue of cash funding all divisions within the Department of Regulatory Agencies, except the Civil Rights Commission.

BILL 28

A BILL FOR AN ACT

1 CONCERNING THE CONTINUATION OF THE DIVISION OF BANKING.

---

Bill Summary

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

Provides a new termination date for the division of banking.

---

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

3 SECTION 1. 24-34-104 (22) (a), Colorado Revised  
4 Statutes, 1982 Repl. Vol., as amended, is amended BY THE  
5 ADDITION OF A NEW SUBPARAGRAPH to read:

6 24-34-104. General assembly review of regulatory  
7 agencies for termination, continuation, or reestablishment.

8 (22) (a) (IV) The division of banking, created by article 2  
9 of title 11, C.R.S.

10 SECTION 2. Repeal. 24-34-104 (13) (a), Colorado Revised  
11 Statutes, 1982 Repl. Vol., as amended, is repealed.

12 SECTION 3. Effective date. This act shall take effect

1 July 1, 1984.

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

BILL 29

A BILL FOR AN ACT

1 CONCERNING THE CONTINUATION OF THE DIVISION OF SAVINGS AND  
2 LOAN.

---

Bill Summary

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

Provides a new termination date for the division of savings and loan.

---

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

4 SECTION 1. 24-34-104 (22) (a), Colorado Revised  
5 Statutes, 1982 Repl. Vol., as amended, is amended BY THE  
6 ADDITION OF A NEW SUBPARAGRAPH to read:

7 24-34-104. General assembly review of regulatory  
8 agencies for termination, continuation, or reestablishment.

9 (22) (a) (IV) The division of savings and loan, created by  
10 article 44 of title 11, C.R.S.

11 SECTION 2. Repeal. 24-34-104 (13) (b), Colorado Revised  
12 Statutes, 1982 Repl. Vol., as amended, is repealed.

1           SECTION 3. Effective date. This act shall take effect  
2 July 1, 1984.

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

BILL 30

A BILL FOR AN ACT

1 CONCERNING THE CONTINUATION OF THE DIVISION OF SECURITIES.

---

Bill Summary

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

Provides a new termination date for the division of securities.

---

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

3 SECTION 1. 24-34-104 (22) (a), Colorado Revised  
4 Statutes, 1982 Repl. Vol., as amended, is amended BY THE  
5 ADDITION OF A NEW SUBPARAGRAPH to read:

6 24-34-104. General assembly review of regulatory  
7 agencies for termination, continuation, or reestablishment.

8 (22) (a) (IV) The division of securities, created by article  
9 51 of title 11, C.R.S.

10 SECTION 2. Repeal. 24-34-104 (13) (c), Colorado Revised  
11 Statutes, 1982 Repl. Vol., as amended, is repealed.

12 SECTION 3. Effective date. This act shall take effect

1 July 1, 1984.

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

LEGISLATIVE COUNCIL  
COMMITTEE ON HAZARDOUS WASTE

Members of the Committee

Rep. William Artist,  
Chairman  
Sen. Martha Ezzard,  
Vice Chairman  
Sen. Polly Baca  
Sen. Joel Hefley  
Sen. Harvey Pehls  
Sen. Ray Powers

Rep. Annabelle Dunning  
Rep. Jack Fenlon  
Rep. Faye Fleming  
Rep. John Herzog  
Rep. Sandy Hume  
Rep. Don Mielke  
Rep. Ruth Wright

Council Staff

Stanley Elofson  
Principal Analyst

Deborah Godshall  
Senior Analyst

Legislative  
Drafting Staff

John Berry  
Staff Attorney



## SUMMARY OF RECOMMENDATIONS

Senate Joint Resolution No. 19, 1983 session, directed the Committee on Hazardous Waste to study possible alternative ways to dispose of hazardous waste within the state, including, but not limited to:

- (a) Methodology of waste disposal;
- (b) Determination of appropriate site location;
- (c) Appropriate and technologically proven safe methods of disposal;
- (d) Geographically and geologically appropriate areas for such disposal; and
- (e) Achievement of acceptance by local and affected residents.

In addition to the S.J.R. 19 directives, the committee considered other topics of importance in regulating hazardous waste in Colorado. These issues included: the types of hazardous waste which can be regulated in Colorado; state participation in federal "superfund" legislation -- the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980"; the creation and financing of a state superfund; and the technology for prohibiting or phasing-out the land burial of certain hazardous wastes.

The committee held four meetings during the interim and recommends the eight bills summarized below.

### Definitions

Bill 31 clarifies the state's authority to prepare its own list of wastes which the state determines to be hazardous. Current law provides that a "hazardous waste" does not include any waste or other materials exempted or otherwise not regulated as a hazardous waste under the federal act. This provision would be repealed.

### Amendments to the "State Hazardous Waste Siting Act"

Bill 32. The Committee on Hazardous Waste Regulation has been established to develop and formulate rules and regulations to be forwarded to the board of health (Section 25-15-302, C.R.S.). This bill directs the committee to prepare rules and regulations for promulgation by the state board to phase-out the land disposal of highly mobile, toxic, and persistent wastes and wastes which tend to bioaccumulate. These regulations are to be developed by July 1, 1986 and are to specifically address cyanide wastes, toxic metal wastes, polychlorinated biphenyls, and wastes containing halogenated organic compounds.

Bill 33 addresses fees for a hazardous waste disposal site. It provides that when the costs for processing an application for a certificate of designation exceed the \$50,000 fee established by statute, the additional costs are to be paid by the person seeking the certificate. Further, the annual fee paid by the operator of a hazardous waste disposal site is to be established by mutual agreement between the site operator and the applicable governing body within a range of two to eight percent of the annual estimated gross revenue.

#### Amendments to Hazardous Waste Management Program Law

Bill 34 directs the State Board of Health to promulgate rules and regulations for a graduated fee system imposed upon the operator of a hazardous waste treatment, storage, or disposal site. Fees are to be based upon the quantity and degree of hazard of the waste and whether the waste is to be treated, stored, or disposed of at the location. These regulations are to be in effect by July 1, 1985. The bill also enables the department to use the fees to cover the costs of investigation of violations, case preparation, and enforcement.

Bill 35 directs the Committee on Hazardous Waste Regulation to formulate rules for the regulation of facilities which reclaim and recycle hazardous wastes. Suggestions of this committee are submitted to the State Board of Health for promulgation.

Bill 36 permits the Public Utilities Commission to issue orders, seek injunctions, or take other action to reduce or eliminate the hazard if informed that the transportation of hazardous materials presents an imminent and substantial danger to human health, public safety, or the environment.

Bill 37 provides that the Committee on Hazardous Waste Regulation may establish fees, subject to board of health approval, to be paid by generators and transporters of hazardous waste to offset program costs. Under current law, all fees are paid by the operator of treatment, storage, or disposal facilities.

#### Superfund

Bill 38 authorizes the Colorado Department of Health to participate in the federal implementation of the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" (superfund). It mandates that state payments required by a cooperative agreement entered into with the federal government be approved by and be subject to appropriation by the General Assembly.

## MANAGEMENT OF HAZARDOUS WASTES

### Federal Resource Conservation and Recovery Act of 1976

The United States Congress enacted the "Resource Conservation and Recovery Act" (RCRA) in 1976 as an amendment to the existing "Solid Waste Disposal Act." Subtitle C of the act, "Hazardous Waste Management," established a national program to regulate hazardous wastes from "cradle to grave," that is, from generation through final disposal. The United States Environmental Protection Agency (EPA) was directed by RCRA to promulgate regulations for the implementation of this program. Regulations were subsequently promulgated in the following areas:

- identification and listing of hazardous waste, taking into account toxicity, persistence and degradability in nature, potential for accumulation in tissue, flammability, and corrosiveness;
- recordkeeping, labeling, packaging, transportation, and use of a waste tracking system for generators and transporters;
- for owners and operators of hazardous waste treatment, storage, and disposal facilities, requirements for recordkeeping, compliance with the waste tracking system, design and operating standards, as well as preparation of emergency response contingency plans, and qualifications as to ownership, continuity of operation, training of personnel, and financial responsibility;
- issuing permits for treatment, storage, or disposal facilities, both new and existing; and
- authorizing state hazardous waste programs.

State administered programs. The "Resource Conservation and Recovery Act" provides that states may be authorized by the Environmental Protection Agency to carry out a hazardous waste program in lieu of the federal program. State programs must be equivalent to the federal program, be consistent with the federal program or state programs applicable in other states, and provide adequate enforcement of program requirements. State requirements may not be less stringent than those authorized by Subtitle C and rules promulgated thereunder by the EPA.

The federal law also provided that states which had their own hazardous waste program in effect on August 18, 1980, could be eligible to receive temporary authorization to carry out respective programs. If a state chooses not to carry out an authorized program, the EPA is to administer the federal program in that state.

Colorado did not have a statutory hazardous waste program as of August 18, 1980, thus was not eligible to receive interim authorization. Region VIII Environmental Protection Agency officials have been responsible for the administration of the major portion of the federal program in Colorado since November 19, 1980, the effective date of the initial EPA rules and regulations pertaining to hazardous waste.

### Colorado's Hazardous Waste Law

Since the inception of the federal hazardous waste regulatory program, the Colorado General Assembly has enacted two major bills respecting the regulation of hazardous waste: Senate Bill 519, 1981 session, and Senate Bill 282, 1983 session.

Senate Bill 519. Originally, Senate Bill 519 established a mechanism for the siting of hazardous waste disposal facilities and for the eventual assumption of the hazardous waste management program from EPA. The law required that the operator of a new hazardous waste disposal site obtain a certificate of designation from the local government entity in which the site is proposed to be located. The law delineated an application procedure, directed the Colorado Department of Health to review the application for compliance with its rules and regulations, and required a public hearing. A local government could deny an application for a certificate of designation if the site conflicted with local land use plans or regulations, if the site would pose a substantial threat to the public safety taking into consideration specified factors, or if the site would not conform to rules and regulations of the board of health.

Senate Bill 519 authorized the State Board of Health to promulgate regulations establishing criteria for the engineering design and operation of hazardous waste disposal sites. Regulations could extend to: the protection of surface and subsurface waters, suitable soil characteristics, distance from waste generation centers, access routes, distance from water wells, on-site traffic control patterns, insect and rodent control, methods of waste compaction, confinement of windblown debris, fire prevention, and final closure.

S.B. 519 designated the state Department of Health as the state agency responsible for a state hazardous waste program and authorized it to assume from the EPA the administration of a comprehensive program of hazardous waste regulation. The statutory authorization for a state program would become effective July 1, 1983, or the date upon which the state Department of Health received final federal authorization to conduct the state hazardous waste program in lieu of the federal program, whichever is later. The department's statutory powers included: issuing permits for treatment, storage, and disposal facilities; inspecting such operations; enforcing the limitations and conditions of permits; assuring that all generators, transporters, storers, treaters, and disposers of hazardous waste have received appropriate identification by the department; mandating the use of a

manifest system; and insuring that disposers provide periodic reports on wastes manifested.

A committee on hazardous waste regulation was created to formulate, and to forward to the state board for promulgation, rules and regulations for the implementation of a comprehensive state program.

Senate Bill 282. With the enactment of Senate Bill 282 (1983), major changes were made in both the siting and regulatory provisions contained in the 1981 law. In part, Senate Bill 282:

- changes the definition of "hazardous waste disposal" to exclude recycling or other treatment and to include off-site surface impoundments which are not part of a sewage treatment works or a feedlot operation;
- authorizes the Committee on Hazardous Waste Regulation to develop rules and regulations which phase-out the land disposal of highly mobile, toxic, and persistent waste;
- increases to \$50,000 the maximum fee required to be submitted with an application for a certificate of designation and provides for allocating a portion of the application fee to state agencies involved in the siting decision;
- requires the Geological Survey to review each application and issue a recommendation on the geologic suitability of a proposed site;
- requires the Department of Health to issue findings of fact on the technical points of each application;
- amends the criteria upon which a county or municipality may approve an application to include requirements that: (a) the department must issue a favorable recommendation on the application; (b) that the applicant must demonstrate a need for the facility by Colorado hazardous waste generators; and (c) that the applicant has the financial and management ability to operate the facility;
- authorizes the jurisdiction which granted a certificate of designation to revoke or suspend such certificate for specified causes;
- fixes the annual fee required to be paid to the county or municipality at two percent of the annual estimated gross revenue of the facility and provides that the fee collected be allocated to governmental units to offset their cost of increased services caused by the site;
- requires regular inspections of hazardous waste disposal sites by a department chemist during business hours; and

- increases the maximum civil penalty for a violation of the siting act from \$500 to \$10,000 per day of violation.

State siting council. An alternative means of approving a hazardous waste disposal site is included in Senate Bill 282. If an application for a certificate of designation for a site sufficient to meet the needs of the state, or capable of handling 40,000 tons of hazardous waste annually, whichever is less, is not approved by May 1, 1985, the governor is directed to appoint a state siting council. Authority is given to this council to approve a certificate of designation, subject to specified conditions and limitations.

The authority of this council exists until November 1, 1985, and only extends to those applications for a certificate of designation made to a county or municipality between July 1, 1981, and May 1, 1984, for which approval was recommended by the Department of Health. (On August 15, 1983, the Adams County Board of County Commissioners granted a certificate of designation and a conditional land use permit to the Highway 36 Land Development Company to operate a hazardous waste disposal facility in Adams County.)

In addition to the siting provisions, S.B. 282 also amended the state hazardous waste management program statutes. These amendments are intended to regulate persons generating, transporting, treating, storing, and disposing of hazardous waste if the state receives approval to assume the federal hazardous waste management program. The bill:

- provides that the state's hazardous waste rules may be more stringent than the corresponding federal rules;
- expands and clarifies the scope of rule-making authority to conform with federal requirements; and
- directs the Committee on Hazardous Waste Regulation to prepare rules and regulations for categories of hazardous wastes and hazardous waste management practices based on degree of hazard considerations.

#### Status of Colorado's Hazardous Waste Regulatory Program

The Committee on Hazardous Waste Regulation was directed to formulate rules and regulations for a state hazardous waste management program for submission to the State Board of Health. The existing regulations were developed by the committee and were adopted by the state board. The Colorado Department of Health has forwarded Colorado's regulations to the Environmental Protection Agency for review. Approval of the state program is expected by mid-1984.

## REMEDIATION OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES

### Federal Comprehensive Environmental Response, Compensation, and Liability Act

In 1980, the United States Congress enacted Public Law 96-510, the "Comprehensive Environmental Response, Compensation, and Liability Act" (CERCLA). The stated goals of this federal law -- commonly referred to as "superfund" -- include: an inventory of inactive hazardous waste sites; a priority listing of the sites based on their relative danger; a response program to contain dangerous releases from inactive hazardous waste sites; the elimination of these sites; and a systematic program of funding to identify, evaluate, and take responsive actions at inactive hazardous waste sites.

Under this act, the EPA, in conjunction with the states, is to establish, and periodically update, a national priority list of inactive hazardous waste sites. In those situations where an imminent and substantial danger to the public health or environment exists, the EPA is authorized to take emergency action to abate the problem. With respect to sites which may present an unreasonable risk to public health or the environment, EPA is directed to relocate, contain, clean-up, or take other remedial action regarding hazardous waste at the inactive site. A Hazardous Substances Response Trust Fund, comprised of fees, penalties, cost recovery monies, and appropriations, was created to finance superfund activities.

Sites may receive federal monetary assistance from the trust fund if the state in which the site is located agrees to pay a percentage of the cost of the clean-up, assures the availability of a hazardous waste disposal facility for any necessary disposal of hazardous substances, and pays all costs of long term maintenance. The amount of federal assistance may vary, but the usual commitment would be 90 percent federal/10 percent state for the initial clean-up.

### Colorado Law Regarding State Participation in CERCLA

In 1981, the General Assembly enacted House Bill 1558 designating the Colorado Department of Health as the responsible state agency for state participation in the federal superfund program. The department was authorized to participate in the selection and performance of responses and remedial actions, and to enter into cooperative agreements with the federal government providing for such activities. House Bill 1095 (1982) continued the department's role in the federal program until July 1, 1983, at which time the department's authorization to participate lapsed.

## HAZARDOUS SUBSTANCE INCIDENTS

To protect the public from the risks associated with the spilling, dumping, or abandonment of hazardous substances, the General Assembly has enacted legislation for a statewide system to respond to hazardous substance incidents. <sup>1/</sup> The term "hazardous substances" means hazardous materials, wastes and substances designated under the federal Department of Transportation regulations as well as wastes designated under federal superfund legislation. The definition thus includes more substances than those listed as hazardous wastes.

The hazardous substance incidents law -- title 29, article 22, C.R.S. -- directs the governing body of municipalities to designate an emergency response authority. The designated authority is to provide the initial emergency action necessary to minimize the effects of an incident occurring within its jurisdiction. Boards of county commissioners designate the response authority for incidents in the unincorporated portion of the county, and the Colorado State Patrol is responsible for incidents on federal, state, or county highways in unincorporated areas. The Department of Health is authorized to organize, by mutual aid agreement, a state emergency response team. Public entities are given the right to claim reimbursement for emergency response costs from responsible parties.

Persons possessing specified quantities of hazardous substances listed in the law (section 29-22-107, C.R.S.) are to report the quantity thereof to both the designated response authority and the Department of Health. Some substances are excluded from the reporting requirements: motor fuel products in specified quantities, fireworks, small arms ammunition, and explosives in the possession of the armed forces, a police or fire department, or specified federal agencies.

The law contains criminal penalties for causing or contributing to a hazardous substance incident. A "good samaritan" provision is included so that persons who assist in the response to an incident are provided with limited immunity from liability.

---

<sup>1/</sup> Senate Bill 172, 1983 session, repealed and reenacted the provisions of Senate Bill 55, 1980 session.



## COMMITTEE ACTIVITIES

During this interim, the committee heard testimony on a substantial number of topics: the amount and types of hazardous waste generated in Colorado; alternative treatment methods currently available and mechanisms to induce the use of those treatment methods; siting; geologically appropriate areas for land disposal; superfund issues; the universe of wastes regulated in Colorado; the regulation of resource recoverers; and problems in funding the hazardous waste regulatory program.

### Hazardous Waste Generation in Colorado

The Colorado Department of Health published in August, 1983, an analysis of the specific types and volumes of hazardous waste generated, transported, stored, and disposed in Colorado in 1981. The analysis was compiled by the Waste Management Division of the department from the 1981 annual reports of 175 generators and facilities which produce or manage hazardous waste in Colorado.

The reports indicate that 260,000 tons of hazardous waste were generated, treated, stored, or disposed in Colorado in 1981. This figure represents the amount of hazardous waste managed (i.e., generated, treated, stored, or disposed of) in the state in 1981 and does not represent the amount produced. It is estimated that, of the 260,000 tons, 80,000 to 85,000 tons were generated in Colorado in 1981.

The department's analysis of the specific types and volumes of hazardous wastes was further refined by classifying the wastes according to eleven broader categories. Appendix A contains a chart illustrating the volumes and proportions of various categories of hazardous waste in Colorado.

### Alternatives to the Land Disposal of Hazardous Waste

Many hazardous wastes can be treated prior to land disposal to reduce the hazard level or volume. Even so, hazardous waste disposal facilities are still necessary for the disposal of the treated residue. In addition, other considerations make permanent disposal facilities essential: new waste sources and chemical compounds are constantly emerging; the waste stream requiring disposal at a permitted facility by federal regulation will increase if the threshold for regulation is lowered by Congress from 1,000 kilograms per month to 100 kilograms per month; and sites must be available for the disposal of wastes from remediated superfund sites, and from accidents and spills.

There is a wide array of treatment and disposal techniques that can be used in managing hazardous wastes. Various treatment and

disposal technologies should be viewed as alternative processes in an overall hazardous waste management system. Depending on its form, quantity, or chemical and physical character, a hazardous waste may undergo one or more process steps prior to its final disposition. Treatment processes may include physical, chemical, biological, or thermal treatment, and stabilization. Retrievable storage may be used in those instances where treatment methods are not available for the particular waste stream.

Physical treatment technologies include processes to separate components of a waste stream or change the physical form of a waste without altering its chemical structure. These technologies are considered intermediate processes that can reduce the quantity of, or extract the hazardous component from, a hazardous substance. Physical steps are often used for primary separation, followed by another process to degrade, destroy, or otherwise manage the contaminants.

Chemical, biological, and thermal treatment processes may be used to degrade the contaminants to levels that are considered safe or more easily managed. Chemical treatment alters the chemical structure to produce a less hazardous material. This treatment method is considered attractive because of the minimal air emissions produced.

Biological treatment is a generic term applied to types of processes that use living organisms to decompose organic wastes to water, carbon dioxide, simple inorganics, or simpler organics.

Thermal treatment, or incineration and pyrolysis, reduces the volume or toxicity of organic wastes by exposing them to high temperatures. Many toxic organic chemicals can be safely incinerated leaving trace amounts of hazardous residuals. Some hazardous wastes, such as heavy metals, cannot be readily degraded.

Fixation or stabilization techniques are used to limit the solubility (ability to leach) or to detoxify waste contaminants even though the other physical characteristics may not be changed. These processes usually involve the addition of materials that ensure that hazardous constituents are maintained in their least soluble or toxic form and are usually used prior to landfilling.

Retrievable storage provides an alternative for those wastes which have been determined to be unsuitable for a landfill, but for which there currently does not exist economical treatment technologies. Retrievable storage should be a secure system for the long-term storage of waste prior to recycling, treatment, or destruction.

Wastes can be managed through the application of one or more of the techniques mentioned above. A treatment process may render the waste nonhazardous or leave only a small fraction of hazardous residuals, or it may reduce some of the hazard but still leave a substantial amount of hazardous residual materials. Appendix B is a flow chart showing an assortment of treatment and disposal

technologies distributed to the committee by representatives of CH2M HILL.

Although the land disposal of hazardous waste is considered the least favorable alternative, treatment technologies have not found universal application. The committee was told that there is little incentive to employ alternative technologies. The use of a treatment process does not reduce the regulatory requirements even if the waste is rendered harmless. Under RCRA regulations, listed wastes treated by alternative technologies are still classified as hazardous wastes.

Cost factors in making hazardous waste management decisions were discussed in the committee. In general, costs for land disposal are comparable to, or lower than, unit costs for many treatment methods. At least three reasons may be cited for the low cost of land disposal: little capital is required up front for land disposal facilities; there are no inherent limitations on what can be placed into such a facility, whereas treatment methodologies are engineered to destroy or degrade specific hazardous wastes; and the ultimate liability for a land disposal facility after closure may be shifted to governmental entities.

While it may be true that land disposal costs have increased since the enactment of RCRA and that many companies generating hazardous waste employ the use of treatment methodologies, the universal application of these technologies may be postponed until there is an explicit policy that requires treatment as the primary method of waste management.

Prohibiting the land disposal of certain wastes and imposing a graduated fee on the disposal of hazardous wastes were suggested as incentives to promote and encourage treatment methodologies.

Prohibition on land disposal. Several states, notably California and New York, have adopted measures to restrict the land disposal of certain wastes. Other states and the Congress have been investigating treatment alternatives to land disposal. Testimony was given that, until the land disposal of wastes is prohibited by statute (placing treatment at the top of the hazardous waste management hierarchy) treatment on a significant scale will not occur. Prohibitions on the disposal of certain wastes would force the use of treatment methods and, although the cost differential between land disposal and treatment may not disappear, all generators would be paying the same cost.

Committee discussion focused on whether a ban on the disposal of certain wastes should be legislatively mandated, or whether such a ban should be instituted through the regulatory process. The committee concluded that decisions as to the specific wastes which should be prohibited from land disposal, and their corresponding concentration levels, are technical regulatory decisions not appropriately made by the General Assembly. The Committee on Hazardous Waste Regulation was specifically created to provide the expertise necessary in making the technical decisions for the proper disposition of hazardous wastes.

The committee submits Bill 32 to provide for the phase-out of land disposal of highly mobile, toxic, and persistent wastes, and wastes that tend to bioaccumulate.

Fee system. A recommendation to the interim committee was that the state establish a graduated fee on waste generators as an economic incentive to reduce the generation of waste and to discourage land disposal. The current trend appears to be toward state use of fee systems both to raise revenues and to influence choices among hazardous waste management alternatives. For such an approach to be effective, fees would have to be reduced when: 1) alternatives to disposal were used by the generator; and 2) the hazard level of the waste or residue finally disposed of was relatively low. The underlying philosophy of a graduated fee system approach is to provide an economic incentive which favors alternatives to land disposal. The idea is to reward those generators who minimize future risks and costs to society through the use of alternatives which permanently reduce the risks involved in hazardous waste management.

Very few states were said to impose fees that are less than Colorado's. The state of New York imposes assessments according to the type of disposal method: \$12 per ton for hazardous waste disposed of in landfills; \$9 per ton for waste treated or disposed of off-site; \$2 per ton for waste incinerated or treated on-site; and no fee on waste subject to resource recovery. Missouri imposes a tax of \$25 per ton for land disposal. In California, the tax is \$18 per ton to dispose of restricted wastes and \$6.40 per ton for unrestricted wastes.

Colorado's hazardous waste regulations provide for a waste volume fee of \$2 per ton to be collected at the treatment, storage, or disposal facility. Based on the assumption that any fee imposed at the treatment, storage, or disposal facility will be passed on to the waste generator, the committee recommends legislation (Bill 34) directing the Committee on Hazardous Waste Regulation to develop a graduated fee system based on the quantity of hazardous waste involved, the degree of hazard of the waste, and whether the waste is to be treated, stored, or disposed of at the location. This graduated fee system is to be in effect on or before July 1, 1985.

### Siting

Public opposition to hazardous waste management facilities is a common occurrence and the committee was told that this opposition is not limited to land disposal facilities, but also includes waste treatment facilities. This public mistrust probably results from the current outcry over the uncontrolled sites uncovered in recent years. Actions that enhance public confidence in the equity, effectiveness, and vigorous enforcement of a state hazardous waste management program may reduce public opposition to siting hazardous waste facilities. Opposition may also be reduced by improvement in the dissemination of accurate technical information on issues such as waste treatment

alternatives to land disposal, and by frequent contact with the public in order to foster an open exchange of ideas, views, and objections.

With respect to specific legislation, it was suggested that the certificate of designation application fee, currently \$50,000 to be split between the local government and the Department of Health, include actual and reasonable costs above that figure. Steven Cramer, county commissioner from Adams County, reported that costs for his county to prepare for and to hold the required public hearings exceeded the \$25,000 allocation. Commissioner Cramer suggested that the county taxpayers should not have to pay for the application process when the state, as a whole, has much at stake in the certification of a hazardous waste disposal facility.

The original statutory language in section 25-15-214 allowed the governing body to negotiate the fee to be paid. County officials testified that this provision was preferable to current law which sets the fee at two percent of the annual estimated gross revenue. Local government entities should have the ability to negotiate fees which will offset the impact of a hazardous waste disposal facility in their jurisdiction.

The committee submits Bill 33 to change the fee system based on the experience of Adams County in processing the application before granting a certificate of designation to a hazardous waste disposal site.

#### Geologically Appropriate Areas for Land Disposal

John Rold, Director, Colorado Geological Survey, outlined important geological factors for the secure burial of hazardous wastes in a landfill. In evaluating a potential site, the hydrology, geology, climatology, and potential mineral resources should be considered. The single most important factor in determining the location of a site is the protection of the ground and surface water. There should be a minimum of 150 feet of impermeable material between the site and any aquifers. The federal regulations require some type of lining with a permeability factor no greater than 10 centimeters per second, or approximately one-tenth of a foot per year. Between the bottom of an excavation and a high water table, there should be a minimum distance of 100 feet. A site should not be located within one mile of a perennial stream channel.

With respect to structural geology, sites should not be located proximate to rock formations demonstrating fractures, faults, or folding. The topography should consist of broad, gentle slopes with gradients of two to five percent with stable surfaces. Erosion should not exceed one-half acre foot per square mile per year. The disposed materials should be compatible with the chemistry of the rock so that the physical characteristics of the rock remain constant.

## Superfund

Congress created the so-called "superfund" to finance the clean-up of abandoned or inactive hazardous waste disposal sites. These abandoned sites are evaluated relative to other sites and those which are considered an unreasonable risk are placed on what is called the national priority list. It has been reported that this superfund, primarily comprised of monies from a chemical feedstock tax and appropriations, is insufficient to clean-up (remediate) the sites currently on the national priority list. For this reason, some states have acted to establish their own superfund.

In regard to the remediation of inactive hazardous waste disposal sites, the committee considered both the state participation in the federal superfund program -- the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" -- and the creation and financing of a state superfund program.

Participation in the federal program. Statutory authority for Colorado's participation in the federal superfund program lapsed on July 1, 1983. Department of Health officials indicated that there are a number of benefits for state involvement in the program.

A state which participates in feasibility studies and clean-up activities early in the process can insure that the remediation plan contains the least possible long-term costs to the state. Also, industry's ability to work with its own state officials may facilitate clean-up measures and can simplify administration.

Nine Colorado hazardous waste sites are listed on the national priority list: the Denver radium sites, the Marshall Landfill in Boulder County, the Woodbury Chemical Company site in Adams County, the Argo/North Clear Creek site in Clear Creek County, the Sand Creek industrial site in Adams County, the California Gulch Waterway in Leadville, Section 6 of the Lowry Landfill, the Broderick Wood Preservatives in Adams County, and Lincoln Park in Canon City. Without state authorization to participate in the program, the state would not be involved in any clean-up activities conducted at the sites.

Bill 38 would again authorize Colorado's participation in the federal superfund program.

Creation and financing of a state superfund. It was also suggested that the state establish a funding mechanism to clean-up inactive hazardous waste sites similar to the federal superfund. Its purpose could be twofold: it could provide the funding for the state percentage match required by federal law to remediate sites in Colorado on the federal superfund list, and it could finance the clean-up of abandoned sites which are not on the national priority list.

As previously noted, the federal superfund is sufficient to remediate only a small percentage of the sites currently on the national priority list. A Colorado superfund would permit clean-up of

additional sites. Testimony indicated that twenty-nine states have some type of superfund mechanism in place, a "superfund" meaning any statutory mechanism that allows states to clean-up abandoned sites or institute emergency remedial actions using monies specifically set aside for these purposes. An area of uncertainty, however, is how to impose fees equitably for the clean-up of sites, some of which have been inactive for many years.

No bill is submitted on this topic.

#### Universe of Wastes Regulated in Colorado

Representatives of the Committee on Hazardous Waste Regulation reported an apparent conflict between the definition of hazardous waste and the provision allowing state regulations to be more stringent than federal requirements. Section 25-15-302 (4), C.R.S., states that the rules and regulations promulgated by the board for a state hazardous waste management program may be more stringent than the rules of the United States Environmental Protection Agency (except for those rules regarding the regulation of mining and mineral processing wastes). However, section 25-15-101 (9) (b) (VII) states that a "hazardous waste" does not include any waste or other materials exempted or otherwise not regulated as a hazardous waste under the federal act.

This conflict may preclude the state's list, or "universe," of hazardous wastes from being more comprehensive than the federal list. Because of the legal ambiguity, state regulations have not included any wastes not contained in the federal hazardous waste listing.

Bill 31 repeals section 25-15-101 (9) (b) (VII).

#### Regulation of Resource Recoverers

Under Colorado law, "resource recovery," when used in connection with hazardous waste, means the operation of preparing and treating any hazardous material or portion thereof for recycling or reuse or the recovery of material or energy (section 25-15-101 (20), C.R.S.). Under Colorado's regulations, a hazardous waste that is a sludge, a listed waste, or contains one or more listed wastes, and is transported or stored prior to being used, reused, recycled, or reclaimed is subject to all the regulations regarding transportation and storage. However, a reclaiming or recycling facility is not regulated.

Generators are concerned with insuring that their wastes are properly handled so that their companies are not held liable for improper disposal of wastes. Regulation of the resource recovery industry would help to allay the fears of generators, thereby promoting the use of resource recovery.

Under Bill 35, resource recovery facilities would be subject to rules and regulations of the Department of Health.

#### Current Funding of Hazardous Waste Regulatory Program

The hazardous waste regulatory program consists of four program elements: 1) regulatory development, 2) inspections, 3) permitting, and 4) enforcement. The first three items are funded primarily through grants from EPA or permit fees. However, the enforcement portion of the program for inspection and compliance monitoring of generators and transporters is not financed by either of those sources.

At present, the state funds two full-time equivalents for the hazardous waste regulatory program to be used for the department's siting activities performed under part 2 of article 15 of title 25, C.R.S. These department staff persons are reviewing the permit application for the hazardous waste disposal facility in Adams County and are monitoring the compliance and closure activities at the Lowry hazardous waste site. Since 1981, there have been approximately 260 RCRA enforcement cases in Colorado of which roughly forty cases may be pending at any one time. Approximately fifty percent of the cases under investigation by the EPA involve generator or transporter violations, and the remaining cases involve treatment, storage, or disposal facilities. The Region VIII EPA has four full-time attorneys and two staff members investigating, preparing, and enforcing these cases. The department representatives suggest that Colorado make a similar commitment of personnel in order to implement the RCRA program. The present funding is inadequate for such a commitment.

Department of Health representatives asked that the law be amended to enable the department to develop fees to cover the costs of investigation of violations, case preparation, and enforcement (see Bill 34). The committee recommends Bill 37 to provide that generators and transporters of hazardous waste also contribute to the payment of program costs.



BILL 31

A BILL FOR AN ACT

1 CONCERNING THE DEFINITION OF "HAZARDOUS WASTE".

---

Bill Summary

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

Repeals the provision that "hazardous waste" does not include any waste or other materials exempted or otherwise not regulated as a hazardous waste under the federal act.

---

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

3 SECTION 1. Repeal. 25-15-101 (9) (b) (VII), Colorado  
4 Revised Statutes, 1982 Repl. Vol., is repealed.

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

BILL 32

A BILL FOR AN ACT

1 CONCERNING THE PROHIBITION OF LAND DISPOSAL OF HAZARDOUS  
2 WASTE.

---

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 committee on hazardous waste regulation shall develop rules and regulations within two years after July 1, 1984, which phase out the land disposal of highly mobile, toxic, and persistent waste and waste which tends to bio-accumulate. States that such rules and regulations shall phase out the land disposal of specific types of wastes. Mandates the committee to submit reports to the general assembly detailing the rules and regulations developed by the committee.

---

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

4 SECTION 1. 25-15-205 (3), Colorado Revised Statutes,  
5 1982 Repl. Vol., as amended, is amended to read:

6 25-15-205. Permit required for operation - burial of  
7 liquids prohibited. (3) (a) The burial of liquid hazardous  
8 waste both on-site and off-site is prohibited in this state.  
9 The committee on hazardous waste regulation created in section

BILL 33

A BILL FOR AN ACT

1 CONCERNING FEES FOR A HAZARDOUS WASTE DISPOSAL SITE.

---

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 when the costs for processing an application for a certificate of designation for a hazardous waste disposal site exceed the established fee, such costs shall be offset by the person seeking the certificate. Provides that the annual fee paid by an operator of a hazardous waste disposal site shall be established by mutual agreement between the operator of the site and the board of county commissioners or the governing body of the municipality. Sets certain limits on the annual fee.

---

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

3 SECTION 1. 25-15-202 (2), Colorado Revised Statutes,  
4 1982 Repl. Vol., as amended, is amended to read:

5 25-15-202. Application for certificate - review by  
6 department and Colorado geological survey - hearing. (2) The  
7 application shall be accompanied by a fee established by the  
8 board of county commissioners or the governing body of the  
9 municipality by resolution or ordinance, which fee shall not

1 exceed fifty thousand dollars and which fee may be refunded in  
2 whole or in part. Fifty percent of such fee shall be  
3 transmitted to the department to offset the costs of the  
4 department's review pursuant to subsection (4) of this  
5 section, including possible costs of reimbursement to other  
6 state agencies which assist in such review, and to offset the  
7 possible costs of the council pursuant to section 25-15-218  
8 (6). IF SUCH FEE DOES NOT OFFSET THE COSTS OF THE BOARD OF  
9 COUNTY COMMISSIONERS OR THE GOVERNING BODY OF THE  
10 MUNICIPALITY, THE DEPARTMENT, AND THE COUNCIL, THE APPLICANT  
11 SHALL PAY ANY ADDITIONAL ACTUAL, REASONABLE, AND NECESSARY  
12 COSTS. The application shall set forth the following: The  
13 location of the site; the types of waste to be accepted or  
14 rejected; the types of waste disposal; the method of  
15 supervision; and the anticipated access routes in the county  
16 in which the site is located. The application shall also  
17 contain such data as may reasonably be required by rules of  
18 the board developed pursuant to section 25-15-208 to enable  
19 the department and the Colorado geological survey to perform  
20 their duties under subsection (4) of this section.

21 SECTION 2. 25-15-214 (1), Colorado Revised Statutes,  
22 1982 Repl. Vol., as amended, is amended to read:

23 25-15-214. Hazardous waste disposal site fund - fees.

24 (1) Any hazardous waste disposal site which is issued a  
25 certificate of designation on or after July 1, 1981, or which  
26 receives approval for a substantial change in ownership as

1 required in section 25-15-206 (1) on or after said date shall  
2 be required, contingent upon the issuance of a federal or  
3 state permit by the county or municipality in which it is  
4 located, to pay to the county or municipality in which it is  
5 located an annual fee. THE AMOUNT OF THE FEE SHALL BE  
6 ESTABLISHED BY MUTUAL AGREEMENT BETWEEN THE COUNTY OR  
7 MUNICIPALITY AND THE OWNER OR OPERATOR OF THE HAZARDOUS WASTE  
8 DISPOSAL SITE AND SHALL BE USED for the purpose of offsetting  
9 the estimated direct costs of increased state, county, and  
10 municipal services created by the hazardous waste disposal  
11 site, including, but not limited to, the improvement and  
12 maintenance of roads and bridges, fire protection, law  
13 enforcement, monitoring by county or municipal health  
14 officials, and emergency preparation and response. The amount  
15 of the fee shall ~~be two-percent~~ NOT BE LESS THAN TWO PERCENT  
16 NOR MORE THAN EIGHT PERCENT of the annual estimated gross  
17 revenue received by the hazardous waste disposal site. Out of  
18 the annual fee, the board of county commissioners or the  
19 governing body of the municipality shall provide for the  
20 reimbursement of governmental units for their estimated direct  
21 costs of increased services created by the hazardous waste  
22 disposal site. In the event that the site owner or operator  
23 fails to pay the annual fee, the board of county commissioners  
24 or the governing body of the municipality may suspend the  
25 site's certificate of designation until the annual fee has  
26 been paid.

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

BILL 34

A BILL FOR AN ACT

1 CONCERNING A GRADUATED FEE PAID BY THE OPERATOR OF A HAZARDOUS  
2 WASTE TREATMENT, STORAGE, OR DISPOSAL SITE, AND PROVIDING  
3 USES THEREOF.

---

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 operator of a hazardous waste treatment, storage, or disposal site shall pay a graduated fee based upon the quantity and degree of hazard of the waste and whether such waste is to be treated, stored, or disposed of at the location. Such fee will be established by rules and regulations promulgated by the state board of health within a specified period of time. Specifies that such fee shall be used to offset actual program costs, including, but not limited to, costs for investigation, case preparation, and enforcement.

---

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

5 SECTION 1. 25-15-303 (5) (a), Colorado Revised Statutes,  
6 1982 Repl. Vol., is amended to read:

7 25-15-303. Requirements for hazardous waste treatment,  
8 storage, and disposal sites and facilities - permits.

9 (5) (a) Any permit for the operation of facilities and sites

1 for the storage, treatment, or disposal of hazardous waste  
2 shall provide for the payment to the department of a fee to  
3 offset actual reasonable program costs, INCLUDING BUT NOT  
4 LIMITED TO, COSTS FOR INVESTIGATION, CASE PREPARATION, AND  
5 ENFORCEMENT, for such facilities. The fee shall be  
6 established by rules and regulations developed and promulgated  
7 in accordance with section 25-15-302. The amount of the fee  
8 shall take into consideration the quantity and degree of  
9 hazard of the hazardous waste involved and whether it is to be  
10 treated, stored, or disposed of at the location. ON OR BEFORE  
11 JULY 1, 1985, THE FEE SHALL BE GRADUATED AND BASED UPON THE  
12 FOLLOWING FACTORS:

- 13 (I) QUANTITY OF THE HAZARDOUS WASTE INVOLVED;  
14 (II) DEGREE OF HAZARD OF THE WASTE;  
15 (III) WHETHER THE HAZARDOUS WASTE IS TO BE TREATED,  
16 STORED, OR DISPOSED OF AT THE LOCATION.

17 SECTION 2. 25-15-304, Colorado Revised Statutes, 1982  
18 Repl. Vol., is amended to read:

19 25-15-304. Hazardous waste service fund created. There  
20 is created in the state treasury a hazardous waste service  
21 fund, which shall consist of fees collected pursuant to  
22 section 25-15-303 (5) to reimburse the state for its annual  
23 program expenses incurred in the INVESTIGATION, maintenance,  
24 monitoring, and other supervision of, AND CASE PREPARATION AND  
25 ENFORCEMENT RELATING TO, the lands and facilities used for the  
26 storage, treatment, and disposal of hazardous waste. Such



1 moneys shall be appropriated annually to the department by the  
2 general assembly which shall review such expenditures to  
3 assure that they are used to accomplish the purposes of this  
4 section. All unappropriated balances in the hazardous waste  
5 service fund shall remain therein and shall not revert to the  
6 general fund.

7 SECTION 3. Effective date. This act shall take effect  
8 July 1, 1984.

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

BILL 35

A BILL FOR AN ACT

1 CONCERNING THE REGULATION OF RESOURCE RECOVERERS OF HAZARDOUS  
2 WASTE.

---

Bill Summary

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

Directs the committee on hazardous waste regulation to develop and formulate rules and regulations for the regulation of facilities which reclaim and recycle hazardous waste and to forward said rules to the state board of health for promulgation. Provides for the regulation of resource recovery facilities which reclaim and recycle hazardous waste, and requires such facilities to obtain a permit from the department of health. Provides penalties for violations.

---

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

4 SECTION 1. 25-15-101 (24), Colorado Revised Statutes,  
5 1982 Repl. Vol., is amended to read:

6 25-15-101. Definitions. (24) "Treatment, storage,  
7 RESOURCE RECOVERY, or disposal site or facility" means a  
8 location at which hazardous waste is subjected to treatment,  
9 storage, RESOURCE RECOVERY, or disposal and may include a

1 facility where hazardous waste is generated.

2 SECTION 2. 25-15-103, Colorado Revised Statutes, 1982  
3 Repl. Vol., is amended to read:

4 25-15-103. Technical assistance. The department may,  
5 upon request, provide technical advice to hazardous waste  
6 generators, to owners or operators of treatment plants,  
7 storage facilities, RESOURCE RECOVERY FACILITIES, or disposal  
8 sites, and to counties and municipalities in which such  
9 facilities may be located in order to assure that appropriate  
10 measures are taken to protect the public health, safety, and  
11 welfare and the environment.

12 SECTION 3. 25-15-301 (2) (a) and (2) (b), Colorado  
13 Revised Statutes, 1982 Repl. Vol., are amended to read:

14 25-15-301. Powers and duties of the department.  
15 (2) (a) Issue permits for treatment, storage, RESOURCE  
16 RECOVERY, and disposal facilities, provide for the inspection  
17 of such operations, and enforce the limitations and conditions  
18 of such permits, including any conditions and schedules  
19 established to correct noncompliance; and

20 (b) Assure that all generators, transporters, storers,  
21 RESOURCE RECOVERERS, treaters, and disposers of hazardous  
22 waste have received appropriate identification by the  
23 department, use a manifest system, and provide periodic  
24 reports on wastes manifested.

25 SECTION 4. 25-15-302 (2) (b), (2) (c), (2) (d), (2) (e),  
26 (2) (f) (IV), (2) (k) (IV), (2) (k) (V), and (2) (l), Colorado

1 Revised Statutes, 1982 Repl. Vol., as amended, are amended to  
2 read:

3 25-15-302. Committee on hazardous waste regulation -  
4 creation - membership - rules and regulations - promulgation  
5 by board. (2) (b) Regulations governing those wastes or  
6 combinations of wastes which are not compatible and which may  
7 not be stored, RECOVERED, treated, or disposed of together;

8 (c) Regulations for the storage, RESOURCE RECOVERY,  
9 treatment, and disposal of hazardous wastes, including  
10 regulations for the issuance of permits based on best  
11 engineering judgment, including but not limited to interim  
12 status, and for information required to be submitted to obtain  
13 such permits and regulations concerning prohibition of  
14 construction of a treatment, storage, RESOURCE RECOVERY, or  
15 disposal facility prior to obtaining a permit;

16 (d) Regulations for the operation and maintenance of  
17 hazardous waste treatment, storage, RESOURCE RECOVERY, and  
18 disposal facilities, including such qualifications and  
19 requirements as to ownership, continuity of operation,  
20 training of personnel, and closure and postclosure care, as  
21 may be necessary or desirable;

22 (e) Regulations for the design and construction of  
23 treatment, storage, RESOURCE RECOVERY, and disposal  
24 facilities;

25 (f) (IV) Transportation of hazardous wastes only if  
26 properly labeled and for restricting the transportation of all

1 hazardous wastes only to permitted hazardous waste treatment,  
2 storage, RESOURCE RECOVERY, or disposal facilities which the  
3 shipper designates on the manifest form;

4 (k) (IV) The furnishing of information on the general  
5 chemical composition of such hazardous waste to persons  
6 transporting, treating, storing, RECOVERING, or disposing of  
7 such waste;

8 (V) The use of a manifest system and any other  
9 reasonable means necessary to assure that all such hazardous  
10 waste generated is designated for treatment, storage, RESOURCE  
11 RECOVERY, or disposal at a permitted facility;

12 (l) Regulations requiring contingency plans for  
13 effective action to minimize unanticipated damage from any  
14 treatment, storage, RESOURCE RECOVERY, or disposal of any  
15 hazardous waste.

16 SECTION 5. 25-15-303 (1), (5) (a), and (6), Colorado  
17 Revised Statutes, 1982 Repl. Vol., are amended to read:

18 25-15-303. Requirements for hazardous waste treatment,  
19 storage, resource recovery, and disposal sites and facilities  
20 - permits. (1) Any site or facility for the treatment,  
21 storage, RESOURCE RECOVERY, or disposal of hazardous waste  
22 shall be unlawful unless a permit is granted by the department  
23 for such site or facility. Each permit shall provide for a  
24 specified term and conditions for renewal and shall provide  
25 for modification upon the permittee's request or upon a  
26 finding that a substantial threat to the public health or

1 safety or the environment exists at the site or facility.  
2 Each permit shall also specify whether or not the site covered  
3 thereby may be used for the disposal of hazardous wastes  
4 requiring long-term care in accordance with subsection (4) of  
5 this section. In issuing permits for disposal facilities, the  
6 department shall consider the variations within this state in  
7 climate, geology, and such other factors as may be relevant to  
8 the management of hazardous wastes.

9 (5) (a) Any permit for the operation of facilities and  
10 sites for the storage, RESOURCE RECOVERY, treatment, or  
11 disposal of hazardous waste shall provide for the payment to  
12 the department of a fee to offset actual reasonable program  
13 costs for such facilities. The fee shall be established by  
14 rules and regulations developed and promulgated in accordance  
15 with section 25-15-302. The amount of the fee shall take into  
16 consideration the quantity and degree of hazard of the  
17 hazardous waste involved and whether it is to be treated,  
18 stored, RECOVERED, or disposed of at the location.

19 (6) Any operation conducted at sites acquired by the  
20 state for the express purpose of hazardous waste treatment,  
21 storage, RESOURCE RECOVERY, or disposal shall be in accordance  
22 with a lease which shall provide for payments to the state  
23 based on the quantity of waste managed, and shall also  
24 require, in lieu of taxes, payments to be transferred to the  
25 local government having jurisdiction as compensation for loss  
26 of valuation and which shall be adjusted annually to conform

1 with current mill levies, assessment practices, and value of  
2 land improvements.

3 SECTION 6. 25-15-304, Colorado Revised Statutes, 1982  
4 Repl. Vol., is amended to read:

5 25-15-304. Hazardous waste service fund created. There  
6 is created in the state treasury a hazardous waste service  
7 fund, which shall consist of fees collected pursuant to  
8 section 25-15-303 (5) to reimburse the state for its annual  
9 program expenses incurred in the maintenance, monitoring, and  
10 other supervision of the lands and facilities used for the  
11 storage, RESOURCE RECOVERY, treatment, and disposal of  
12 hazardous waste. Such moneys shall be appropriated annually  
13 to the department by the general assembly which shall review  
14 such expenditures to assure that they are used to accomplish  
15 the purposes of this section. All unappropriated balances in  
16 the hazardous waste service fund shall remain therein and  
17 shall not revert to the general fund.

18 SECTION 7. 25-15-305, Colorado Revised Statutes, 1982  
19 Repl. Vol., is amended to read:

20 25-15-305. Judicial review. The decision by the  
21 department to approve or disapprove a permit or other  
22 condition for a site or facility for the treatment, storage,  
23 RESOURCE RECOVERY, or disposal of hazardous waste shall be  
24 subject to judicial review in the district court for the  
25 judicial district within which the site or facility may be  
26 located, and the decision shall be affirmed or denied.

1 SECTION 8. 25-15-306, Colorado Revised Statutes, 1982  
2 Repl. Vol., is amended to read:

3 25-15-306. Local control of facilities - authorization  
4 by department - allocation of fees. The department may enter  
5 into an agreement with a county, a city and county, or a  
6 municipality within whose jurisdiction is located one or more  
7 hazardous waste treatment, storage, RESOURCE RECOVERY, or  
8 disposal sites or facilities for such local government to  
9 provide inspection, monitoring, and emergency response for  
10 such sites and facilities. The department shall make  
11 available to any such local government a reasonable portion of  
12 the fees appropriated from the hazardous waste service fund  
13 for conducting such functions. The department shall have the  
14 power to reassume any such function granted a local government  
15 if it appears to the department that the appropriate expertise  
16 is unavailable or that the resources provided are not  
17 appropriately applied for the agreed purpose or if the  
18 department and the local government mutually so agree.

19 SECTION 9. 25-15-308, Colorado Revised Statutes, 1982  
20 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
21 SUBSECTION to read:

22 25-15-308. Prohibited acts - enforcement. (1 5) On or  
23 after July 1, 1985, no person shall operate a resource  
24 recovery facility without having therefor a permit granted by  
25 the department pursuant to section 25-15-303, and no person  
26 shall substantially alter any hazardous waste resource



1 recovery facility without first obtaining from the department  
2 a modification of an existing permit or new permit.

3 SECTION 10. 25-15-310 (2) and (3), Colorado Revised  
4 Statutes, 1982 Repl. Vol., as amended, are amended, and the  
5 said 25-15-310 is further amended BY THE ADDITION OF A NEW  
6 SUBSECTION to read:

7 25-15-310. Criminal offenses - penalties. (1.5) On or  
8 after July 1, 1985, no resource recoverer shall knowingly:

9 (a) Recover any hazardous waste identified or listed  
10 pursuant to this article without having obtained a permit  
11 under this article or in knowing violation of any material  
12 condition or requirement of a permit;

13 (b) Make any false material statement or representation  
14 in any application, label, manifest, record, report, permit,  
15 or other document filed, maintained, or used for purposes of  
16 compliance with this article; or

17 (c) Destroy, alter, or conceal any record required to be  
18 maintained under regulations promulgated by the board under  
19 this part 3 or pursuant to the federal act relating to the  
20 resource recovery of any hazardous waste which occurred  
21 before, on, or after July 1, 1985.

22 (2) Except as provided in section 29-22-108, C.R.S., or  
23 section 18-13-112, C.R.S., any person who violates any of the  
24 provisions of paragraph (a) or (b) of subsection (1) OR  
25 PARAGRAPH (a) OF SUBSECTION (1.5) of this section is guilty of  
26 a misdemeanor and, upon conviction thereof, shall be punished

1 by a fine of not more than fifty thousand dollars for each day  
2 of violation, or by imprisonment in the county jail for not  
3 more than one year, or by both such fine and imprisonment.

4 (3) Any person who violates any of the provisions of  
5 paragraph (c) or (d) of subsection (1) OR PARAGRAPH (b) OR (c)  
6 OF SUBSECTION (1.5) of this section is guilty of a misdemeanor  
7 and, upon conviction thereof, shall be punished by a fine of  
8 not more than twenty-five thousand dollars for each day of  
9 violation, or by imprisonment in the county jail for not more  
10 than six months, or by both such fine and imprisonment. Upon  
11 conviction of a second or subsequent violation of paragraph  
12 (c) or (d) of subsection (1) OR PARAGRAPH (b) OR (c) OF  
13 SUBSECTION (1.5) of this section, the offender shall be  
14 punished by a fine of not more than fifty thousand dollars for  
15 each day of violation, or by imprisonment in the county jail  
16 for not more than one year, or by both such fine and  
17 imprisonment.

18 SECTION 11. Effective date. This act shall take effect  
19 January 1, 1985.

20 SECTION 12. Safety clause. The general assembly hereby  
21 finds, determines, and declares that this act is necessary  
22 for the immediate preservation of the public peace, health,  
23 and safety.

BILL 36

A BILL FOR AN ACT

1 CONCERNING SAFEGUARDS FOR THE TRANSPORTATION OF HAZARDOUS  
2 MATERIALS.

---

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 public utilities commission, upon receiving information that transportation of any hazardous materials presents an imminent and substantial danger to human health, public safety, or the environment, may issue orders, seek injunctions, or take other action to reduce or eliminate the hazard.

---

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

4 SECTION 1. 40-2.1-103, Colorado Revised Statutes, as  
5 amended, is amended BY THE ADDITION OF A NEW SUBSECTION to  
6 read:

7 40-2.1-103. Commission - powers and duties -  
8 promulgation of rules and regulations - reimbursement of local  
9 governments. (5) The commission, upon receiving information  
10 that transportation of any hazardous materials presents an

1 imminent and substantial danger to human health, public  
2 safety, or the environment, may issue orders, seek  
3 injunctions, or take other action to reduce or eliminate the  
4 hazard.

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

1 developed and promulgated in accordance with section  
2 25-15-302. The amount of the fee shall take into  
3 consideration the quantity and degree of hazard of the  
4 hazardous waste involved and whether it is to be treated,  
5 stored, or disposed of at the location. SUCH RULES AND  
6 REGULATIONS MAY ALSO ESTABLISH FEES TO BE PAID BY GENERATORS  
7 AND TRANSPORTERS OF HAZARDOUS WASTE TO OFFSET ACTUAL  
8 REASONABLE PROGRAM COSTS.

9 (b) The fee FEES shall be paid to the department in  
10 accordance with schedules established by rules and regulations  
11 developed and promulgated in accordance with section  
12 25-15-302. The department shall receipt for the same and  
13 shall transmit such payments to the state treasurer and take  
14 his receipt therefor. The state treasurer shall credit all  
15 fees received to the hazardous waste service fund as provided  
16 for in section 25-15-304.

17 SECTION 2. 25-15-304, Colorado Revised Statutes, 1982  
18 Repl. Vol., is amended to read:

19 25-15-304. Hazardous waste service fund created. There  
20 is created in the state treasury a hazardous waste service  
21 fund, which shall consist of fees collected pursuant to  
22 section 25-15-303 (5) to reimburse the state for its annual  
23 program expenses incurred in the maintenance, monitoring, and  
24 other supervision of the GENERATORS AND TRANSPORTERS OF  
25 HAZARDOUS WASTE AND THE lands and facilities used for the  
26 storage, treatment, and disposal of hazardous waste. Such

1 moneys shall be appropriated annually to the department by the  
2 general assembly which shall review such expenditures to  
3 assure that they are used to accomplish the purposes of this  
4 section. All unappropriated balances in the hazardous waste  
5 service fund shall remain therein and shall not revert to the  
6 general fund.

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

BILL 38

A BILL FOR AN ACT

1 CONCERNING STATE PARTICIPATION IN THE FEDERAL "COMPREHENSIVE  
2 ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT  
3 OF 1980".

---

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 department of health to participate in federal implementation of the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980", the federal "superfund" act. Provides that any state payment required by a cooperative agreement between the department of health and the federal government for remedial action and responses relating to hazardous waste disposal and control must be approved by the general assembly. Provides for repeal of provisions, effective July 1, 1989.

---

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

5 SECTION 1. Article 16 of title 25, Colorado Revised  
6 Statutes, 1982 Repl. Vol., is RECREATED AND REENACTED, WITH  
7 AMENDMENTS, to read:

8 25-16-101. Legislative declaration. The general  
9 assembly hereby finds and declares that the existence of  
10 inactive hazardous waste sites, including old radium mill

1 residue deposits, poses a potential and significant health  
2 hazard. This article is therefore enacted to protect the  
3 public health, safety, and welfare by cooperating with the  
4 federal government in providing for the disposal and control  
5 of such wastes in a safe and environmentally sound manner to  
6 prevent or minimize other environmental impacts from such  
7 wastes.

8 25-16-102. Terms defined. For the purposes of this  
9 article, the terms "disposal", "hazardous substance",  
10 "hazardous waste", "remedial action", "removal", and  
11 "response" shall have the meanings specified in section 101 of  
12 Public Law 96-510, as from time to time amended.

13 25-16-103. Authorization to participate -  
14 implementation. (1) The general assembly hereby authorizes  
15 the department of health to participate in federal  
16 implementation of the "Comprehensive Environmental Response,  
17 Compensation, and Liability Act of 1980", Public Law 96-510,  
18 and for such purpose the department has the authority to  
19 participate in the selection and performance of responses and  
20 remedial actions and to enter into cooperative agreements with  
21 the federal government providing for remedial actions and  
22 responses. Any cooperative agreements entered into under this  
23 article may provide assurances acceptable to the federal  
24 government that:

25 (a) The state will assure all future maintenance of the  
26 removal and remedial actions provided for the expected life of  
27 such actions;



1 (b) The state will assure the availability of an  
2 acceptable hazardous waste disposal facility for any necessary  
3 off-site storage, destruction, treatment, or secure  
4 disposition of the hazardous substances.

5 (2) Any state payment required by a cooperative  
6 agreement entered into pursuant to this section must have the  
7 approval of the general assembly and shall be subject to  
8 appropriation by the general assembly.

9 25-16-104. Financial participation. Subject to the  
10 provisions of section 25-16-103, the general assembly accepts  
11 the provisions of section 104 (c) (3) (C) of Public Law 96-510  
12 requiring the state or any unit of local government to pay or  
13 assure payment of a percentage of the costs of the remedial  
14 action, as appropriated by the general assembly or any unit of  
15 local government as appropriate, including all future  
16 maintenance. Any state payment required by a cooperative  
17 agreement entered into pursuant to section 25-16-103 must have  
18 the approval of the general assembly and shall be subject to  
19 appropriation by the general assembly.

20 25-16-105. Repeal. This article is repealed, effective  
21 July 1, 1989.

22 SECTION 2. Safety clause. The general assembly hereby  
23 finds, determines, and declares that this act is necessary  
24 for the immediate preservation of the public peace, health,  
25 and safety.

APPENDIX A

HAZARDOUS WASTES IN COLORADO --  
VOLUME AND PERCENTAGES OF  
VARIOUS CATEGORIES OF HAZARDOUS WASTE

<u>Category</u>	<u>Generator 1/</u>		<u>Facility 2/</u>	
	<u>Metric Tons/Year</u>	<u>% of Colorado Waste Stream</u>	<u>Metric Tons/Year</u>	<u>% of Colorado Waste Stream</u>
Metals (including arsenic)	11,316.58	45.50	49,143.98	26.60
Pesticides	18.09	.07	28.44	.01
Organics	144.95	.58	6,138.43	3.30
Halogenated organics	817.67	3.30	3,746.72	2.00
Cyanide-containing (CN)	2,055.19	8.30	1,965.12	1.10
Explosives	0	0.00	0	0.00
Reactives	1,383.81	5.60	1,789.67	.97
Corrosives	1,156.08	4.60	15,612.27	8.40
Ignitables	7,088.60	28.50	3,637.81	1.90
Combined corrosive & halogenated solvent	907.44	3.60	0	0.00
Corrosive and hydrogen fluoride	<u>0</u>	<u>0.00</u>	<u>102,906.04</u>	<u>55.63</u>
TOTALS	24,888.41	100.00	184,968.84	100.00

Prepared by Michael Axelrod, University of Colorado-Denver, for Waste Management Division, Colorado Department of Health

NOTE: These data were prepared from reports submitted to the EPA based on the amounts of hazardous waste generated and treated in Colorado in 1981. As indicated in the footnotes below not all of the hazardous wastes in Colorado were accounted for in this survey.

1/ Includes hazardous wastes generated that were ultimately disposed of in Colorado, but does not include wastes generated and then stored or treated, but not disposed of in this state. It is estimated that there are between 80-85,000 tons of hazardous waste produced in Colorado each year.

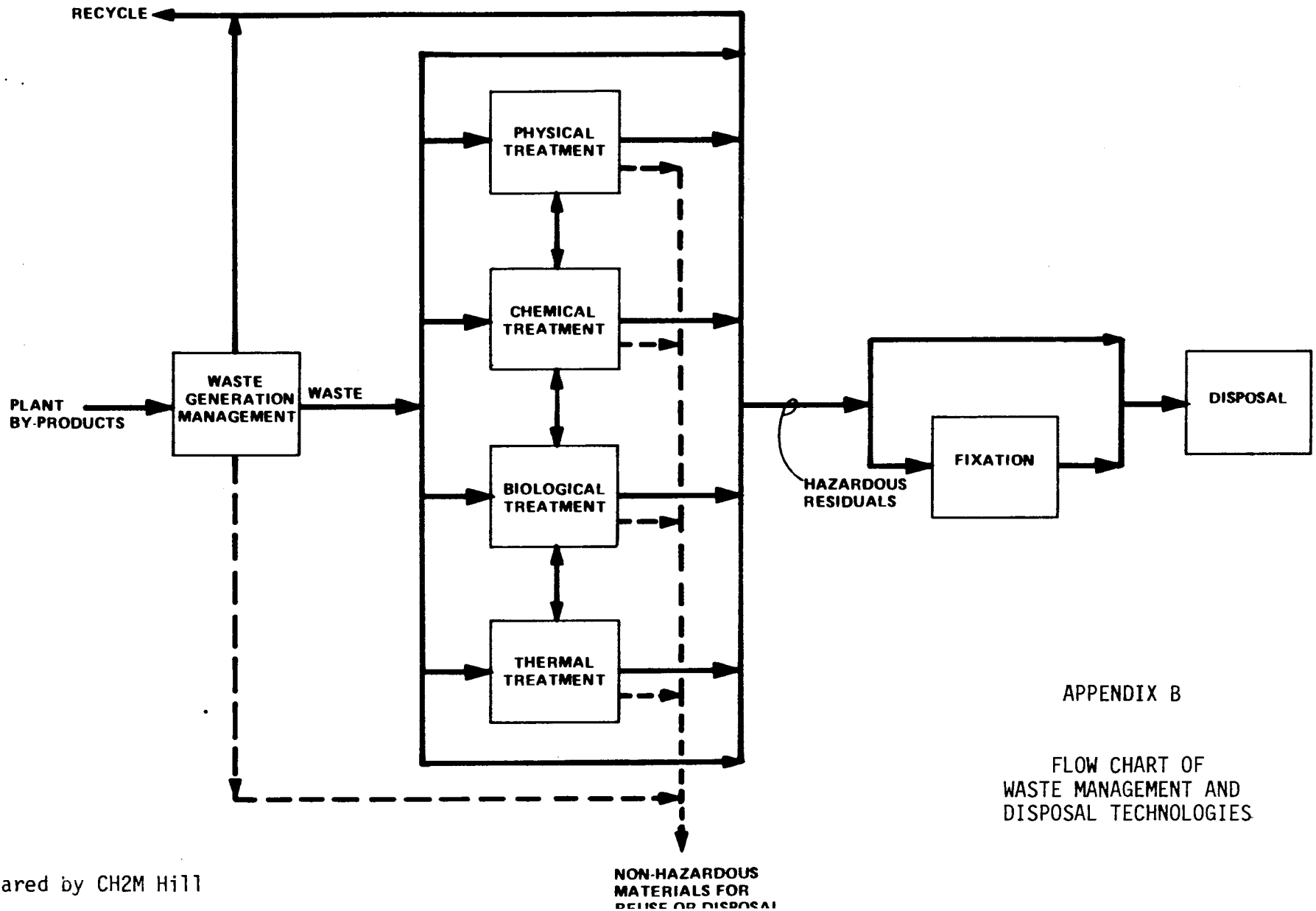
2/ Includes hazardous wastes that were treated, stored, and disposed of on site, but does not include wastes that were generated and shipped elsewhere. The total of all hazardous wastes generated, treated, transported, stored, or disposed of in Colorado is estimated to be 260,000 tons annually.

WASTE MANAGEMENT PRACTICES

WASTE TREATMENT

RESIDUALS MANAGEMENT

- PHEPROCESSING
- SEPARATIONS
- DEGRADATION



APPENDIX B

FLOW CHART OF  
WASTE MANAGEMENT AND  
DISPOSAL TECHNOLOGIES

2

APPENDIX B (Cont.)

**HAZARDOUS WASTE TECHNOLOGIES**

<u>PROCESS/TECHNOLOGY</u>	<u>DESCRIPTION</u>	<u>EXAMPLE APPLICATIONS</u>	<u>STATUS</u>	<u>CONSIDERATIONS</u>	<u>RELATIVE COST</u>
<b>PHYSICAL TREATMENT</b>					
Solvent Extraction - Liquid-liquid - Solid-liquid - Supercritical Fluid	Standard chemical unit processes	Extracting contaminants from soil Extracting metals from liquid	Commercial	Contaminated solvent requires further processing or disposal	Moderately high
Stripping - Steam - Air - Other gas	Multitray or packed column with gas injection	Sulfide stripping, trichloroethylene stripping	Commercial	Limited to volatile components air emission considerations	Medium-low
Absorption - Carbon - Resin (ion exchange, others)	Batch adsorption beds, usually with same method for regeneration	Organic adsorption onto carbon, heavy metal adsorption onto cation resin	Commercial	Limited to trace concentrations, same problems handling regenerates	Medium
Membrane Processing - Ultrafiltration - Reverse Osmosis - Electrodialysis	Standard manufactured units, with appropriate pretreatment facilities to prevent membrane fouling/deterioration	Heavy metals or limited organic removal from groundwater	Limited Commercial in Waste Applications	Separations are imperfect, concentrate disposal, pretreatment considerations complex	Medium
Evaporation	Single, multistage or vapor compression mechanical evaporators	Nuclear wastes, electroplating wastes	Commercial	Scaling, fouling, condensate is sometimes contaminated	Moderately high
Distillation	Multitray or packed column with heating device and condensing device	Solvent purification for reuse	Commercial	Scaling, fouling, flammability hazard on some solvents	Moderately high
Absorption	Multitray or packed column on vapor stream with appropriate solvent	Usually for emission control other hazardous waste processing devices	Commercial	Disposal of scrubbing liquor	Medium
Liquid/Solid Separation - Sedimentation (with and without flocculation) - Filtration - Centrifugation - Flotation - Belt presses	Standard manufactured units	Numerous	Commercial	Solid still contains some liquid	Low
Drying	Standard manufactured units	Sludge dryers	Some experimental Some commercial	Mechanical problems, air emissions	Expensive
Freezing Processes - Crystallization - Drying - Suspension	Many experimental units	Metal hydroxide summer drying, winter freezing beds	Experimental other than drying/freezing beds	Not commercially developed	Low for drying beds, high for others

APPENDIX B (Cont.)

HAZARDOUS WASTE TECHNOLOGIES

<u>PROCESS/TECHNOLOGY</u>	<u>DESCRIPTION</u>	<u>EXAMPLE APPLICATIONS</u>	<u>STATUS</u>	<u>CONSIDERATIONS</u>	<u>RELATIVE COST</u>
<b>CHEMICAL TREATMENT</b>					
Precipitation	Chemical addition, flocculation, solid/liquid separation devices	Heavy metals removal	Commercial	Proper chemical additions, effectiveness limited by solubility laws	Low
Neutralization	Chemical addition and mix tanks	Acid and alkaline wastes	Commercial	Proper instrumentation, heat release in concentrated applications	Low
Electrochemical	DC power, plating tanks	Chrome precipitation	Some commercial Some experimental	Impurities can upset process	Medium
Oxidation	Chemical addition and contacting tanks	Trace organic destruction	Some commercial Some experimental	Side reactions may generate other hazardous constituents	Medium to high
- Chlorination					
- Ozonation					
- Permanganate					
- Others					
Reduction	Chemical addition and contacting tanks	Hexavalent chrome, dechlorinating dioxin	Experimental	Side reactions may generate other hazardous constituents	Medium to high
- Dechlorination					
- Sulfonation					
- Other					
Photolysis	Photolamps and contacting tanks	Dioxin destruction	Semi-commercial	Fouling of photochemical devices, kinetics	High
- UV					
- Natural					
Gamma Ray	Shielded irradiator	Pesticide destruction	Experimental	Sophisticated irradiator design	High
Misc. Chemical Treatments	Chemical additions and contacting tanks	Pesticide destruction	Experimental	Side reactions may generate other hazardous constituents	Varies
- Catalysis					
- Hydrolysis					
<b>BIOLOGICAL TREATMENT</b>					
Activated Sludge	Common commercial system designs	Organic materials in water	Commercial	Only effective on biodegradable constituents	Low
Aerated Lagoons					
Anaerobic Lagoons					
Anaerobic Digestion					
Composting					
Trickling Filters					
Aerobic Bio Filters					
Waste Stabilization Ponds					
Enzyme, Cultured Bacteria	Biochemical addition system	Aids biological treatment	Experimental	Field is new, so considerations are not well understood	High, but may be lower in future
Land Treatment	Suitable land site, spreading equipment	Land farming	Commercial	Total effectiveness questionable	Low to medium

APPENDIX B (Cont.)

HAZARDOUS WASTE TECHNOLOGIES

<u>PROCESS/TECHNOLOGY</u>	<u>DESCRIPTION</u>	<u>EXAMPLE APPLICATIONS</u>	<u>STATUS</u>	<u>CONSIDERATIONS</u>	<u>RELATIVE COST</u>
<b>THERMAL TREATMENT</b> Conventional incineration - Fluidized bed - Multiple hearth - Rotary kiln - Liquid injection	Standard commercially marketed combustion devices	Industrial incinerators, contract hazardous waste incinerators	Commercial	Fuel value, destruction efficiency	Medium to high
New Technology Incineration - Molten salt - Microwave plasma	Developmental units	Dioxin destruction	Experimental	Technology not well developed yet	High to very high
Pyrolysis	Proprietary units	Organics destruction	Few commercial, mostly experimental	By products generated may also have hazardous considerations	High
Wet Air Oxidation	Proprietary Units	Organics destruction	Many commercial, but mostly in non-hazardous waste applications	Process is only 80-85 percent efficient, doesn't work on dilute materials	Medium
Calcination	Standard Kilns	Chemically alternating inorganic salts	Experimental on hazardous waste applications	Technology not well developed for hazardous waste considerations	High
<b>FIXATION</b> Organic Polymers	Mechanical equipment for polymer mixing and/or injection	Solidifying hazardous sludges	Commercial	Long term effectiveness questionable	Medium
Inorganic - Cement - Flyash - Ceramic - Proprietary	Mechanical equipment for mixing and reaction	Solidifying hazardous sludges	Some commercial Some experimental	Increase volume for disposal	Medium to high
Encapsulation	Materials and mechanical equipment for encapsulation process	Nuclear wastes, underground vaults	Some commercial Some experimental	Long term effectiveness questionable	Medium to high
<b>RESIDUALS DISPOSAL</b> Sanitary landfill	Standard landfill	Large bulk, relatively low hazard material after treatment	Commercial	Can only be used for low hazard material where leaching is not a serious consideration	Low
Chemically secure landfill	Double lined, leachate landfill	RCRA landfill	Commercial	Following appropriate RCRA type regulations	Medium
Deep burial	Old mines	Nuclear wastes	Nearly commercial	Placement of materials such that they cannot react together	High
Deep Well	Standard Oil Field type design	Dilute pesticide wastes	Commercial	Suitable well casings to prevent surface water contamination, suitable only for liquids	Low
Deep Sea	Barging and pumping	Very limited at moment	Not practiced much in USA	Appropriate containerization, public opinion negative	Low to medium