

*Report to the Colorado General Assembly:*

**RECOMMENDATIONS FOR 1984  
COMMITTEES ON:**

**School Finance  
Property Tax  
State Fiscal Policy**



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**COLORADO LEGISLATIVE COUNCIL**

**RESEARCH PUBLICATION NO. 281**

**December, 1983**

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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.

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Colorado General Assembly

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To Members of the Fifty-fourth Colorado General Assembly:

Submitted herewith are the final reports of the Committees on School Finance, Property Tax, and State Fiscal Policy. The three 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, with the exception of Bill 21 from the Committee on State Fiscal Policy, to the Fifty-fourth General Assembly. Bill 21 was not approved by the Legislative Council because the subject matter of the bill was considered to be beyond the scope of the committee's charge.

Respectfully submitted,

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

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## SUMMARY OF RECOMMENDATIONS

The 1983 interim Committee on School Finance was directed by Senate Joint Resolution 19 to study the state's role in financing education as well as consolidation of school districts and excellence in education. Specifically, the committee was instructed to study:

- 1) Increases in the authorized revenue base approved either by the State School District Budget Review Board or the electorate;
- 2) The authorized revenue base and its components;
- 3) Categorical programs;
- 4) Capital financing;
- 5) The impact of state equalization on the rest of the state budget;
- 6) The impact of state equalization on property taxes;
- 7) The consolidation of school districts; and
- 8) The establishment and implementation of programs for the promotion of public education excellence.

A total of six meetings were held by the committee. During those meetings, the committee focused efforts on two main issues: the continuation of the Public School Finance Act beyond 1984 and excellence in public education. The Public School Finance Act was reviewed extensively in the first and second meetings of the committee. This review included legal and fiscal considerations of the act in terms of past trends and its current status. Proposals for extending the act beyond calendar year 1984 were studied, discussed, and revised by the committee in each of the remaining meetings during the interim.

Excellence in public education was considered during the second meeting when the findings of a national study on this topic were presented. At the third meeting, the committee reviewed recommendations for advancing excellence in education as presented by task forces of the State Board of Education. Recommendations for reform were also presented by the Colorado Education Association during the fourth meeting. Proposals for legislative action, based upon the findings of the task forces of the State Board of Education, were presented and acted upon by the committee during its sixth meeting.

In its final deliberations of the interim, the committee agreed to recommend the following bills:

- a bill to clearly define the school day in terms of instruction
- Bill 1;

- a bill to extend the contract year for teachers -- Bill 2;
- a bill to allow school districts to establish performance-based evaluation and pay systems for teachers, which includes due process, to replace the present system of tenure -- Bill 3;
- a bill to revise the law on teacher recertification so as to include job performance and to be relevant to the needs of individual schools -- Bill 4;
- a bill to require that school districts to be subject to, though not limited by, local planning, zoning and building regulations in locating school buildings -- Bill 5;
- a bill extending the statutory provision allowing kindergarten pupils to be included in the pupil counts of school districts for purposes of receiving revenues under the "Public School Finance Act of 1973" -- Bill 6;
- a bill to extend the "Public School Finance Act of 1973" beyond 1984 with the factors for determining the amount of state and local aid to be designated by amendment during the session -- Bill 7. The latter also provides for school districts to hold local elections for permanent increases in their mill levies which will not be equalized by the state.

## COMMITTEE ON SCHOOL FINANCE

During the 1983 interim, the Committee on School Finance divided its attention into three major areas:

- 1) Excellence in public education;
- 2) Continuation of the "Public School Finance Act of 1973"; and
- 3) Other issues.

### Excellence in Public Education

Recently, public attention on the need for promotion of excellence in public education has been raised through national reports, discussion by the General Assembly and the governor, and through general public debate. For this reason, the State Board of Education designated task forces to make recommendations for improving education in Colorado. On the basis of these recommendations, the committee adopted legislative proposals for advancing excellence in public education.

Eight task forces were established by the State Board of Education to review national reports and make recommendations on the following topics:

Task Force on School Time -- proposals related to achieving more effective use of the school day, a longer school day, and an extended school year;

Task Force on the Education Profession -- issues related to teacher certification, preparation, tenure, salary, and recruitment;

Task Force on Family and School -- issues related to the family and the school;

Task Force on English -- recommendations for increasing verbal skills;

Task Force on Math -- recommendations for increasing quantitative skills;

Task Force on Science -- recommendations for increasing skills in science;

Task Force on Social Science -- recommendations regarding social science curriculum; and

Task Force on Foreign Languages -- recommendations on foreign language skills.

The task forces consisted of legislators, teachers, state and local board members, parents and representatives of private industry. The Colorado Department of Education provided assistance and research. After studying material on their assigned topics, the first five task forces drew up specific recommendations for improvements which were presented to the committee on October 13th. The task forces on science, social science and foreign language will not have recommendations ready until the spring of 1984.

The recommendations of the task forces on school time, family and school, and the education profession were reviewed by the State Board of Education and some were adopted for legislative consideration. The Colorado Department of Education presented to State Board of Education recommendations as legislative issues and proposals for statutory change at the last meeting of the committee. Four of these proposals were adopted by the committee as bills recommended to the General Assembly.

Bill 1 is aimed at reducing interruptions in classroom instructional time by clearly defining a school day. The bill calls for school districts to provide a minimum of 180 days of planned instructional time or teacher-student contact in order to qualify for state equalization funding beginning in school year 1985-86. The task force on school time recommended that school districts not be allowed to vary from the 180 day requirement, regardless of emergency closings, unless approved by the State Board of Education. This proposal is also based on the task force's recommendation that a school day be defined to exclude non-instructional activities such as lunch, teacher inservice, early graduation and extracurricular activities.

Bill 2 is designed to provide instructional personnel with ten additional paid days outside of teaching for planning and program development. The task force on school time recommended that the work year for instructional staff be extended 80 hours beyond the 180 teaching days in order to increase the time spent during the school year for planning, staff development, and curriculum projects. The Colorado Department of Education estimates that the initial cost to the state for this bill would be \$19 million to \$20 million.

Bill 3 allows school districts to establish alternatives to the tenure and salary systems currently in existence. The bill lets school districts, as an option, replace the current system of tenure with an alternative system based upon the evaluation of teacher performance. The change to an alternative system of due process would need to be reviewed and approved by the State Board of Education according to guidelines established in the rules and regulations of the Colorado Department of Education.

The bill also allows school districts to establish performance-based salary systems that reward individual staff members demonstrating improved performance. Currently, most districts use a single salary schedule approach that allows for across-the-board pay increases.

The purpose of this bill is to tie retention, promotion and salary decisions to an effective evaluation system that will reward and encourage improvements in teacher performance. School districts would also be encouraged to find means to terminate poor teachers at a reduced cost. In adopting this proposal as a bill, the committee stipulated that alternatives to the current tenure system would provide for due process.

Bill 4 expands the requirements for teacher recertification to include successful job performance and to address the needs of each school. These additional requirements would be administered by the State Board of Education according to guidelines established in the rules and regulations of the Colorado Department of Education. The task force on the education profession recommended that recertification be based upon performance evaluation.

### Continuation of the "Public School Finance Act of 1973"

To assist the reader in evaluating the range of alternatives considered by the committee, a brief review of the school finance system and application of the "modified power equalization formula" follows.

#### The "Modified Power Equalization Formula" -- How It Works

History. The Constitution of the State of Colorado states that the General Assembly shall "provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state." Prior to 1973, Colorado's school finance act was a "foundation" program, meaning the state guaranteed revenues to a set level per pupil in an attempt to ensure the existence of a basic minimum program of education in each district of the state. In 1972, a legislative interim committee recommended the state's current school finance method -- the "Public School Finance Act of 1973."

Goals of the act. The first major goal of that act was to increase educational opportunity by ensuring that adequate funds were available to meet educational needs and to prevent educational opportunity from being solely a function of local property taxes. Second, the act attempted to address problems with the local property tax. In particular, the act reduced property taxes to a lower level, provided for a more equally distributed property tax burden throughout the state, and limited increases in subsequent tax bills.

General theory. To meet the aforementioned goals, a modified "power equalization" formula was adopted. Under this program, the state guarantees that each district will be able to raise a minimum number of dollars per pupil for each mill levied. For 1984, this level is \$60.12 per mill per pupil and the state makes up the

difference between what a district can raise on its own from the property tax per mill per pupil and the guaranteed level. This is also referred to as the "guaranteed tax base" approach.

Because the assessed value of some districts of the state was high enough so that all of the revenue guaranteed per pupil per mill by the state could be raised locally, a special provision was added giving a "minimum" amount of state aid to each such district for each pupil for each mill levied. As a result, property taxes in these districts were reduced. Also as a result of this provision, while nearly 80 of the state's 181 districts qualified under the minimum guarantee, only one district received less state aid in 1974 than 1973.

In addition to equalizing the revenue-raising abilities of each district on a per pupil basis, a provision was enacted to equalize expenditures among the districts. Under this provision, an authorized revenue base (ARB) was established for each district. The ARB was defined to be the sum of the district's 1973 property tax plus the state's foundation program revenues. In an effort to narrow the variation between district revenues, for 1974 through 1977, the district's authorized revenue base was determined by allowing a percentage increase over the previous year, with lower spending districts granted a greater percentage increase than the higher spending districts. For 1978 and subsequent years, ARB increases are provided at fixed dollar levels.

Authorized revenue base. As previously mentioned, the act funds each district on the basis of its "authorized revenue base" (ARB), which is defined to be the sum of the district's general fund property tax revenues and the state's equalization payments, per eligible pupil. To determine the ARB of a district, a percentage factor was then applied to the previous year's ARB to determine the new ARB to be funded by the state and local school district. By 1978, the percentage tables were allowing high ARB districts larger ARB increases than low ARB districts; so for 1978, each district's ARB was determined by adding \$120 to its 1977 ARB instead of continuing the percentage factor. For budget years 1979 and following, the act stipulated further flat dollar ARB increases. In addition, the act provided that no district be required to have an ARB lower than specified levels. ARB increases and minimum ARB's are shown below for budget years 1979 through 1984.

<u>Budget Year</u>	<u>ARB Increase</u>	<u>Minimum ARB</u>
1979	\$130.00	\$1400.00
1980	140.00	1600.00
1981	150.00	1800.00
1982	160.00	2000.00
1983	167.50	2195.50
1984	159.62	2380.12

In effect, the system of flat dollar increases and minimum ARB's has allowed the lower spending districts to increase their ARB's at a higher yearly rate than other districts. This is intended to narrow the disparity in per pupil revenues between districts.

For the 1985 budget year and every budget year thereafter, the increase in the ARB's will be equal to 5 1/2 percent of the average authorized revenue base of all districts in the prior year. In calculating the average authorized revenue base, any additional increases in the ARB of a district brought about by the State School District Budget Review Board or a district-wide election will be included.

Attendance entitlement. While the authorized revenue base is a maximum level of expenditure permitted per eligible pupil, a school district may raise revenue for expenditure only for a specified number of eligible pupils. These pupils are referred to as attendance entitlements. A district's ARB multiplied by its attendance entitlement determines its total revenues for the budget year. The attendance entitlement is determined on the basis of average daily attendance during a special four week counting period, ending the fourth Friday of October preceding the budget year. (A special provision is available for full year programs; this allows for a four week counting period ending about two months after the start of the twelve-month school year.)

To soften the financial consequences to districts with rapidly declining enrollments, a district is permitted to utilize the average daily attendance for the year preceding the budget year, the second year preceding the budget year, or an average of the three years preceding the budget year as its attendance entitlement. In addition, to mitigate the impacts of excessive or unusual absenteeism during the counting period on a district's revenue, districts are permitted to utilize 96 percent of their enrollments in lieu of the average daily attendance figure in computing their attendance entitlement.

State guarantee. After calculation of each district's ARB, or how much revenue is to be available per pupil, the amount of state and local revenue is computed. That is, to help equalize the tax generating resources of each district, the act provides for a "state guarantee" level of revenue for each mill levied by each district for each eligible pupil. The act specified the following state guarantee levels for the 1979 through 1984 budget years:

<u>Year</u>	<u>Guarantee</u>
1979	\$42.25
1980	45.85
1981	49.51
1982	53.37
1983	56.87
1984	60.12

The state guarantee level for 1984 was determined by the Department of Education and certified to the General Assembly by the State Board of Education at a level which will provide 49.36 percent of the total ARB program from state equalization payments. For years after 1984, the guarantee level will be calculated to ensure that the ratio between local property tax and state aid will remain at the 1984 level statewide.

Minimum guarantee. In order that all districts may share in state education support and benefit from the property tax relief offered, the act contains a minimum aid provision that guarantees that each district will receive a minimum of \$11.35 per mill per eligible pupil, even if local revenues are sufficient to raise more than the difference between the minimum and the state guaranteed level of support. Furthermore, through 1983, if the mill levy of the district, computed at the \$11.35 minimum guarantee level, exceeded 20 mills, the district could have received a greater amount. These "alternate minimum" guarantee amounts are as follows for the 1979 through 1984 budget years.

<u>Budget Year</u>	<u>Alternate Minimum Guarantee Amount</u>
1979	\$12.35
1980	13.35
1981	14.41
1982	15.53
1983	16.00
1984	16.25

For the 1984 budget year, the mill levy of the district, computed at the \$11.35 minimum guarantee level, must exceed 35 mills in order for the district to receive the alternate minimum guarantee amount.

To compute the mill levy required to raise the amount of state and local revenues necessary to fund the district's ARB, the ARB is divided by the state guarantee, in this instance the sum of local revenue capabilities per mill per pupil plus either the minimum or alternate minimum guarantee amounts.

For example, if a district's 1984 ARB is \$3,000 per pupil, and local revenues will raise \$56.00 per pupil per mill, the ARB is divided by the sum of the district's local revenue raising capability per mill per pupil and the minimum guarantee, or \$56.00 plus \$11.35 (\$67.35). This computes a mill levy of 44.54 mills necessary to raise the appropriate amount of state and local funds to equal the district's ARB. Since, in this instance, the mill levy computed at the \$11.35 minimum guarantee level (44.54 mills) exceeds 35 mills, the district qualifies for a minimum guarantee level of \$16.25 per mill per pupil, and the mill levy is recomputed as follows: the local district revenue raising capability (\$56.00 per mill) is added to the

alternate minimum guarantee level (\$16.25) and the sum (\$72.25) is divided into the district's ARB (\$3,000). The new mill levy is then computed to be 41.52 mills (\$72.25 per mill per pupil times 41.52 mills equals the ARB of \$3,000 per pupil).

State/local share. The local share per mill per pupil is equal to the amount that can be raised from the district's property tax base per mill, divided by the number of eligible pupils. The state's share per mill per pupil is equal to the difference between the amount that the local property tax can raise and the state guarantee. For example, if the local tax base of a district in 1984 can raise \$25.00 per mill per pupil and the state guarantee is \$60.12, the state's share is \$35.12. For those districts whose local tax base is sufficient to raise more than \$48.77 per mill per pupil (thus would receive less than \$11.35 under the state guarantee per mill of \$60.12), the state's share is \$11.35 per mill per pupil. The local share per pupil is the local share per mill per pupil times the mill levy. The state share per pupil is the state share per pupil times the mill levy. Together, the total state and local shares per pupil are equal to the authorized revenue base, the total expenditure per pupil. The total local share is the local share per pupil times the number of eligible pupils. The total state share is the state share per pupil times the number of eligible pupils.

Example

The following hypothetical example illustrates the calculation sequence for a school district funded under the state guarantee of \$60.12 per pupil per mill for 1984.

Authorized Expenditures Per Pupil

1983 authorized revenue base (ARB)	\$2,245.18
plus statutorily allowed increase	159.62
equals 1984 authorized revenue base (ARB)	<u>\$2,404.80</u>

Eligible Pupils

Fall 1981 average daily attendance	1,330
Fall 1982 average daily attendance	1,250
Fall 1983 average daily attendance	1,200
Three year average	1,260

Since the three year average is the largest eligible figure, the attendance entitlement equals 1,260

District Mill Levy

1984 ARB	\$2,404.80
divided by 1983 state guaranteed revenue per pupil	60.12
equals <u>District general fund mill levy</u>	<u>40.00</u> mills

State and Local Shares Per Pupil

Local Share:

Local valuation for assessment	\$31,500,000.00
divided by attendance entitlement (AE)	1,260.00
equals assessed valuation per AE	<u>\$ 25,000.00</u>
times one mill	.001
equals <u>Local share per mill per pupil</u>	<u>\$ 25.00</u>
times district mill levy	40.00
equals <u>Local share per pupil</u>	<u>\$ 1,000.00</u> mills

State Share:

State guaranteed revenue per pupil	\$ 60.12
minus local revenue per mill per pupil	25.00
equals <u>State share per mill per pupil</u>	<u>\$ 35.12</u>
times district mill levy	40.00
equals <u>State share per pupil</u>	<u>\$ 1,404.80</u> mills

Total State and Local Shares

Local Share:

Local share per pupil	\$ 1,000.00
times attendance entitlement	\$ 1,260.00
equals <u>Total local share</u>	<u>\$ 1,260,000.00</u>

State Share:

State share per pupil	\$ 1,404.80
times attendance entitlement	\$ 1,260.00
equals <u>Total state share</u>	<u>\$ 1,770,048.00</u>

Total Revenues

Total state share	\$ 1,770,048.00
plus total local share	1,260,000.00
equals <u>Total Equalization Program Revenue</u>	<u>\$ 3,030,048.00</u>

## Committee Deliberations

During the committee's initial deliberations, representatives of the state Department of Education, and various public education interest groups opposed substantial changes to the act. This opposition was based upon three observations. First, due to the reconvening of the General Assembly in late June, and the continued reconvening of the General Assembly throughout the interim, the committee's schedule was likely to be abbreviated. Second, many school districts were scheduled to hold elections in the late fall to increase their authorized revenue bases (ARB's) and the outcome of these elections would need to be known prior to fine-tuning any major recommendations to significantly alter the distribution of state aid. Third, uncertainty surrounding the amounts available for appropriation for the fiscal year 1984-85 state budget, and the concomitant amounts available for public school finance made funding amounts available under current law or any proposed change highly speculative at best. For these reasons, no alternative formulae for distributing state public school finance aid were considered by the committee.

The committee's examination of methods to extend the current act focused on two primary issues:

- 1) the funding level of the act for the 1985 budget year; and
- 2) equalization of additional ARB increases granted by the State School District Budget Review Board and elections.

Funding level for the 1985 budget year. As the committee began to consider the various factors to be specified in law for the 1985 budget year, it became apparent that the total "new money" available for the 1984-85 budget would determine how high the ARB increase, minimum ARB, state guarantee, minimum and alternate minimum guarantee, and property tax amounts could be set.

At its November 22nd meeting the committee received testimony from members of the Joint Budget Committee that the "new money" available for the FY 1984-85 budget would approximate \$75.2 million. That is, the FY 1984-85 total general fund and tax relief expenditures would be \$75.2 million higher than the amounts appropriated for FY 1983-84 after deduction of the \$48.0 million in FY 1983-84 budget cuts. The "new money" calculation is shown below in millions:

	\$1,704.6	-- original FY 1983-84 appropriation
	- 48.0	-- FY 1983-84 budget cuts
equals	<u>\$1,656.6</u>	-- net appropriation for FY 1983-84
	\$1,731.8	-- FY 1984-85 appropriation target
	-1,656.6	-- FY 1983-84 net appropriation
equals	<u>\$ 75.2</u>	-- FY 1984-85 "new money"

In examining various methods for extending current law within the parameter of "new money" available for 1984-85, the committee considered eight options which are summarized below. Table I compares the options with respect to fiscal and calendar year state equalization and property tax costs, ARB increases, and state aid to property tax ratios. The options are arrayed from least expensive to most expensive on the table.

Option I. The percentage of total general fund and tax relief spending which was necessary to fund the equalization formula in fiscal year 1983-84 was calculated based upon original 1983-84 appropriation levels, without taking into account budget cuts. This percentage would be applied to the 1984-85 appropriation to determine the 1984-85 funding level for state equalization. It is then assumed that the statewide ratio between state aid and local property tax for the 1985 budget year would be held at the 1984 budget year ratio after inclusion of estimated budget review board and election granted property tax increases, but not including budget cuts.

Option II. 1984 ARB's would be continued for the 1985 budget year. No increase or decrease in ARB levels would be allowed for 1985.

Option III. As in option I, the percentage which state equalization appropriations comprise of total general fund and tax relief appropriations for 1983-84 would be calculated, after reductions for budget cuts are deducted. This percentage would be applied to the 1984-85 total appropriation to determine the 1984-85 state equalization funding level. It is then assumed that the statewide ratio between state equalization and local property tax for the 1985 budget year would be held at the 1984 budget year ratio after inclusion of estimated budget review board and election granted property tax increases, but not including budget cuts.

Option IV. The state appropriation for state equalization would be increased at the same percentage rate which total general fund and tax relief appropriations increase from fiscal year 1983-84 to fiscal year 1984-85 (4.5 percent) and property taxes are increased at a rate of 7.0 percent to specify the allowable ARB increases for 1985.

Option V. The statewide average ARB for 1984 would be computed and increased by 5.5 percent to provide the 1985 ARB increase. This calculation would be provided pursuant to current law. The ratio of state aid to local property tax for 1985 would be held at the 1984 level after inclusion of estimated budget review board and local election granted property tax increases, but without inclusion of budget cuts.

Option VI. Option VI is identical to option V except that the ratio of state aid to local property taxes for 1985 would be held at the 1984 level without inclusion of estimated budget review board and local election granted property tax increases.

Option VII. Under option VII the entire general fund and tax relief budget for fiscal year 1984-85 would be increased by \$50 million and the fiscal year 1983-84 appropriation for state equalization (after reduction for budget cuts) would be increased at the same rate as the entire general fund and tax relief budget increases from fiscal year 1983-84 to fiscal year 1984-85 (7.6 percent). Property taxes would increase at a rate of 7.0 percent and the resulting state aid and property tax totals would circumscribe the allowable ARB increase for the 1985 budget year.

Option VIII. Option VIII would increase the 1984 statewide average ARB by 7.0 percent, increase the minimum ARB by \$200.00 per pupil, and retain the 1984 ratio of state aid to local property taxes (without inclusion of estimated budget review board and local election granted property tax increases) for 1985.

TABLE I

## Comparison of School Finance Options for 1985

	Fiscal Year General Fund Appropriation (millions)	Calendar Year SE (millions)	Calendar Year PT (millions)	ARB Increase	Minimum ARB Increase	Percent SE
1984 Current Law						
Original	\$642.8	\$692.6	\$710.7	\$159.62	\$184.62	49.36
Adjustments	-13.1 <sup>1/</sup>	-13.1 <sup>1/</sup>	+30.0 <sup>2/</sup>	--	--	-1.52
Actual	629.7	679.5	740.7	--	--	47.84
<u>Option I</u>	653.1	694.0	742.3	(-12.82)	--	48.32%
Incr. over Original						
Dollar	10.3	1.4	31.6	--	--	--
Percent	1.6%	0.2%	4.4%	--	--	--
Incr. over Actual						
Dollar	23.7	14.5	1.6	--	--	--
Percent	3.8%	2.1%	0.2%	--	--	--
<u>Option II</u>	654.7	697.2	745.7	0	--	48.32%
Incr. over Original						
Dollar	11.9	4.6	35.0	--	--	--
Percent	1.9%	0.7%	4.9%	--	--	--
Incr. over Actual						
Dollar	25.0	17.7	5.0	--	--	--
Percent	4.0%	2.6%	6.8%	--	--	--
<u>Option III</u>	658.3	704.4	753.4	28.81	--	48.32%
Incr. over Original						
Dollar	15.5%	11.8	42.7	--	--	--
Percent	2.4%	1.7%	6.0%	--	--	--
Incr. over Actual						
Dollar	28.6	24.9	12.7	--	--	--
Percent	4.5%	3.7%	1.7%	--	--	--
<u>Option IV</u>	658.3	704.4	790.4	100.45	--	47.12%
Incr. over Original						
Dollar	15.5	11.8	79.9	--	--	--
Percent	2.4%	1.7%	11.2%	--	--	--
Incr. over Actual						
Dollar	28.6	24.9	49.7	--	--	--
Percent	4.5%	3.7%	6.7%	--	--	--
<u>Option V</u>	673.9	735.6	786.7	153.65	--	48.32%
Incr. over Original						
Dollar	31.1	43.0	76.0	--	--	--
Percent	4.8%	6.2%	10.7%	--	--	--
Incr. over Actual						
Dollar	44.2	56.1	46.0	--	--	--
Percent	7.0%	8.3%	6.2%	--	--	--
<u>Option VI</u>	681.8	751.4	770.9	153.65	--	49.36%
Incr. over Original						
Dollar	39.0	58.8	60.2	--	--	--
Percent	6.1%	8.5%	8.5%	--	--	--
Incr. over Actual						
Dollar	52.1	71.9	30.2	--	--	--
Percent	8.3%	10.6%	4.1%	--	--	--
<u>Option VII</u>	677.3	642.4	790.4	174.02	--	48.43%
Incr. over Original						
Dollar	34.5	49.8	79.9	--	--	--
Percent	5.4%	7.2%	11.2%	--	--	--
Incr. over Actual						
Dollar	47.6	62.9	49.7	--	--	--
Percent	7.6%	9.3%	6.7%	--	--	--
<u>Option VIII</u>	687.7	763.2	782.9	195.56	200.00	49.36%
Incr. over Original						
Dollar	44.9	70.6	72.2	--	--	--
Percent	7.0%	10.2%	10.2%	--	--	--
Incr. over Actual						
Dollar	58.0	83.7	42.2	--	--	--
Percent	9.2%	12.3%	5.7%	--	--	--

<sup>1/</sup> Amount of budget cut.<sup>2/</sup> Estimated increase due to Budget Review Board and Elections.

As can be observed from Table I, the span of appropriations increases ranged from \$23.7 million (31.5 percent of the "new money") to \$58.0 million (77.1 percent of the "new money"), while current law calls for an increase of \$44.2 million (58.8 percent of the "new money"). Further, it can be observed that relatively small increases in fiscal year appropriations can result in vast impacts on ARB increases, depending on the assumed ratio of state aid to local property tax in each option. For example, option III increases state aid by \$28.6 million and specifies a \$28.81 ARB increase, while option V increases the state appropriation by only an additional \$2.5 million (to a \$31.1 million increase) and specifies an ARB increase \$124.84 higher (to \$153.65). This sensitivity of the formula to changes in state appropriation levels prompted reluctance on the part of the committee to take definitive action until more definite revenue and spending targets are defined.

Budget review board and local elections. In recognition of the fact that special conditions can arise causing a school district to need more revenue than might be authorized, the act, as amended in the 1983 legislative session, allows districts to seek increases in their authorized revenue base through two ways: 1) the State School District Budget Review Board; or 2) a school district election. The committee reviewed the statutory provision for these additional increases and heard testimony regarding the impact of these increases on the act.

Districts may request the State School District Budget Review Board to approve an increase in the district's ARB. The board, composed of the lieutenant governor, state treasurer, and the chairman of the State Board of Education, may grant such an increase, but the increase is not included in the district's authorized revenue base for computation of the district's state aid for that first year. If an ARB increase is approved by the board, the district's mill levy and state and local share are computed in the normal manner, exclusive of the increase, and then an additional computation is made to determine the increase in the local mill levy necessary to fund the increase. As a result, the increase is entirely locally funded for the first year, but for subsequent years the increase is included in the district's ARB and the state share is determined in the manner described above.

If a district's request is not granted by the review board or if the board grants a lesser increase, the district can seek to have its request approved in a district-wide election. Again, the state does not participate in funding the increase approved by the voters until the second year when it becomes a normal portion of the district's ARB.

Special provisions for the 1984 school budget year were amended to these statutes through House Bill 1570 of the 1983 legislative session. The bill prohibited the board from granting increases in district ARB's that totaled more than one million dollars in property tax increases in that budget year. The bill also allowed school districts to forego appealing to the review board for an ARB increase

and instead to go directly to a vote of the people. These provisions were only in effect for the 1984 school budget year. The original provisions would be reinstated for subsequent budget years.

Committee discussion on these statutory provisions centered on the ability of these mechanisms to increase school district budgets and, in turn, commit future state appropriations without restriction. The issue of disparities between school districts was also discussed. In agreeing on a legislative proposal in this area, the committee decided to maintain the authority of the review board but recommended ending state equalization of voter approved increases.

#### Extend "Public School Finance Act of 1973"

Bill 7 provides for the extension of the "Public School Finance Act of 1973" into the 1985 school budget year and amends statutory provisions for a district to increase its authorized revenue base beyond the level set by the act. Under current law, the act would continue in 1985 and subsequent years at a state percentage share of 49.36 percent of the total equalization program. The bill extends the act into the 1985 budget year, leaving blanks for the state percentage share of the total equalization program, the amount of increase over the authorized revenue base of districts in 1984 and the minimum ARB level. These factors would be designated by amendment during the session when information on available state funding is more definite. The bill also continues the provision for an alternate minimum guarantee by the state of \$16.25 as in 1984. The bill removes all provisions in the law which could continue the act beyond 1985.

The bill also amends the power of a district to go to a vote of the people if the review board rejects all or part of a district's request for an ARB increase. The bill permits districts to hold a special election to authorize an additional local property tax levy for the district's general fund that would be permanent and would be separate from the district's ARB. In other words, the legislation would not provide equalization support for such a voter approved levy.

#### Other Issues

In addition to adopting bills to continue the Public School Finance Act and promote excellence in public education, the committee also adopted a bill clarifying the zoning requirements for school district buildings and a bill extending the current statutory limitation on the counting of full day kindergarten students for school district funding purposes.

Bill 5 amends the current provision in law that allows school districts to be excluded from local building restrictions. The amendment would require that any building or structure erected by a school district be subject to local requirements except where those

requirements would prohibit the location of that building or structure. Furthermore, decisions of any planning commission would not be binding upon a board of education. This proposal was adopted as a means to bring about local review of school district construction proposals without restricting those proposals.

Bill 6 extends for one year the current statutory limitation on the counting of kindergarten students for purposes of receiving state funding under the Public School Finance Act. The limitation specifies that kindergarten students may only be counted for one-half day of attendance unless:

1. the students are enrolled in classes of four hours and fifteen minutes per day or more; and
2. the number of such students does not exceed the number of full day kindergarten students counted during the district's 1975 counting period.

A second limitation stipulates that only 3,500 of such full day kindergarten pupils may be counted statewide.

Apparently, the original reason that the limitation was established was due to some school districts attempting to overstate their student counts for attendance purposes by conducting kindergarten programs for a few minutes beyond the normal half-day period. The longer programs were claimed as full-day classes for counting purposes and thus the school district's revenues from these kindergarten pupils doubled. In order to prevent these abuses, while not penalizing districts with established bona fide full-day programs, the limitations were established on the basis of 1975 pupil counts.

The bill adopted by the committee extends the statutory limitation one year.

BILL 1

A BILL FOR AN ACT

1 CONCERNING THE AMOUNT OF INSTRUCTIONAL TIME REQUIRED FOR  
2 PARTICIPATION IN THE "PUBLIC SCHOOL FINANCE ACT OF 1973".

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Bill Summary

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

Requires that the one hundred eighty school days required for participation in the state equalization program be one hundred eighty days of planned teacher-pupil instruction or teacher-pupil contact. Repeals the provision which allowed the one-hundred-eighty-day requirement to be reduced by school closures for the health, safety, or welfare of students.

---

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

4 SECTION 1. 22-50-103 (1), Colorado Revised Statutes, as  
5 amended, is amended to read:

6 22-50-103. District eligibility. (1) A district to be  
7 eligible for state equalization program support under the  
8 provisions of this article for any budget year shall have  
9 elected to accept and become subject to the terms and  
10 conditions of this article, shall maintain a full twelve-grade  
11 program, and shall have scheduled one hundred eighty actual

1 days of school PLANNED TEACHER-PUPIL INSTRUCTION OR OF  
2 TEACHER-PUPIL CONTACT during the regular school year or the  
3 specified number of days in an established alternative year or  
4 pilot program which has been approved by the state board  
5 under subsection (2) of this section.

6 SECTION 2. Repeal. 22-50-103 (3), Colorado Revised  
7 Statutes, is repealed.

8 SECTION 3. Applicability. This act shall apply to  
9 school years commencing on or after the effective date of this  
10 act.

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

BILL 2

A BILL FOR AN ACT

1 CONCERNING THE ESTABLISHMENT OF AN EXTENDED CONTRACT YEAR FOR  
2 TEACHERS IN ALL SCHOOL DISTRICTS.

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Bill Summary

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

Requires that teacher contracts be for a period which is longer than the number of school days required for participation in the state equalization program. Requires that local school boards establish plans for the use of such extra days and that such plan be designed to best serve the instructional needs of pupils.

---

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

4 SECTION 1. 22-63-107, Colorado Revised Statutes, as  
5 amended, is amended BY THE ADDITION OF A NEW SUBSECTION to  
6 read:

7 22-63-107. Employment contracts - written. (5) Each  
8 employment contract entered into on or after the effective  
9 date of this subsection (5) with a teacher shall provide that  
10 such employment shall be for a period which is ten days more  
11 than the number of days required in section 22-50-103 (1).

1 Such ten days shall be as scheduled by the board and shall be  
2 used consistent with the plan therefor developed by the board.  
3 Each board shall develop a plan for the use of such ten days,  
4 which plan shall be designed to best serve the instructional  
5 needs of pupils and shall include, but need not be limited to,  
6 such activities as planning, staff development, and curriculum  
7 projects.

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

BILL 3

A BILL FOR AN ACT

1 CONCERNING THE ESTABLISHMENT OF A PERFORMANCE-BASED SCHOOL  
2 SYSTEM WHICH INCLUDES DUE PROCESS PROTECTION.

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Bill Summary

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

Provides that a school district may be exempt from the teacher tenure law by adopting a performance-based evaluation system for the retention and promotion of teachers. Requires that the state board of education promulgate rules and regulations setting forth the requirements of such a system. Allows school district boards of education to develop salary schedules which are based on performance.

---

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

4 SECTION 1. Article 63 of title 22, Colorado Revised  
5 Statutes, as amended, is amended BY THE ADDITION OF A NEW  
6 SECTION to read:

7 22-63-119. Performance-based evaluation system -  
8 exemption from tenure. Any other law to the contrary  
9 notwithstanding, effective July 1, 1985, a school district  
10 which adopts a performance-based evaluation system pursuant to

1 this section which system is approved by the state board of  
2 education shall be exempt from the provisions of this article.  
3 The state board of education shall promulgate rules and  
4 regulations which shall set forth the elements required to be  
5 contained in each such system. In addition to any other  
6 requirements deemed necessary by the state board of education,  
7 such rules and regulations shall require that retention and  
8 promotion of teachers shall be based upon the evaluation of  
9 teacher performance and that such due process protections as  
10 are deemed appropriate by the state board of education be  
11 included in the system.

12 SECTION 2. 22-32-110 (1), Colorado Revised Statutes, as  
13 amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to  
14 read;

15 22-32-110. Board of education - specific powers.  
16 (1) (ff) To develop schedules for salary increases which are  
17 based on evaluations of teacher performance.

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

BILL 4

A BILL FOR AN ACT

1 CONCERNING TEACHER CERTIFICATION AND RECERTIFICATION.

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Bill Summary

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

Repeals the current provisions for recertification of teachers and replaces such provisions with a system to be established by the state board of education.

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

3 SECTION 1. 22-60-107, Colorado Revised Statutes, as  
4 amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 22-60-107. Renewal of a certificate. A certificate  
6 shall expire as prescribed in section 22-60-104, subject to  
7 the provisions of section 24-4-104, C.R.S., when applicable.  
8 Renewal of such certificates shall be as provided in rules and  
9 regulations promulgated by the state board of education. Such  
10 rules and regulations shall include a requirement for  
11 successful job performance in the renewal of certificates and  
12 shall set forth a renewal system which is designed to meet the

1 needs of individual schools and which is related to school  
2 improvement efforts.

3 SECTION 2. 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 5

A BILL FOR AN ACT

1 CONCERNING THE APPLICABILITY OF LOCAL PLANNING, ZONING, AND  
2 BUILDING REGULATIONS TO SCHOOL DISTRICTS.

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Bill Summary

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

Provides that local planning, zoning, and building regulations apply to buildings and structures of school districts but that decisions of local planning commissions shall not be binding on school districts and that nothing shall prevent a school district from erecting buildings in locations as it chooses.

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

4 SECTION 1. 22-32-124 (1), Colorado Revised Statutes, as  
5 amended, is amended to read:

6 22-32-124. Building codes - zoning - planning.

7 (1) Notwithstanding any authority delegated to a county,  
8 town, city, or city and county, or a planning commission, the  
9 board of education of a school district may determine the  
10 location of public schools within the district and erect

1 necessary buildings and structures without a permit or fee or  
2 compliance with a local building code; but prior to the  
3 acquisition of land for school building sites or the  
4 construction of buildings thereon, the board of education  
5 shall ~~consult with the planning commission which has~~  
6 ~~jurisdiction over~~ COMPLY WITH THE PROVISIONS OF THE ZONING OR  
7 BUILDING ORDINANCES OR RESOLUTIONS, LAND USE REGULATIONS, OR  
8 MASTER PLAN ADOPTED FOR the territory in which the site,  
9 building, or structure is proposed to be located; ~~relative to~~  
10 ~~the location of such site, building, or structure in order~~  
11 ~~that the proposed site, building, or structure shall conform~~  
12 ~~to the adopted plan of the community insofar as is feasible~~  
13 HOWEVER, NO DECISIONS OF ANY PLANNING COMMISSION SHALL BE  
14 BINDING UPON A BOARD OF EDUCATION AND NOTHING SHALL PREVENT A  
15 BOARD OF EDUCATION FROM ERECTING NECESSARY BUILDINGS AND  
16 STRUCTURES IN LOCATIONS AS THE BOARD OF EDUCATION DETERMINES.  
17 All buildings and structures shall be erected in conformity  
18 with the standards of the industrial commission of Colorado.  
19 A board shall advise the planning commission which has  
20 jurisdiction over the territory in which a site, building, or  
21 structure is proposed to be located, in writing, relative to  
22 the location of such site, building, or structure prior to the  
23 awarding of a contract for the purchase or the construction  
24 thereof.

25 SECTION 2. 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.

BILL 6

A BILL FOR AN ACT

1 CONCERNING THE INCLUSION OF KINDERGARTEN PUPILS IN DAILY  
2 ATTENDANCE COUNTS FOR PUBLIC SCHOOL FINANCE PURPOSES.

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Bill Summary

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

Extends the period of applicability of the provision which allows kindergarten pupils to be counted for the purposes of daily attendance for the "Public School Finance Act of 1973".

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

4 SECTION 1. 22-50-102 (1) (b), Colorado Revised Statutes,  
5 as amended, is amended to read:

6 22-50-102. Definitions. (1) (b) For the period July 1,  
7 1976, through June 30, ~~1984~~ 1985, pupils enrolled in  
8 kindergarten classes shall be counted as one-half day of  
9 attendance or, alternatively, not more than a total of ninety  
10 full days per year of attendance, regardless of the number of  
11 days or hours of actual attendance; except that a district  
12 shall be entitled to count as one full day of attendance for

1 the entire year the number of pupils enrolled in kindergarten  
2 classes of four hours and fifteen minutes per day or more, not  
3 to exceed the number counted by the district as full-day  
4 pupils during the four-week period ending the fourth Friday of  
5 October, 1975, or other counting period as provided in section  
6 22-50-104 (1), during the calendar year 1975. The total  
7 number of pupils enrolled in kindergarten classes statewide  
8 who may be counted as one full day of attendance for the  
9 entire year shall not exceed three thousand five hundred.

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

BILL 7

A BILL FOR AN ACT

1 CONCERNING SCHOOL FINANCE.

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Bill Summary

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

Provides that, for the 1985 budget year, the state's share of the total equalization program shall be a specified percent (which is left blank). Provides that, for 1985, the alternate minimum guarantee be sixteen dollars and twenty-five cents, the same as it was for 1984. Provides that, for 1985, the authorized revenue base shall be the 1984 revenue base plus a specified amount (which is left blank), with a minimum authorized revenue base of a specified amount (which is left blank). Removes the power of district voters to increase their authorized revenue base if they are dissatisfied with the budget review board's action, but permits the district board to call a special election to authorize an additional local property tax levy for the district's general fund, which levy if approved may be imposed for the budget year and for each year thereafter without another election. Removes, through amendment and repealers, provisions which continued certain provisions beyond 1985.

---

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

3 SECTION 1. 22-50-105 (1) (a), Colorado Revised Statutes,  
4 as amended, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH  
5 to read:

1           22-50-105. State equalization program - district support  
2 level - state's share. (1) (a) (XII) For the 1985 budget  
3 year, the department of education shall determine, and the  
4 state board shall certify, the equalization program support  
5 level at a level which assures that the state's percentage  
6 share of the total equalization program of all districts under  
7 this section is \_\_\_\_\_. Said board shall also certify the  
8 amount of state funds required to maintain said percentage  
9 share. Such certifications by the state board shall be  
10 reviewed by the legislative council staff, and the legislative  
11 council staff shall make a report thereon to the general  
12 assembly.

13           SECTION 2. 22-50-105 (2) (c), Colorado Revised Statutes,  
14 as amended, is amended to read:

15           22-50-105. State equalization program - district support  
16 level - state's share. (2) (c) For the 1984 AND 1985 budget  
17 year YEARS, if the number of mills to be levied for the  
18 general fund of the district for collection in the APPROPRIATE  
19 budget year would be greater than thirty-five if computed  
20 without regard to this paragraph (c), the state's share shall  
21 be sixteen dollars and twenty-five cents for each pupil of  
22 attendance entitlement, multiplied by the number of mills  
23 levied for the general fund of the district for collection in  
24 1984 For-the-1985-budget-year--and--thereafter;--the--general  
25 assembly--shall--specify-the-state's-share-for-districts-which  
26 qualify-under-this-paragraph-(c) OR IN 1985, AS APPLICABLE.

1 SECTION 3. 22-50-106 (2), Colorado Revised Statutes, as  
2 amended is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

3 22-50-106. Authorized revenue base per pupil of  
4 attendance entitlement - limitation. (2) (h) For the 1985  
5 budget year, the authorized revenue base of a district for  
6 each pupil of attendance entitlement shall be the revenue base  
7 for each pupil of attendance entitlement for that district for  
8 the 1984 budget year plus \_\_\_\_\_ dollars; except that no  
9 district shall be required to have an authorized revenue base  
10 less than \_\_\_\_\_ dollars for each pupil of attendance  
11 entitlement.

12 SECTION 4. 22-50-108 (1) and (4), Colorado Revised  
13 Statutes, are amended to read:

14 22-50-108. Election to authorize additional levy.  
15 (1) (a) ~~Effective--for--the--1975-budget-year--and--each--budget~~  
16 ~~year--thereafter;~~ THIS PARAGRAPH (a) APPLIES ONLY TO ELECTIONS  
17 TO AUTHORIZE AN INCREASE IN THE AUTHORIZED REVENUE BASE FOR  
18 THE 1984 AND PRIOR BUDGET YEARS. If the board of education of  
19 a district is of the opinion that an authorized revenue base  
20 in excess of that approved by the state school district budget  
21 review board is necessary to provide for the needs of the  
22 district, or if the board of education's request for an  
23 increase of its authorized revenue base has not been approved,  
24 the board of education may submit to the registered electors  
25 of the district, at a special election, the question of  
26 whether the authorized revenue base of the district may be

1 increased. At such special election, the question appearing  
2 on the ballot shall be substantially as follows:

3 "Shall the board of education of           (Name of school  
4 district) be granted authority to increase the  
5 authorized revenue base per pupil of attendance entitlement  
6 from the amount of \$       , which is the maximum allowable  
7 without approval of the registered electors, to \$        . If  
8 the increase is approved the total mill levy for the general  
9 fund of the school district for   (year)   will be             
10 mills; if the increase is not approved the total mill levy for  
11 the general fund of the school district for   (year)   will be  
12            mills."

13 (b) FOR THE 1985 BUDGET YEAR AND EACH BUDGET YEAR  
14 THEREAFTER, IF THE BOARD OF EDUCATION OF A DISTRICT IS OF THE  
15 OPINION THAT THE AMOUNT OF ANY INCREASE IN THE DISTRICT'S  
16 AUTHORIZED REVENUE BASE APPROVED BY THE STATE SCHOOL DISTRICT  
17 BUDGET REVIEW BOARD IS INSUFFICIENT TO PROVIDE FOR THE NEEDS  
18 OF THE DISTRICT, OR IF THE BOARD OF EDUCATION'S REQUEST FOR AN  
19 INCREASE IN ITS AUTHORIZED REVENUE BASE HAS BEEN DISAPPROVED,  
20 THE BOARD OF EDUCATION MAY SUBMIT TO THE REGISTERED ELECTORS  
21 OF THE DISTRICT, AT A SPECIAL ELECTION, THE QUESTION OF  
22 WHETHER AN ADDITIONAL LEVY FOR THE DISTRICT'S GENERAL FUND  
23 SHOULD BE AUTHORIZED. AT SUCH SPECIAL ELECTION, THE QUESTION  
24 APPEARING ON THE BALLOT SHALL BE SUBSTANTIALLY AS FOLLOWS:

25 "SHALL THE BOARD OF EDUCATION OF           (NAME OF SCHOOL  
26 DISTRICT) BE GRANTED AUTHORITY TO LEVY AN ADDITIONAL

1 \_\_\_\_\_ MILLS FOR THE GENERAL FUND OF THE DISTRICT FOR  
2 (YEAR) AND FOR EACH YEAR THEREAFTER? IF THE ADDITIONAL  
3 LEVY IS APPROVED, THE TOTAL MILL LEVY FOR THE GENERAL FUND OF  
4 THE SCHOOL DISTRICT FOR (YEAR) WILL BE \_\_\_\_\_ MILLS AND  
5 THE BOARD OF EDUCATION SHALL HAVE THE AUTHORITY TO LEVY SUCH  
6 ADDITIONAL MILLS EACH YEAR THEREAFTER WITHOUT FURTHER VOTER  
7 APPROVAL. IF THE ADDITIONAL LEVY IS NOT APPROVED, THE TOTAL  
8 MILL LEVY FOR THE GENERAL FUND OF THE SCHOOL DISTRICT FOR  
9 (YEAR) WILL BE \_\_\_\_\_ MILLS."

10 (4) If a majority of the votes cast at any such election  
11 HELD PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS  
12 SECTION are in favor of the question, the authorized revenue  
13 base of the district for the ensuing budget year shall be as  
14 so approved by the registered electors of the district and  
15 taxes may be levied for the general fund of the district as so  
16 approved, but the district shall not be entitled to receive  
17 for said budget year state equalization support for the  
18 increase in the authorized revenue base so approved. If the  
19 majority of the votes cast at any such election are against  
20 the question, the authorized revenue base of the district for  
21 the ensuing budget year shall be as determined under section  
22 22-50-106, or as approved by the state school district budget  
23 review board, whichever is larger.

24 (b) IF A MAJORITY OF THE VOTES CAST AT ANY ELECTION HELD  
25 PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION  
26 ARE IN FAVOR OF THE QUESTION, TAXES MAY BE LEVIED FOR THE

1 GENERAL FUND OF THE DISTRICT FOR SUCH BUDGET YEAR AND FOR EACH  
2 BUDGET YEAR THEREAFTER AS SO APPROVED. THE DISTRICT SHALL NOT  
3 BE ENTITLED TO RECEIVE FOR SUCH BUDGET YEAR OR ANY BUDGET YEAR  
4 THEREAFTER ANY STATE EQUALIZATION SUPPORT BASED UPON SUCH  
5 ADDITIONAL LEVY. IF THE MAJORITY OF THE VOTES CAST AT ANY  
6 SUCH ELECTION ARE AGAINST THE QUESTION, NO ADDITIONAL LEVY  
7 SHALL BE AUTHORIZED.

8 SECTION 5. Repeal. 22-50-105 (1) (b) and 22-50-106 (4),  
9 Colorado Revised Statutes, as amended, are repealed.

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

LEGISLATIVE COUNCIL  
COMMITTEE ON PROPERTY TAX

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## SUMMARY OF ACTIVITIES AND RECOMMENDATIONS

During the 1983 legislative interim, the Committee on Property Tax addressed the following topics:

- (1) The assessment of minerals and mining properties; and
- (2) the computerization of the property tax assessment process throughout the state.

In addition to these two specific issues, the committee studied changes designed to clarify the existing property tax statutes and considered proposals intended to improve the administration of the state's property tax system.

### Activities

The committee held a total of five meetings during the interim. Most of the committee's time was spent reviewing the valuation process for minerals, including clay, coal, metallic minerals, oil and gas, oil shale, and sand and gravel. This review also focused on property tax problems in the assessment of nonproducing mines, severed mineral interests, and unpatented mining claims.

Because implementing legislation and funding for statewide computerization of the property tax assessment process was adopted during the 1983 legislative session, the committee served in an oversight capacity by monitoring the progress of this computerization.

Additional committee time was devoted to reviewing recommendations from the state property tax administrator, county assessors, the State Board of Equalization, and other interested parties.

Much of the committee's discussion and many of its recommendations relate to the constitutional amendment on property taxation, House Concurrent Resolution No. 1005, approved by the electorate in the 1982 general election.

### Recommendations

As a result of its deliberations the committee recommends a total of nine bills and two resolutions which are summarized below:

Bill 8 prohibits using the value of mineral reserves when determining the actual value of producing or nonproducing mines. Furthermore, the legislative declaration requires that when the cost, market, and income appraisal techniques are inappropriate for arriving at the actual value of taxable property, the value shall be determined by comparison of the surface use of the property to property with a similar surface use.

Bill 9, in addition to clarifying procedures for property valuations, requires the State Board of Equalization to notify each assessor and board of county commissioners of any action the state board may take on current year valuations.

Bill 10 changes the property tax reassessment cycle in order to permit county assessors to run for election in 1986 without a change in the base year level of value during the same year.

Bill 11 permits the State Board of Equalization to require time adjustments for sales prices of comparable properties when they are utilized in the determination of actual value.

Bill 12 changes the assessment ratio of all taxable property from thirty percent to twenty-nine percent of actual value. The assessment ratio of residential property is changed from thirty percent to twenty-one percent of actual value. These changes are required by the state constitution.

Bill 13 requires that the state property tax administrator shall be appointed by the State Board of Equalization and shall be exempt from the state personnel system. This change is also required by the state constitution.

Bill 14 changes the definition of residential land for property tax purposes to include vacant land if a dwelling unit could lawfully be placed on the land. The effect of this bill would be to change the assessment of vacant residential land from twenty-nine to twenty-one percent of its actual value.

Bill 15 requires the board of county commissioners to change the mill levies in those cases where the valuation for assessment is changed after certification. This is an attempt to keep taxing jurisdictions from exceeding their mill levy and revenue-raising limitations.

Bill 16 repeals the requirement that a local taxing district advertise its request to the Division of Local Government for approval of a one-time mill levy increase for capital expenditures.

Resolution 1 authorizes the General Assembly to establish a reasonable amount of value or a method for determining the value of mineral reserves in those instances where the cost, market, and income approaches to appraisal are impracticable.

Resolution 2 relates to the pending lawsuit in Colorado and in other states challenging current methods of valuing the property of railroads and airline companies. The resolution urges the state attorney general to participate in litigation in such states in order to assist in establishing a legal precedent which validates the methods and formulas used in Colorado for the valuation of railroad and airline property.

## COMMITTEE RECOMMENDATIONS

### Property Taxation of Mineral Reserves

One of the major questions facing the committee during the interim was whether mineral reserves should be subject to the property tax, and if so, what type of appraisal method should be used to arrive at an equitable value.

Representatives from the coal, hard rock, oil and gas, oil shale, sand and gravel, and hard rock mineral industries presented the position that mineral reserves (undeveloped mineral interests) should not be valued for assessment until production occurs, because of the difficulty in determining the actual value of these reserves. On the other hand, others argued that House Concurrent Resolution No. 1005 requires that the cost, market, and income appraisal techniques must be used in the assessment of all taxable property, including mineral reserves.

The committee recommends two different approaches to this problem: either mineral reserves should not be assessed or the General Assembly should decide the value or methods for determining the value of mineral reserves. These recommendations are contained in Bill 8 and Resolution 1.

### Determination of Value

House Concurrent Resolution No. 1005 requires that actual value of property be determined by the cost, market, and income approaches to appraisal. One problem that the committee encountered during the interim was how to determine the value of any taxable property if these three approaches cannot be used to obtain a fair and equitable value.

As a general policy, the committee recommends that the General Assembly provide a means to determine the actual value of any taxable property when the appropriate consideration of the three appraisal techniques fail to derive fair value. The method suggested by the committee is to determine the actual value of a property by comparison of the surface use of the property being valued to property with a similar surface use. This recommendation is contained in Section 1 of Bill 8.

### Procedures for Objecting to Property Assessments

Testimony from representatives of the county assessors indicated potential problems with section 39-5-122, Colorado Revised Statutes, concerning taxpayer protests of property assessments. According to the assessors, the statute is not specific enough in detailing the criteria for a formal protest. The assessors specifically recommended

that any objection to property valuations be filed in writing and state the reason for the protest. Although committee members were reluctant to impose complicated forms or difficult burdens of proof on the taxpayers, the majority of the committee decided it was not unreasonable to require very general information from taxpayers in order to have a record of the protest.

These suggestions have been incorporated in Bill 9. In addition to clarifying the taxpayer protest requirements, Bill 9 requires the State Board of Equalization to notify each assessor and county board of equalization, two weeks prior to each meeting, of any action the state board may take on current year valuations. This notification requirement was requested by representatives of Colorado Counties, Inc. in response to orders issued by the State Board of Equalization at the end of September 1983 that mandated valuation adjustments on the 1983 property abstract for seventeen counties. Colorado Counties, Inc. objections to the actions of the State Board of Equalization are outlined in the October 12 committee meeting summary, available in the Legislative Council office.

#### Reassessments -- Base Year Revisions

Currently, property is valued using a "base year" concept. Under this concept the current value of a piece of property is based upon what it was worth in some prior year. In 1977 the General Assembly adopted House Bill 1452 which froze the level of value for assessment purposes on various classes of property at the 1973 base year level. The purpose of this legislation was to protect property owners from experiencing large increases in their property tax due to the tremendous increase in housing values during much of the 1970's. During the 1983 session, House Bill 1004 was passed which accelerates the base year level of value and the reassessment cycle according to the following schedule:

<u>Assessment Year</u>	<u>Base Year Level of Value</u>
1983 through 1985	1977
1986 through 1987	1984
1988 and thereafter	two-year cycle

The purpose in accelerating the base year and shortening the reassessment cycle is to provide a more current year value of property, to promote better taxpayer understanding of the assessment of his property, and to reduce the impact of the shifts between base years.

County assessors expressed their concern about running for reelection in 1986 just after the 1984 base year level of value is instituted. They feel this seven year advance in base year will significantly impact property values.

The committee's response to this problem is contained in Bill 10 which delays the advance of the use of the 1984 base year until 1987.

#### Use of Sales Prices of Comparable Properties in the Determination of Actual Value

Section 39-1-103 of the Colorado statutes outlines the methods by which valuation for taxation is determined. One method used by assessors in valuing property is the market approach or comparison of sales prices of similar properties. Whenever sales prices of comparable properties are used to determine actual value of any taxable property, the statutes mandate that any sample which is used reflect a typical sales price for a twenty-four month period preceding the sample. This permits a more reasonable sample and reduces price fluctuations.

The accuracy of such sales price comparisons used by the assessors was measured by Max Arnold and Associates, Inc., as part of the one percent property tax audit required by House Concurrent Resolution No. 1005. Because of the twenty-four month time span in which sales are measured, there was some discrepancy between the figures arrived at by Max Arnold and Associates, Inc., and those used by the assessors.

In order to correct this problem and provide for uniformity among the various counties in the state, the committee recommends Bill 11.

#### Statutory Conformance -- Assessment Ratios

House Concurrent Resolution No. 1005 changed the assessment ratio for residential real property from thirty percent to twenty-one percent of actual value and all classes of property other than residential from thirty percent to twenty-nine percent of actual value. These assessment ratios were included in property tax legislation considered during the 1983 legislative session (House Bills 1041, 1044, and 1574). However, this legislation was not adopted. Bill 12 conforms the statutes to the previously mentioned constitutional requirements.

#### Statutory Conformance -- Property Tax Administrator

House Concurrent Resolution No. 1005 requires that the state property tax administrator be appointed by the State Board of Equalization for a term of five years, and that he may be removed by the board for cause. The constitution also requires that the property tax administrator be exempt from the state personnel system. Conforming statutory language in this area was contained in House Bills 1041, 1044, and 1574 from the 1983 legislative session but all these bills were postponed indefinitely. The committee recommends Bill 13 to conform the statutes with the constitutional requirements

concerning the state property tax administrator.

#### Definition of "Residential Land" for the Purpose of Property Taxation

The 1982 interim Committee on School Finance and Property Taxation recommended statutory definitions of property tax terms which were either required by or related to House Concurrent Resolution No. 1005. These recommendations were contained in Senate Bill 6 of the 1983 legislative session. One of the most heavily debated questions regarding Senate Bill 6 was whether vacant residential land should be included under the definition of residential land and therefore assessed at twenty-one percent of actual value rather than twenty-nine percent of actual value. As Senate Bill 6 was finally signed into law, vacant residential land was excluded from receiving a residential classification. Residential land is defined in Senate Bill 6 as "a parcel or contiguous parcels of land under common ownership upon which residential improvements are located and which is used as a unit in conjunction with the residential improvements located thereon." (Emphasis added.)

Opponents of assessing vacant residential land at twenty-nine percent of actual value rather than at twenty-one percent argue that this higher assessment ratio penalizes persons who own vacant residential land because these lands require fewer governmental services than developed areas. Assessing vacant land at a higher percentage may also force persons to sell lots upon which they had hoped to build in future years.

In response to these concerns the committee recommends Bill 14 to permit vacant residential land to be assessed at twenty-one percent rather than twenty-nine percent of value.

#### Changes in Mill Levies in Relation to Changes in Certified Valuations for Assessment

One of the tasks performed by the Division of Local Government is calculating the mill levy for units of local government. This year problems were created in the division's calculations of the mill levy because of actions by the State Board of Equalization during the month of September. Orders by the state board affected the assessed valuations of seventeen counties and approximately 723 taxing jurisdictions. Because these changes made the original mill levy figures provided by the Division of Local Government inaccurate, the division instructed the impacted taxing jurisdictions to recalculate the mill levies based on information from their respective county assessors. Even though the division made this attempt to apprise local governments of potential mill levy inaccuracy, there was still some concern that many of these taxing authorities did not adjust their mill levies, thereby causing mistakes in their property taxes. According to representatives from the Division of Local Government, part of the problem is that no one is responsible for insuring that

the mill levies are accurate and do not exceed the seven percent revenue-raising limitation or result in windfall profits for local taxing entities. Bill 15 requires the board of county commissioners, after notification by the county assessor, to change the mill levy in those instances in which the county's valuation has changed after the mill levies have already been certified.

#### Repeal of the Public Hearing Requirements Relating to Requests for Capital Expenditures Submitted to the Division of Local Government by Local Taxing Districts

During the 1983 session, House Bill 1405 was adopted which permits local units of government to exceed their mill levy limitations for capital expenditures. The bill specifically required all units of local government that decided to exceed the seven percent limitation to conform with statutory advertising and public hearing requirements.

Representatives of special districts informed committee members that this provision of law is counterproductive because the cost of the public disclosure provisions often exceed the capital expenditures for which they are applying.

Bill 16 repeals the requirement that a local taxing district advertise its request to the Division of Local Government for approval of a one-time increased levy for capital expenditures.

#### Property Taxation of Railroad and Airline Companies

Litigation is pending in Colorado as well as in other states challenging the taxation of railroad, airline, and other public utility assessments. A detailed analysis of this litigation and a summary of the potential impact in Colorado are contained in the committee's meeting summary of October 12, available at the Legislative Council office. Resolution 2 urges the state attorney general to participate in the lawsuits pending in other states in order to establish a legal precedent for validating the method of taxation used in Colorado for the valuation of the property of railroad and airline companies.

BILL 8

A BILL FOR AN ACT

1 CONCERNING THE PROPERTY TAXATION OF CERTAIN CLASSES OF REAL  
2 PROPERTY.

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Bill Summary

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

Declares that the actual value of certain classes of real property may not be able to be determined using the three approaches to value, and that in such cases actual value shall be determined by comparison of the surface use of the property being valued to property with a similar surface use.

Declares that a mineral while in the ground, whether known to exist or not, shall not be considered when determining the actual value of a producing or nonproducing mine.

---

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

4 SECTION 1. 39-1-101, Colorado Revised Statutes, 1982  
5 Repl. Vol., as amended, is amended to read:

6 39-1-101. Legislative declaration. The general assembly  
7 declares that its purpose in enacting articles 1 to 13 of this  
8 title is to exercise the authority granted in section 3 of  
9 article X of the state constitution wherein it is provided,

1 among other things, that "the actual value of all real and  
2 personal property not exempt from taxation under this article  
3 shall be determined under general laws, which shall prescribe  
4 such methods and regulations as shall secure just and  
5 equalized valuations for assessment of all real and personal  
6 property not exempt from taxation under this article". It  
7 further declares that it intends to fix the percentage of such  
8 determined actual value at which all such property shall be  
9 assessed for taxation. IT FURTHER DECLARES THAT THE ACTUAL  
10 VALUE OF CERTAIN CLASSES OF REAL PROPERTY MAY NOT BE ABLE TO  
11 BE DETERMINED AFTER APPROPRIATE CONSIDERATION OF THE THREE  
12 APPROACHES TO VALUE; THEREFORE IT IS INCUMBENT UPON THE  
13 GENERAL ASSEMBLY TO PROVIDE FOR A MEANS TO DETERMINE THE  
14 ACTUAL VALUE OF SUCH TAXABLE PROPERTY, AND TO EFFECT THIS  
15 RESULT THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT,  
16 WHEN APPROPRIATE CONSIDERATION OF THE THREE APPROACHES TO  
17 VALUE FAILS TO DERIVE AN ACTUAL VALUE FOR SUCH PROPERTY, THE  
18 ACTUAL VALUE OF SUCH PROPERTY SHALL BE DETERMINED BY  
19 COMPARISON OF THE SURFACE USE OF SUCH PROPERTY TO PROPERTY  
20 WITH A SIMILAR SURFACE USE. To these ends, the provisions of  
21 said articles shall be strictly construed.

22 SECTION 2. Article 6 of title 39, Colorado Revised  
23 Statutes, 1982 Repl. Vol., is amended BY THE ADDITION OF A NEW  
24 SECTION to read:

25 39-6-104.5. Valuation of minerals while in the ground.  
26 For the purposes of this article, the value of a mineral while

1 in the ground, whether known to exist or not, shall not be  
2 considered when determining the actual value of a producing or  
3 nonproducing mine.

4 SECTION 3. Applicability. This act shall apply to  
5 property tax years commencing on or after January 1, 1984.

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

BILL 9

A BILL FOR AN ACT

1 CONCERNING PROCEDURES FOR OBJECTING TO PROPERTY TAXATION  
2 DECISIONS.

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Bill Summary

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

Permits an objection and protest on property taxes to be made in person before the county assessor or filed in writing with the assessor's office, stating in general terms the reason for the objection and protest.

Requires the state board of equalization to mail notice to each assessor and board of county commissioners of the nature of any action it may take pertaining to current year valuations for assessment.

---

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

4 SECTION 1. 39-5-122 (2), Colorado Revised Statutes, 1982

5 Repl. Vol., is amended to read:

6 39-5-122. Taxpayer's remedies to correct errors.

7 (2) If any person is of the opinion that his property has  
8 been valued too high, or has been twice valued, or is exempt  
9 by law from taxation, or that he did not own taxable property  
10 on the assessment date, or that property has been erroneously

1 assessed to him, he may appear before the assessor AND OBJECT  
2 OR HE MAY FILE A WRITTEN OBJECTION AND PROTEST WITH THE  
3 ASSESSOR'S OFFICE BEFORE THE LAST DAY SPECIFIED IN THE NOTICE,  
4 STATING IN GENERAL TERMS THE REASON FOR THE OBJECTION AND  
5 PROTEST. THE PROTESTOR SHALL HAVE THE OPPORTUNITY on the days  
6 specified in the public notice to present his objection and  
7 protest and be heard, whether or not there has been a change  
8 in valuation of such property from the previous year and  
9 whether or not any change is the result of a determination by  
10 the assessor for the current year or by the state board of  
11 equalization for the previous year. If the assessor finds any  
12 valuation to be erroneous or otherwise improper, he shall  
13 correct such error, but, if he declines to change any  
14 valuation which he has determined, he shall state his reasons  
15 in writing on the form described in section 39-8-106, shall  
16 insert the information otherwise required by the form, and  
17 shall, on or before the last regular working day of the  
18 assessor in June in the case of real property and July 10 in  
19 the case of personal property, mail two copies of such  
20 completed form to the person presenting the objection and  
21 protest so denied.

22 SECTION 2. 39-9-102 (3), Colorado Revised Statutes, 1982  
23 Repl. Vol., is amended to read:

24 39-9-102. Meetings of state board of equalization.  
25 (3) Two weeks before each meeting of the state board of  
26 equalization, a news release stating the time and location of

1 the meeting shall be sent throughout the state to radio  
2 stations, television stations, and newspapers of general  
3 circulation. NOT LATER THAN TWO WEEKS BEFORE EACH MEETING,  
4 THE BOARD SHALL ALSO MAIL NOTICE TO EACH ASSESSOR AND BOARD OF  
5 COUNTY COMMISSIONERS OF A COUNTY WITH REGARD TO THE NATURE OF  
6 ANY ACTION IT MAY TAKE PERTAINING TO CURRENT YEAR VALUATIONS  
7 FOR ASSESSMENT.

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

BILL 10

A BILL FOR AN ACT

1 CONCERNING A ONE-YEAR EXTENSION OF THE IMPLEMENTATION DATES  
2 FOR THE NEXT REASSESSMENT CYCLE IN THE BASE YEAR CYCLE  
3 USED IN PROPERTY TAXATION.

---

Bill Summary

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

Changes the next base year level of value from 1984 to 1985, and the applicability of such level of value to the property tax years commencing in 1987 and 1988, thereby retaining the two-year reassessment cycle.

---

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

5 SECTION 1. 39-1-104 (10), (10.1) (a), (12) (h), and  
6 (12.1), the introductory portion to 39-1-104 (12.2) (a), and  
7 39-1-104 (12.2) (b), Colorado Revised Statutes, 1982 Repl.  
8 Vol., as amended, are amended to read:

9 39-1-104. Valuation for assessment. (10) (a) For the  
10 years 1983 through 1985 1986, the 1977 level of value and the  
11 manuals and associated data published for the year 1977 by the  
12 administrator and approved by the advisory committee to the

1 administrator shall be utilized for determining actual value  
2 of real property in any county of the state as reflected in  
3 the abstract of assessment for each such year.

4 (b) During the years 1983 through ~~1985~~ 1986, in  
5 preparation for implementation in the year ~~1986~~ 1987, the  
6 respective assessors shall conduct revaluations of all taxable  
7 real property utilizing the ~~1984~~ 1985 level of value and the  
8 manuals and associated data published for the year ~~1984~~ 1985  
9 by the administrator and approved by the advisory committee to  
10 the administrator.

11 (10.1) (a) Beginning with the property tax year which  
12 commences January 1, ~~1986~~ 1987, a reassessment cycle shall be  
13 instituted with each cycle consisting of two full calendar  
14 years. At the beginning of each reassessment cycle, the base  
15 year and level of value to be used during the reassessment  
16 cycle in the determination of actual value of real property in  
17 any county of the state as reflected in the abstract of  
18 assessment for each year in the reassessment cycle shall  
19 advance by two years over what was used in the previous  
20 reassessment cycle; except that the base year and the level of  
21 value to be used for the years ~~1986-and-1987~~ 1987 AND 1988  
22 shall advance by ~~seven~~ EIGHT years over what was used for the  
23 years 1983 through ~~1985~~ 1986, so that for the years ~~1986-and~~  
24 ~~1987~~ 1987 AND 1988 the ~~1984~~ 1985 level of value is used.

25 (12) (h) For property tax years 1982 through ~~1985~~ 1986,  
26 rail transportation property, as defined in section 39-4.1-102

1 (2), assessed pursuant to article 4.1 of this title.

2 (12.1) Subsection (12) of this section and this  
3 subsection (12.1) are repealed, effective January 1, ~~1986~~  
4 1987.

5 (12.2) (a) For property tax years commencing on or after  
6 January 1, ~~1986~~ 1987, the requirement stated in subsections  
7 (9) to (11) of this section that the actual value of real  
8 property be determined according to a specified year's level  
9 of value and manuals and associated data published by the  
10 administrator for said specified year and approved by the  
11 advisory committee to the administrator shall apply to the  
12 assessment of all classes of real property, including but not  
13 limited to the following classes of real property:

14 (b) This subsection (12.2) shall take effect January 1,  
15 ~~1986~~ 1987.

16 SECTION 2. 39-4-101 (2.5) and (3), Colorado Revised  
17 Statutes, 1982 Repl. Vol., as amended, are amended to read:

18 39-4-101. Definitions. (2.5) "Public utility" means,  
19 for property tax years 1982 through ~~1985~~ 1986, every sole  
20 proprietorship, firm, partnership, association, company, or  
21 corporation, and the trustees or receivers thereof, whether  
22 elected or appointed, which does business in this state as an  
23 airline company, electric company, rural electric company,  
24 telephone company, telegraph company, gas company, gas  
25 pipeline carrier company, domestic water company selling at  
26 retail, pipeline company, or coal slurry pipeline. This

1 subsection (2.5) is repealed, effective January 1, 1986 1987.

2 (3) "Public utility" means, for property tax years  
3 commencing on or after January 1, 1986 1987, every sole  
4 proprietorship, firm, partnership, association, company, or  
5 corporation, and the trustees or receivers thereof, whether  
6 elected or appointed, which does business in this state as a  
7 railroad company, airline company, electric company, rural  
8 electric company, telephone company, telegraph company, gas  
9 company, gas pipeline carrier company, domestic water company  
10 selling at retail, pipeline company, coal slurry pipeline, or  
11 private car line company.

12 SECTION 3. 39-4-102 (3) (a) and (3) (b), Colorado  
13 Revised Statutes, 1982 Repl. Vol., as amended, are amended to  
14 read:

15 39-4-102. Valuation of public utilities. (3) (a) For  
16 property tax years 1982 through 1985 1986, there shall be  
17 applied to the actual value of each public utility an  
18 equalization factor to adjust the actual value for the current  
19 year of assessment as determined by the administrator pursuant  
20 to subsections (1) and (2) of this section to the public  
21 utility's level of value in 1981.

22 (b) For property tax years commencing on or after  
23 January 1, 1986 1987, there shall be applied to the actual  
24 value of each public utility an equalization factor to adjust  
25 the actual value for the current year of assessment as  
26 determined by the administrator pursuant to subsections (1)

1 and (2) of this section to the public utility's level of value  
2 in the appropriate year which is prescribed in section  
3 39-1-104 (10.1) and which is used to determine the actual  
4 value of properties which are subject to said subsection  
5 (10.1).

6 SECTION 4. 39-4-106 (7) (b) and (8) (b), Colorado  
7 Revised Statutes, 1982 Repl. Vol., as amended, are amended to  
8 read:

9 39-4-106. Valuation of utilities - apportionment.

10 (7) (b) This subsection (7) is effective January 1, 1986  
11 1987.

12 (8) (b) This subsection (8) is effective January 1, 1986  
13 1987.

14 SECTION 5. 39-4.1-110, Colorado Revised Statutes, 1982  
15 Repl. Vol., as amended, is amended to read:

16 39-4.1-110. Repeal of article. This article is  
17 repealed, effective January 1, 1986 1987.

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

BILL 11

A BILL FOR AN ACT

1 CONCERNING THE USE OF SALES PRICES OF COMPARABLE PROPERTIES IN  
2 THE DETERMINATION OF ACTUAL VALUE.

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Bill Summary

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

Requires that sales prices of comparable properties which are used in the determination of actual value be adjusted for time of sale to the base year level of value as determined by the state board of equalization.

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

4 SECTION 1. 39-1-103 (8), Colorado Revised Statutes, 1982  
5 Repl. Vol., as mended, is amended BY THE ADDITION OF A NEW  
6 PARAGRAPH to read:

7 39-1-103. Actual value determined - when. (8) (e) Such  
8 true or typical sales shall be adjusted for time of sale to  
9 the base year level of value as determined by the state board  
10 of equalization.

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

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

BILL 12

A BILL FOR AN ACT

1 CONCERNING THE CONFORMANCE OF ASSESSMENT RATIOS TO THE STATE  
2 CONSTITUTION.

---

Bill Summary

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

Changes the assessment ratio for certain properties to twenty-nine percent. Specifies that the assessment ratio for residential real property is twenty-one percent.

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

4 SECTION 1. 39-1-104 (1), Colorado Revised Statutes, 1982  
5 Repl. Vol., is amended, and the said 39-1-104, as amended, is  
6 further amended BY THE ADDITION OF A NEW SUBSECTION, to read:  
7 39-1-104. Valuation for assessment. (1) ~~Except when~~  
8 ~~otherwise prescribed in articles 1 to 13 of this title;~~ The  
9 valuation for assessment of all taxable property in the state  
10 shall be thirty TWENTY-NINE percent of the actual value  
11 thereof as determined by the assessor and the administrator in  
12 the manner prescribed by law, and such percentage shall be

1 uniformly applied, without exception, to the actual value, so  
2 determined, of the various classes and subclasses of real and  
3 personal property located within the territorial limits of the  
4 authority levying a property tax, and all property taxes shall  
5 be levied against the aggregate valuation for assessment  
6 resulting from the application of such percentage. THIS  
7 SUBSECTION (1) SHALL NOT APPLY TO RESIDENTIAL REAL PROPERTY,  
8 PRODUCING MINES, AND LANDS OR LEASEHOLDS PRODUCING OIL OR GAS.

9 (1.5) Residential real property shall be valued for  
10 assessment at twenty-one percent of its actual value.

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

BILL 13

A BILL FOR AN ACT

1 CONCERNING THE CONFORMANCE OF THE LAW DEALING WITH THE  
2 POSITION OF PROPERTY TAX ADMINISTRATOR WITH THE STATE  
3 CONSTITUTION.

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Bill Summary

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

Specifies that the property tax administrator shall be appointed by the state board of equalization and shall be exempt from the state personnel system.

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

5 SECTION 1. 39-2-101, Colorado Revised Statutes, 1982  
6 Repl. Vol., is amended to read:

7 39-2-101. Division created - property tax administrator.

8 There is hereby created the division of property taxation in  
9 the department of local affairs, the head of which shall be  
10 the property tax administrator, which office is hereby created  
11 BY SECTION 15 OF ARTICLE X OF THE STATE CONSTITUTION. The  
12 ~~property-tax~~ administrator shall be appointed by ~~the-executive~~

1 ~~director-of-the-department-of-local--affairs--subject--to--the~~  
2 ~~provisions---of--section--13--of--article--Xii--of--the--state~~  
3 ~~constitution~~ A MAJORITY VOTE OF THE STATE BOARD OF  
4 EQUALIZATION AND SHALL SERVE FOR A TERM OF FIVE YEARS AND  
5 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIED. THE  
6 ADMINISTRATOR MAY BE REMOVED FROM OFFICE FOR CAUSE BY A  
7 MAJORITY VOTE OF THE STATE BOARD OF EQUALIZATION. THE  
8 POSITION OF PROPERTY TAX ADMINISTRATOR SHALL BE EXEMPT FROM  
9 THE STATE PERSONNEL SYSTEM.

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

BILL 14

A BILL FOR AN ACT

1 CONCERNING THE DEFINITION OF "RESIDENTIAL LAND" FOR THE  
2 PURPOSE OF PROPERTY TAXATION.

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Bill Summary

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

Amends the definition of "residential land" with regard to property taxation to include land which is not underlying a residential improvement but upon which only such improvements could be lawfully placed.

---

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

4 SECTION 1. 39-1-102 (14.4), Colorado Revised Statutes,  
5 1982 Repl. Vol., as amended, is amended to read:

6 39-1-102. Definitions. (14.4) "Residential land" means  
7 a parcel or contiguous parcels of land under common ownership  
8 upon which residential improvements are located and ~~which is~~  
9 ~~used--as--a--unit--in--conjunction--with--the--residential~~  
10 ~~improvements--located--thereon--The-term-includes-parcels-of~~  
11 ~~land-in-a-residential-subdivision;-the-exclusive-use-of--which~~  
12 ~~land--is--established--by--the--ownership--of--such--residential~~

1    **improvements** INCLUDES LAND WHICH IS NOT UNDERLYING A  
2    RESIDENTIAL IMPROVEMENT BUT WHICH BY OPERATION OF LAW,  
3    REGULATION, OR COVENANT COULD NOT BE USED FOR ANY OTHER  
4    PURPOSE AND UPON WHICH A RESIDENTIAL IMPROVEMENT COULD BE  
5    PLACED IF NO FURTHER GOVERNMENTAL ACTION IS REQUIRED OTHER  
6    THAN THE FINAL ACTION OF APPROVING THE PLACEMENT OF A  
7    RESIDENTIAL IMPROVEMENT ON THE LAND. The term does not  
8    include any portion of the land which is used for any purpose  
9    which would cause the land to be otherwise classified. The  
10   term also does not include land underlying a residential  
11   improvement located on agricultural land.

12        SECTION 2. Applicability. This act shall apply to  
13   property tax years commencing on or after January 1, 1984.

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

BILL 15

A BILL FOR AN ACT

1 CONCERNING CHANGES IN MILL LEVIES IN RELATION TO CHANGES IN  
2 CERTIFIED VALUATIONS FOR ASSESSMENT.

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Bill Summary

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

Provides that, in any case in which the valuation for assessment is changed after certification thereof to the taxing authorities, the county assessor shall notify the board of county commissioners of such change and of the amount by which mill levies must be changed to ensure that the same amount of revenue is raised and to ensure that the seven percent revenue-raising limit is not violated. Requires the board of county commissioners to change the mill levy pursuant to such notification. Specifies that these provisions do not authorize exceeding mill levy limits.

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

4 SECTION 1. 39-1-111 (5), Colorado Revised Statutes, 1982  
5 Repl. Vol., is amended to read:

6 39-1-111. Taxes levied by board of county commissioners.

7 (5) If, after certification of the valuation for assessment  
8 pursuant to section 39-5-128, changes in such valuation for

1 assessment are made by the assessor, the assessor shall notify  
2 the board of county commissioners or other body authorized by  
3 law to levy property taxes that such changes have occurred.  
4 Upon receipt of such notification, such board or body can make  
5 corresponding adjustments in the tax levies. A copy of any  
6 adjustment to tax levies shall be transmitted to the  
7 administrator OF SUCH CHANGES AND OF THE AMOUNT BY WHICH MILL  
8 LEVIES MUST BE ADJUSTED IN ORDER THAT THE SAME AMOUNT OF  
9 REVENUE BE RAISED AND, IF APPLICABLE, IN ORDER TO ENSURE  
10 COMPLIANCE WITH SECTION 29-1-301, C.R.S., AND THE BOARD OF  
11 COUNTY COMMISSIONERS SHALL MAKE SUCH ADJUSTMENT. COPIES OF  
12 ANY ADJUSTMENT IN TAX LEVIES SHALL BE TRANSMITTED TO THE  
13 ADMINISTRATOR AND TO THE GOVERNING BODIES OF THE TAXING  
14 AUTHORITIES AFFECTED BY SUCH ADJUSTMENT. NOTHING IN THIS  
15 SUBSECTION (5) SHALL BE CONSTRUED AS CONFERRING THE AUTHORITY  
16 TO EXCEED STATUTORILY IMPOSED MILL LEVY LIMITS.

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

BILL 16

A BILL FOR AN ACT

1 CONCERNING THE REPEAL OF PUBLIC HEARING REQUIREMENTS RELATING  
2 TO REQUESTS FOR CAPITAL EXPENDITURES SUBMITTED TO THE  
3 DIVISION OF LOCAL GOVERNMENT BY LOCAL TAXING DISTRICTS.

---

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 advertising and hearing requirements relating to a local taxing district request to the division of local government for approval of a one-time increased levy for capital expenditures.

---

4 Be it enacted by the General Assembly of the State of Colorado:  
5 SECTION 1. Repeal. 29-1-302 (1.5) (b), Colorado Revised  
6 Statutes, 1977 Repl. Vol., as amended, is repealed.  
7 SECTION 2. 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.

RESOLUTION 1

HOUSE CONCURRENT RESOLUTION NO.

1 SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO  
2 AN AMENDMENT TO SECTION 3 OF ARTICLE X OF THE  
3 CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE  
4 ESTABLISHMENT OF AN AMOUNT OF VALUATION OR A METHOD FOR  
5 DETERMINING THE VALUATION FOR ASSESSMENT OF MINERAL  
6 RESERVES WHEN APPRAISAL IS INAPPROPRIATE OR  
7 IMPRACTICABLE.

---

Resolution Summary

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

Authorizes the general assembly, upon determining that the cost, market, and income approaches to appraisal are inappropriate or impracticable for determining the actual value of mineral reserves, to establish a reasonable amount of valuation for assessment of, or a method of determining the valuation for assessment of, mineral reserves.

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

11 SECTION 1. At the next general election for members of

1 the general assembly, there shall be submitted to the  
2 registered electors of the state of Colorado, for their  
3 approval or rejection, the following amendment to the  
4 constitution of the state of Colorado, to wit:

5 Section 3 (1) (b) of article X of the constitution of the  
6 state of Colorado is amended to read:

7 Section 3. Uniform taxation - exemptions.

8 (1) (b) (I) Residential real property, which shall include  
9 all residential dwelling units and the land, as defined by  
10 law, on which such units are located, and mobile home parks,  
11 but shall not include hotels and motels, shall be valued for  
12 assessment at twenty-one percent of its actual value. For the  
13 property tax year commencing January 1, 1985, the general  
14 assembly shall determine the percentage of the aggregate  
15 statewide valuation for assessment which is attributable to  
16 residential real property. For each subsequent year, the  
17 general assembly shall again determine the percentage of the  
18 aggregate statewide valuation for assessment which is  
19 attributable to each class of taxable property, after adding  
20 in the increased valuation for assessment attributable to new  
21 construction and to increased volume of mineral and oil and  
22 gas production. For each year in which there is a change in  
23 the level of value used in determining actual value, the  
24 general assembly shall adjust the ratio of valuation for  
25 assessment for residential real property which is set forth in  
26 this ~~paragraph-(b)~~ SUBPARAGRAPH (I) as is necessary to insure

1 that the percentage of the aggregate statewide valuation for  
2 assessment which is attributable to residential real property  
3 shall remain the same as it was in the year immediately  
4 preceding the year in which such change occurs. Such adjusted  
5 ratio shall be the ratio of valuation for assessment for  
6 residential real property for those years for which such new  
7 level of value is used.

8 (II) All other taxable property shall be valued for  
9 assessment at twenty-nine percent of its actual value.  
10 However, the valuation for assessment for producing mines, as  
11 defined by law, and lands or leaseholds producing oil or gas,  
12 as defined by law, shall be a portion of the actual annual or  
13 actual average annual production therefrom, based upon the  
14 value of the unprocessed material, according to procedures  
15 prescribed by law for different types of minerals.

16 (III) NOTWITHSTANDING OTHER PROVISIONS OF THIS  
17 SUBSECTION (1), THE GENERAL ASSEMBLY MAY, BY LAW, UPON  
18 DETERMINING THAT THE COST, MARKET, AND INCOME APPROACHES TO  
19 APPRAISAL ARE INAPPROPRIATE OR IMPRACTICABLE FOR DETERMINING  
20 THE ACTUAL VALUE OF MINERAL RESERVES, AS DEFINED BY LAW, THE  
21 GENERAL ASSEMBLY MAY, BY LAW, ESTABLISH A REASONABLE AMOUNT OF  
22 VALUATION FOR ASSESSMENT OF, OR A METHOD OF DETERMINING THE  
23 VALUATION FOR ASSESSMENT OF, MINERAL RESERVES.

24 SECTION 2. Each elector voting at said election and  
25 desirous of voting for or against said amendment shall cast  
26 his vote as provided by law either "Yes" or "No" on the

1 proposition: "An amendment to section 3 of article X of the  
2 constitution of the state of Colorado, concerning the  
3 establishment of an amount of valuation or a method for  
4 determining the valuation for assessment of mineral reserves  
5 when appraisal is inappropriate or impracticable."

6 SECTION 3. The votes cast for the adoption or rejection  
7 of said amendment shall be canvassed and the result determined  
8 in the manner provided by law for the canvassing of votes for  
9 representatives in Congress, and if a majority of the electors  
10 voting on the question shall have voted "Yes", the said  
11 amendment shall become part of the state constitution.

RESOLUTION 2

HOUSE JOINT RESOLUTION NO.

1           WHEREAS, There is pending litigation in Colorado and  
2 other states regarding the taxation of property of railroad  
3 and airline companies as required pursuant to the federal  
4 "Railroad Revitalization and Regulatory Reform Act" and the  
5 federal "Tax Equity and Fiscal Responsibility Act of 1982",  
6 respectively; and

7           WHEREAS, The outcome of court decisions in other states  
8 to which Colorado is not a party may have a direct and  
9 substantial effect upon the litigation pending in Colorado;  
10 and

11           WHEREAS, It may be in the interest of the state of  
12 Colorado to participate in such out-of-state cases in order to  
13 assist in establishing a legal precedent which validates the  
14 method and formula used in Colorado for the valuation of  
15 property of railroad and airline companies; now, therefore,

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

19           (1) That the Attorney General of the State of Colorado  
20 is hereby urged to participate, as a friend of the court or  
21 otherwise, in litigation pending in other states which he  
22 deems appropriate to the establishment of legal precedent  
23 which validates the method and formula used in Colorado for  
24 the valuation of property of railroad and airline companies.

25           (2) That a copy of this Resolution be sent to the  
26 Attorney General of the State of Colorado.

LEGISLATIVE COUNCIL  
COMMITTEE ON STATE FISCAL POLICY

Members of the Committee

Rep. Chris Paulson, Chairman	Rep. Michael Bird
Sen. Al Meiklejohn, Vice Chairman	Rep. Charles Brown
Sen. Jim Brandon	Rep. JoAnn Groff
Sen. John Donley	Rep. Stanley Johnson
Sen. Ray Peterson	Rep. Phil Pankey
Sen. James Rizzuto	Rep. Ruth Prendergast
Sen. Don Sandoval	Rep. Jim Scherer
Sen. Claire Traylor	

Council Staff

Charlie Brown Principal Analyst	Daniel Chapman Senior Analyst
Brian Mitchell Senior Analyst	

Legislative  
Drafting Staff

Margaret Makar  
Staff Attorney

## SUMMARY OF RECOMMENDATIONS

### COMMITTEE ON STATE FISCAL POLICY

The committee was created by Senate Joint Resolution 19 to conduct a study of state fiscal policy. To meet this charge, the committee held six meetings, and was able to address each issue of its charge, with one exception. 1/

At its initial meeting, the committee reviewed the major study items contained within its charge. Those items considered to be of most immediate importance by the committee included: state use of lease-purchase agreements to finance acquisition of real and personal property; the shift to cash funding by a number of state agencies and departments; the range and scope of "earmarked" or "diverted" funds, especially as they relate to state/local fiscal relations; and the role of state government in the economic development of the state. In addition, the committee investigated the role of the executive branch in influencing fiscal policy through the use of fund transfers, line item vetoes, and the statutory power to enter into leases.

The committee determined that to effectively address each of these topics, it would be important to understand how the state had arrived at its current fiscal posture, especially as related to recent revenue shortfalls. To this end, portions of the first two meetings were used for overviews of current state economic conditions.

The committee also considered data submitted by various representatives of local governments on the subject of state/local fiscal relations. Data was provided on state and local revenue sources, distributions of state funds to local entities, and local administration of state-mandated programs. The concerns of local government over such items as elimination of state water and sewer grants, reductions in technical assistance to local governments, and unmet critical needs such as training of hazardous waste emergency personnel were noted by the committee.

As a result of its deliberations, the committee recommends five bills addressing various facets of state fiscal policy. The committee's recommendations include the following:

- a bill to guarantee the legislature's power to appropriate federal block grant monies;
- a bill identifying in statute those funds which are considered to be "cash funds";

---

1/ It was decided at the first meeting that due to the scope of the study charge, a substantive examination of the property tax provision included in (a) of the study directive would not be feasible.

- a bill to limit the ability of the governor to transfer funds between departments except in disaster and emergency situations;
- a bill requiring annual reporting of state lease-purchase activity, and defining "lease-purchase" in statute; and
- a bill extending provisions of the Open Meetings Law to all state government meetings at which fiscal policy is discussed.

## COMMITTEE ON STATE FISCAL POLICY

### Charge

Established by Senate Joint Resolution No. 19, the Committee on State Fiscal Policy was charged with the study of a variety of issues related to the ongoing fiscal policy of the state. The study directives are quoted below.

(3) A study of the state's fiscal policy to include such issues as:

(a) The means of providing tax incentives or relief to replace any statutory property tax provisions which are not in conformance with the provisions of the amendment to article X of the Colorado constitution approved by the voters in 1982 with respect to the following: Private reservoirs; open-space residential land; works of art; property included on the state register of historic properties; alternative energy devices; property used exclusively for the production of alcohol for use in motor fuel and derived from agricultural commodities, forest products, hydrocarbon or carbon-containing by-products, or waste products; rehabilitation or modernization of residential property; and renovation or rehabilitation of commercial buildings or structures which are a part of a designated development or redevelopment project area;

(b) The debts incurred by the state of Colorado by funding capital expenditures through the use of lease-purchase agreements and revenue bonds;

(c) A review of all cash funds established by statute; their purpose; the total fees collected thereunder; the level of user or other fees paid by individuals, organizations, or corporations; reversion of these funds to the general fund or to another fund; and whether such reversion is considered the most appropriate use of the cash fund;

(d) The number of earmarked funds, the identification thereof, an assessment of their effect on the state's budgetary process, and an analysis of their impact on decreasing the discretionary capability of the General Assembly to appropriate funds;

(e) The credits against the state's income taxes currently provided by law and the effect thereof on state revenues, and the provision of tax equity to Colorado citizens;

(f) The state's economic development, including such items as methods to encourage the creation of jobs including but not limited to economically distressed areas of our state, the coordination of programs between the state, the federal government, and private enterprise, and the elimination of restrictive or conflicting rules, regulations, laws, and fiscal policies, which hinder private development.

## ISSUES AND RECOMMENDATIONS

### Overview of State General Fund and Current Economic Conditions

The first two meetings of the committee included presentations on the condition of the state general fund and the overall state economy. Testimony revealed that a large portion of the revenues which are supposed to accrue to the general fund are diverted before they reach that fund. Examples of such diversions include: the Old Age Pension Fund; property tax credits for the elderly; cigarette tax rebates to local governments; transfer of interest to other funds; allocation of severance tax monies to earmarked funds; placement of insurance tax proceeds in the Fire and Police Pension Fund; and more recently, the transfer of sales and use tax monies to the Highway Users Tax Fund. Moreover, once revenues reach the general fund, an additional portion is diverted to the four percent reserve fund, the special reserve fund, and the capital construction fund. The net effect of these diversions is to reduce the amount of funds for discretionary appropriation by the General Assembly.

Changes in the tax bases of the state have also reduced the amount of money available to the general fund. In recent years, such changes have included: a net reduction in the general fund due to replacement of the inheritance and gift tax by an estate tax; credits and exemptions on sales tax collections, such as elimination of food from the sales tax base; reduction of corporate tax liability by base and tax rate changes as well as tax credits; and base changes and tax credits pertaining to reduction of individual income tax liability. It was estimated that the cumulative impact of diversions and changes in the tax base has amounted to unrealized revenues of \$502.2 million for the 1983 fiscal year, which translates to a 26.5 percent reduction in the general fund base.

Testimony presented to the committee indicated that due to these changes in the state fiscal structure, even a robust state economic recovery cannot guarantee a parallel increase in the state general fund. While projections for growth in revenues for fiscal year 1984-1985 range from 10.8 percent growth to 14.9 percent growth, a growth rate of 18.9 percent would be needed to meet expected fiscal year 1984-85 expenditures, including repayment of borrowed funds.

In conjunction with this information, the committee used a portion of its second meeting to hear from a panel of economists and business leaders on their perspective of the state's economic posture. There was general agreement that the recent recession proved once and for all that Colorado's economic health is tied to national economic trends, dispelling any notions of Colorado's immunity to events at the national and international level. The economists projected a strong economic recovery for Colorado in 1983 and into 1984 in most sectors of the economy. Their testimony underscored the importance of revenue

forecasting for business and governmental planning, and suggested that it is important for legislators to understand the assumptions underlying a revenue forecast as well as the processes that go into devising such estimates.

### State Economic Development

The study of economic development in Colorado focused largely on the role of state government in providing a healthy economic climate for the development of business and industry. The activities of the Division of Commerce and Development (Department of Local Affairs) and the Office of Regulatory Reform (Department of Regulatory Agencies) were reviewed. Of particular interest to the committee was information on Colorado's efforts to encourage and increase international trade. In addition to the information on the Division of Commerce and Development's Foreign Trade Program, the committee heard testimony from the Colorado District Export Council and the International Trade Administration (U.S. Department of Commerce) on Colorado's activity in promoting foreign trade. The Office of Regulatory Reform provided testimony on that agency's work in distributing information on business permits and licensing, and in reviewing rules and regulations which may place unnecessary burdens on business and trade. One proposal which was brought before the committee by the Office of Regulatory Reform was a proposal for a simplified sales tax system, based on a single reporting form, state collection, and a single base, rate, and audit.

Representatives of business and industry made suggestions to improve the Colorado business climate. Among the recommendations which the committee reviewed were: improvement of state higher education institutions to attract new "high tech" business and industry; abolishment of any form of unitary taxation on corporations doing business in Colorado; improvement of state infrastructure through long-term planning and budgeting of capital expenditures; review of problems currently associated with the state Unemployment Compensation Trust Fund; and the possible establishment of a foreign free trade zone in Colorado for the enhancement of international trade. The committee also considered the possible establishment of a legislative subcommittee on international trade.

The committee made no legislative recommendations in these areas at this time.

### State Activity in Lease-Purchase Agreements

A major area of concern is the level of state participation in lease-purchasing of real and personal property. The current level of state activity in lease-purchasing is estimated to be in excess of \$75 million (principal and imputed interest) for the current fiscal year.

Among the concerns expressed to the committee was that lease-purchase commitments are growing at a rate that may significantly reduce the discretionary appropriation powers of future legislatures. In addition, it was pointed out that lease-purchase agreements must be listed as debt according to state accounting methods, even though the state constitution prohibits the state from incurring general obligation debts. Furthermore, the renewing of annual leases could possibly have harmful effects on the state's credit rating. Individual committee members expressed concern with the lack of legislative monitoring of lease-purchase activity, particularly the acquisition of personal property (equipment).

Testimony before the committee pointed out some of the beneficial aspects to the state of lease-purchasing and highlighted such activity currently being undertaken by political subdivisions of the state and by other western states. The committee discussed the circumstances under which lease-purchase agreements are desirable; whether or not a limit on state participation is desirable, and if so, how such a limit might be designed; how and to what units of government a limit might be applied; and what types of guidelines and criteria should be used to evaluate lease-purchase proposals. The main focus of committee activity was on attempting to determine the extent of lease-purchase activity, and deciding how best this might be monitored in the future.

#### Concerning a Requirement that the Controller Annually Report Lease-Purchase Activity

Bill 17 requires the state controller to report to all 100 members of the General Assembly by November 1 of each year on state lease-purchase activity. Such reports shall reflect the activity of each department and agency of the executive branch concerning lease-purchase of real and personal property for the prior fiscal year, and the first quarter of the current fiscal year. Lease-purchases amounting to less than \$10,000 in a fiscal year are exempted from reporting. In addition, the bill provides a two-part statutory definition of lease-purchase agreement. The first part defines "financing lease-purchase agreements" as those leases providing some type of an option to the state to purchase the leased property. The second part defines "true leases" to distinguish such from lease-purchases, identifying true leases as those which do not provide any purchase option for the state.

The committee's intent is to clearly define lease-purchase agreements and to require ongoing reporting to the General Assembly. The reporting requirement will allow the General Assembly to monitor state lease-purchase activity, and to control the level of this activity through the appropriations process.

Cash Funding of State  
Agencies and Departments

The committee studied the implications of recent shifts to cash funding of agencies and departments which had previously been funded by general fund appropriations. There are over one hundred different cash funds currently in existence and the amount of these funds increased by 82.6 percent between fiscal year 1978-79 and fiscal year 1981-82. As a percentage of total expenditures for general operating purposes, the general fund has remained relatively constant, while cash funds increased from thirteen to seventeen percent and federal funds declined by approximately four percent. While cash funding relieves pressure on the general fund and demands more accountability from users of state services, the committee expressed several concerns relating to the proliferation of cash funding. Among the issues raised were the following:

- The shift to cash funding may be viewed as a means of circumventing the state seven percent spending limitation, in that cash fund appropriations are allowed to grow at a rate greater than seven percent per year.
- A whole range of cash funded programs may be viewed as "uncontrolled." Although the General Assembly appropriates these funds, no total state inventory is kept on such programs, rendering them difficult to track. Cited as examples were the Highway User's Tax Fund, the Division of Wildlife, and the state lottery.
- There is a lack of consistency in cash fund reversion provisions which creates problems when general fund monies are replaced by cash funds.
- There is no consistent statutory definition of "cash funds" as such, and consequently a great deal of confusion exists as to how to account for these funds for budgetary, planning, and accounting purposes.

In addition, the committee expressed interest in developing an overall approach to tracking and accounting for cash funds within the various agencies and departments. Creation of consistent nomenclature was viewed as a necessary first step in this process.

Concerning Cash Fund Appropriations and Providing a Definition Thereof  
- Bill 18

The committee recommends Bill 18 which identifies in statute those funds which are considered "cash funds" for the purpose of appropriation. The bill identifies the following as cash funds:

- those funds accruing to the general operating budget of the state from all non-general fund sources, non-tax sources of general fund revenues, and all nondirect federal fund sources. These include funds established by statute, nonstatutory cash provisions, tuitions, overhead reimbursements, certain fees, governmental and non-governmental "third-party" payments, payments for services, and interagency transfers. Specific provision is made to include cash accounted for capital construction and custodial funds.
- enterprise funds, which are used to account for the operations of state agencies which render services on a user fee basis, such as the Compensation Insurance Fund.
- internal service funds, which are used to finance and account for services and commodities furnished by one state agency to another department of state government, such as central stores and print shops.
- special revenue funds, which are designated to finance specific activities such as the Highway Fund and the Wildlife Fund.
- trust and agency funds, which entail the custodianship of monies. Examples, include expendable and non-expendable trust and endowment funds.

The bill specifically states that each of these funds are subject to legislative appropriation. An exception is made in the case of institutions of higher education as pertains to their enterprise, internal service, special revenue, and trust and agency funds. Funds appropriated elsewhere in statute are also excepted. The bill appropriates other trust and agency and custodial funds for expenditure during the first year of their receipt.

In its deliberations the committee determined that there is no statutory definition and no consistent understanding of the term "cash funds." Testimony before the committee indicated that the accounting viewpoint of the term differs markedly from its budgetary connotation. The lack of a consistent definition has made tracking cash funds and monitoring their growth difficult to achieve. It is to address this set of concerns that Bill 18 is recommended.

#### Other Issues

The committee examined three additional issues related to the development of state fiscal policy. These included:

- the authority of executive-level agencies and the governor to enter into long-term leases on real property;
- the ability of the governor to transfer funds between departments and to veto line item appropriations; and

- public access to state government meetings at which fiscal policy is a topic of discussion.

### Leases of Real Property by Executive Agencies

The committee reviewed the statutory authority of the governor and his executive agencies to lease real property as was the case in the recent closure of the State Office Building and leasing of new space at the First Western Plaza Building. The lease was signed on September 8, 1983. The lease contains substantial penalty provisions for early termination, provisions which, in effect, make termination more expensive than continuation of the lease. Testimony was presented by the executive director of the Department of Administration as to why the State Office Building needed to be evacuated, and how the decision was made to lease new office space. The deputy state auditor reported that while the statutes authorize the director of the Department of Administration, with the approval of the governor, to enter into leases, it is unclear that any authority exists for payments committed under the lease, if no appropriation has been made. The director of the Legislative Drafting Office emphasized that since no appropriation or legislative authorization was made, the lease may be null and void.

At its October 21 meeting, the committee recommended a House Joint Resolution (House Joint Resolution 1041, see Appendix) which declared the lease null and void, and authorized the governor to make use of up to \$500,000 of the current capital construction appropriation for "life safety" repairs to the State Office Building. The resolution also called for the governor to review the circumstances surrounding signing of the lease and the General Assembly's declaration that the lease is indeed void. House Joint Resolution 1041 passed both the House and Senate on October 21, 1983.

The aforementioned State Office Building lease issue raises the question of who is responsible for fiscal policy in state government. The committee is concerned that commitment to long-term indebtedness such as the First Western lease, without legislative approval, represents an erosion of the General Assembly's ability to set fiscal policy, and also encumbers future legislatures with regard to their discretionary appropriation powers. This erosion of legislative authority was not regarded as an isolated instance and caused the committee to examine the governor's fund transfer and veto powers.

### Governor's Fund Transfer and Veto Powers

The committee was briefed on the authority of the governor to transfer funds between agencies and to use line item vetoes on appropriation bills. The status of recent litigation in these areas, specifically Colorado General Assembly vs. Honorable Richard D. Lamm, Governor (Civil Action Nos. 81 CV 10058 and 82 CV 5005), and Colorado General Assembly vs. Honorable Richard D. Lamm, Governor, et al (Civil

Action No. 82 CV 9345). These two cases were responses to the governors 1981 transfer of funds between executive departments and the 1982 veto of numerous sections of the Long Appropriations Bill. Both cases entailed the power of the legislature to set fiscal policy for the state in that the governor's actions in these areas acted to reduce legislative discretion in appropriating funds. The district court ultimately upheld the General Assembly's position, in all but one instance, ruling that both the transfers and vetoes had been unconstitutional. The committee noted that a stay of judgment is currently in effect on these cases, and that they are on appeal before the state supreme court.

The committee recommends two bills to address these issues.

Concerning Legislative Appropriation of Federal Block Grant Moneys -  
Bill 19

Bill 19 reflects the committee's intention to guarantee the legislature's right to appropriate federal funds coming to the state. The bill performs two major functions. First, it requires that federal funds coming to the state shall not be dispensed with except by legislative appropriation, with the exception of higher education research grants, highway funds, categorical program grants, and distributions to local government. Included within the legislative purview are block grant fund moneys provided under the federal "Omnibus Budget Reconciliation Act of 1981," other block grant moneys not specifically excluded by provisions of the bill, and indirect cost recoveries from local government distributions.

The second provision of the bill is a reporting requirement by which all agencies and departments of state government are required to disclose to the General Assembly, by November 1 of each year, all federal funds which they have received and a projection of the funds they anticipate receiving in the next fiscal year. This provision originated in the committee's concern that presently there is no overall tracking mechanism for federal funds coming to the state. Information presented to the committee had indicated that while individual departments and agencies kept internal inventories of such funds, almost no overall monitoring and updating is currently being performed.

Bill 19 arose out of the committee's recognition of the fact that executive transfers of federal funds between agencies, taken together with violation of the so-called "M" headnotes (matching funds) in the long bill amounted to appropriation of these funds by the executive branch. The bill is an attempt to avoid further violations of this nature by clearly establishing the authority of the legislature in dispensing federal funds.

## Concerning Interdepartmental Transfers of Appropriations -- Bill 20

During the course of the interim, the issue of the governor's authority to transfer funds was raised several times. The committee was apprised of recent litigation in this area, and was familiarized with past instances of the governor's use of transfer authority. Bill 20 is recommended as a response to the concern that the governor's use of transfer authority amounts to a circumvention of the legislative appropriation process, thus eroding the General Assembly's power to designate amount and purpose of funds through the appropriations process. The bill restricts the ability of the governor to transfer funds between departments to emergency situations involving disasters as defined in section 24-33.5-703 (1), C.R.S. Provision is also made for situations requiring emergency actions to prevent personal injury, loss of life or property, or severe damage to property. Under the provisions of the bill, these would be the only conditions under which the governor would be allowed to transfer funds between departments. The transfer authority contained in two existing sections (section 24-30-201 (1) (b) and 24-37-405 (1) (k), C.R.S.) is repealed by Bill 20.

## Open Meetings Law

### Concerning Meetings of State Government Bodies -- Bill 21

Bill 21 expands the provisions of the Open Meetings Law to include any meeting of two or more state officials at which the disbursement or allocation of funds is a subject of discussion or formal action. The bill acts to specifically include meetings of the governor's staff and cabinet. In addition, legislative meetings at which fiscal policy is discussed are to be subject to these provisions and are to be recorded in the journals of the house and senate. The intent of the bill is to ensure that any discussion of expenditure of public funds shall be open to members of the public.

BILL 17

A BILL FOR AN ACT

1 CONCERNING A REQUIREMENT THAT THE CONTROLLER ANNUALLY REPORT  
2 LEASE-PURCHASE ACTIVITY TO THE GENERAL ASSEMBLY.

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Bill Summary

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

Requires the executive departments and agencies to report their financing lease-purchase activity to the controller who is to report all such lease-purchase activity to the general assembly. Applies to lease-purchases of both real and personal property but establishes a threshold requirement of ten thousand dollars total value before reporting is required. Defines "financing lease-purchase agreement" and specifically excludes "true leases", which are also defined.

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

4 SECTION 1. 24-30-201 (1), Colorado Revised Statutes,  
5 1982 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH  
6 to read:

7 24-30-201. Division of accounts and control -  
8 controller. (1) (1) To submit to each member of the general  
9 assembly by November 1 of each year a report on all financing

1 lease-purchase agreements having a total value of ten thousand  
2 dollars or more, concerning real property pursuant to section  
3 24-82-102 and concerning personal property pursuant to the  
4 "Procurement Code", articles 101 to 112 of this title. The  
5 controller shall require and each department and agency of the  
6 executive branch shall submit to him by October 1 of each year  
7 a report on such financing lease-purchase agreements to which  
8 the department or agency is a party. For the purpose of this  
9 paragraph (1), "financing lease-purchase agreement" means a  
10 lease-purchase agreement which provides an option for the  
11 state to purchase the property which is the subject thereof,  
12 at a purchase price corresponding to the principal component  
13 of the remaining lease payments under the lease-purchase  
14 agreement, if any, plus a reasonable prepayment premium, if  
15 any, or which provides an option for the state to purchase the  
16 property which is the subject thereof at a purchase price  
17 which is either a fixed dollar amount, or is computed on the  
18 basis of market value of the property or on any other basis  
19 which does not credit any substantial portion of lease  
20 payments made prior to exercise of the purchase option. The  
21 reporting requirement of this paragraph (1) does not apply to  
22 a "true lease", which means a lease agreement which does not  
23 provide any option for the state to purchase the property  
24 which is the subject thereof.

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

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 18

A BILL FOR AN ACT

1 CONCERNING THE DEFINITION OF CASH FUNDS FOR APPROPRIATION.

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Bill Summary

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

Defines "cash funds", identifies cash fund accounts of the controller, and prohibits their expenditure without legislative appropriation. Appropriates "trust and agency funds" and "cash funds" which are custodial in nature to allow expenditure of such funds for a limited period. "Sunsets" such appropriations unless extended by the general assembly. Exempts cash funds otherwise expressly appropriated by statute and all cash funds held by the department of higher education with certain exceptions. Establishes a July 1, 1984, effective date.

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

3 SECTION 1. Part 4 of article 75 of title 24, Colorado  
4 Revised Statutes, 1982 Repl. Vol., is amended BY THE ADDITION  
5 OF A NEW SECTION to read:

6 24-75-402. Cash funds - appropriation. (1) The cash  
7 funds described in paragraph (a) of this subsection (1) and  
8 the cash funds in the accounts of the controller set forth in  
9 paragraphs (b) to (e) of this subsection (1) shall not be

1 expended unless appropriated by the general assembly:

2 (a) Cash funds, which means nontax sources of general  
3 fund revenues, all non-general fund sources, and all nondirect  
4 federal fund sources and which may include cash funds  
5 established by statute, nonstatutory cash accounts, tuitions,  
6 overhead reimbursements, certain fees, governmental and  
7 nongovernmental "third-party" payments, payments for services,  
8 interagency transfers, assets custodial in nature, and cash  
9 funds used for capital construction;

10 (b) Special revenue funds, meaning funds maintained to  
11 account for specific revenues designated to finance particular  
12 activities of functions of state government;

13 (c) Enterprise funds, meaning funds maintained to  
14 account for the operations of state agencies which render  
15 services to the general public in a manner similar to a  
16 private business enterprise;

17 (d) Internal service funds, meaning funds maintained to  
18 account for the operations of state agencies which render  
19 services to other state agencies on a cost reimbursement  
20 basis;

21 (e) Trust and agency funds, meaning funds maintained to  
22 account for assets which are custodial in nature because the  
23 assets are received by the state for a specific purpose  
24 designated by the grantor or principal to be held by the state  
25 as trustee or agent for their disbursement.

26 (2) Trust and agency funds under paragraph (e) of

1 subsection (1) of this section and custodial funds under  
2 paragraph (a) of subsection (1) of this section held by the  
3 state are hereby appropriated for expenditure subject to the  
4 provisions of this subsection (2). Each department shall  
5 submit a report to the joint budget committee of the general  
6 assembly which shall review the expenditure of all such funds  
7 for the purpose of making recommendations to the general  
8 assembly on the continuation of such appropriations. With  
9 regard to funds received pursuant to contract dated on or  
10 after July 1 but prior to February 1, the appropriation made  
11 by this subsection (2) shall terminate on the first July 1  
12 immediately following the contract date unless extended by the  
13 general assembly prior to said July 1. With regard to funds  
14 received pursuant to contract dated on or after February 1 but  
15 prior to July 1, the appropriation made by this subsection (2)  
16 shall terminate on the second July 1 following the contract  
17 date unless extended by the general assembly in the fiscal  
18 year preceding the second July 1.

19 (3) This section shall not apply to funds otherwise  
20 expressly appropriated by statute nor to funds, other than  
21 those funds described in paragraph (a) of subsection (1) of  
22 this section, held by the department of higher education.

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

25 SECTION 3. 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.

BILL 19

A BILL FOR AN ACT

1 CONCERNING LEGISLATIVE APPROPRIATION OF FEDERAL BLOCK GRANT  
2 FUND MONEYS.

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Bill Summary

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

Provides for legislative appropriation of all federal moneys except higher education research grants, highway funds, categorical program grants, and local government funds exclusive of state indirect costs recoveries. Requires executive agencies to report to the controller and the controller to report to the general assembly all federal moneys received by the agencies.

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

4 SECTION 1. Part 2 of article 75 of title 24, Colorado  
5 Revised Statutes, 1982 Repl. Vol., as amended, is amended BY  
6 THE ADDITION OF A NEW SECTION to read:

7 24-75-212. Legislative appropriation of federal moneys.

8 (1) Except as provided in subsection (2) of this section, no  
9 moneys in the state treasury received from any agency of the  
10 federal government, including block grant fund moneys provided

1 pursuant to the federal "Omnibus Budget Reconciliation Act of  
2 1981" and other block grants provided pursuant to federal law,  
3 shall be expended for any purpose unless such moneys are  
4 appropriated by the general assembly.

5 (2) The following federal moneys shall not be  
6 appropriated:

7 (a) Moneys received from the federal government by the  
8 state for the construction, improvement, or maintenance of  
9 highways within this state;

10 (b) Moneys received from the federal government by the  
11 state as grants for research at institutions of higher  
12 education;

13 (c) Categorical grant moneys received from the federal  
14 government by the state for specific, narrowly defined  
15 activities subject to strict federal guidelines;

16 (d) Moneys received from the federal government by the  
17 state as grants for or for allocation to local governments and  
18 special districts excluding indirect cost recoveries by the  
19 state.

20 (3) (a) Each department and agency of the executive  
21 branch of state government shall submit to the controller by  
22 October 1 of each year a report of all federal moneys received  
23 by the department or agency, including indirect cost  
24 recoveries, during the prior year.

25 (b) The controller shall submit to the general assembly  
26 by November 1 of each year a report of all federal moneys,

1 including indirect cost recoveries, received by each  
2 department and agency of the executive branch of state  
3 government during the prior year.

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

BILL 20

A BILL FOR AN ACT

1 CONCERNING INTERDEPARTMENTAL TRANSFERS OF APPROPRIATIONS.

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Bill Summary

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

Specifies the governor's transfer authority as interdepartmental and limits exercise of the authority to disaster or emergency situations. Conformingly amends the transfer review authority of the office of state planning and budgeting. Repeals the controller's authority to recommend transfers. Has an effective date of July 1, 1984, to accord with the relevant statutory provisions as amended by the public safety act which takes effect on that date.

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2 Be it enacted by the General Assembly of the State of Colorado:  
3 SECTION 1. 24-33.5-706 (4), Colorado Revised Statutes,  
4 1982 Repl. Vol., as amended, is amended to read:  
5 24-33.5-706. Financing. (4) It is the legislative  
6 intent that first recourse be to funds regularly appropriated  
7 to state and local agencies. If the governor finds that the  
8 demands placed upon these funds in coping with a particular  
9 disaster are unreasonably great, he may, with the concurrence  
10 of the council, make funds available from the disaster

1 emergency fund. IN DISASTER, AS DEFINED IN SECTION  
2 24-33.5-703 (1), OR OTHER SITUATIONS REQUIRING EMERGENCY  
3 ACTION TO AVERT PERSONAL INJURY, LOSS OF LIFE OR PROPERTY, OR  
4 SEVERE DAMAGE TO PROPERTY, if moneys available from the fund  
5 are insufficient, the governor with--the--concurrence--of--the  
6 council; may transfer and--expend BETWEEN DEPARTMENTS FOR  
7 DISASTER OR EMERGENCY EXPENDITURE THE moneys appropriated for  
8 other purposes.

9 SECTION 2. 24-37-302 (1) (k), Colorado Revised Statutes,  
10 1982 Repl. Vol., as amended, is amended to read:

11 24-37-302. Responsibilities of the office of state  
12 planning and budgeting. (1) (k) Review for the governor ~~at~~  
13 ~~transfers---between---appropriations--and~~ all work programs  
14 recommended by the controller AND ALL TRANSFERS OF  
15 APPROPRIATIONS BETWEEN DEPARTMENTS FOR DISASTER OR EMERGENCY  
16 EXPENDITURE PURSUANT TO THE GOVERNOR'S AUTHORITY IN SECTION  
17 24-33.5-706 (4);

18 SECTION 3. Repeal. 24-30-201 (1) (b), Colorado Revised  
19 Statutes, 1982 Repl. Vol., is repealed.

20 SECTION 4. Effective date. This act shall take effect  
21 July 1, 1984.

22 SECTION 5. 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 21

A BILL FOR AN ACT

1 CONCERNING MEETINGS OF STATE GOVERNMENT BODIES.

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Bill Summary

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

Applies the sunshine law requirement of open meetings to meetings between the governor and his cabinet members. Specifies applicability of the sunshine law to meetings at which the disbursement or allocation of funds is discussed. Requires any person to be given the opportunity to acquire information about and to participate in open meetings. Requires recording of meetings of legislative bodies held during session and the reporting of the results of the meetings in the journals of the house and senate. Provides that rules for the conduct of legislative business shall be consistent with the requirements of the sunshine law.

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

3 SECTION 1. 24-6-402 (1), Colorado Revised Statutes, 1982

4 Repl. Vol., is amended to read:

5 24-6-402. Meetings - open to public. (1) (a) All

6 meetings of two or more members of any board, committee,

7 commission, or other policy-making or rule-making body of any

8 state agency or authority or of the general assembly OR ANY

1 MEETING OF THE GOVERNOR WITH ONE OR MORE OF HIS CABINET  
2 MEMBERS at which any public business is discussed or at which  
3 any formal action may be taken by such board, committee,  
4 commission, or other policy-making or rule-making body OR  
5 EXECUTIVE OFFICERS are declared to be public meetings open to  
6 the public at all times, except as may be otherwise provided  
7 in the state constitution. AS USED IN THIS PART 4, "CABINET  
8 MEMBERS" MEANS THE EXECUTIVE DIRECTORS OR HEADS OF THE  
9 PRINCIPAL DEPARTMENTS OF THE EXECUTIVE DEPARTMENT OF STATE  
10 GOVERNMENT SPECIFIED IN SECTION 24-1-110, AND, ON AND AFTER  
11 JULY 1, 1984, INCLUDES THE DIRECTOR OF THE OFFICER OF STATE  
12 PLANNING AND BUDGETING AS ESTABLISHED BY SECTION 24-37-102.

13 (b) ANY MEETING OF TWO OR MORE MEMBERS OF ANY STATE  
14 AGENCY OR ANY BOARD, COMMITTEE, COMMISSION, OR OTHER  
15 POLICY-MAKING OR RULE-MAKING BODY OF ANY STATE AGENCY OR  
16 AUTHORITY WHICH HAS AUTHORITY TO DETERMINE THE DISBURSEMENT OR  
17 ALLOCATION OF FUNDS OR ANY MEETING OF THE GOVERNOR WITH ONE OR  
18 MORE OF HIS CABINET MEMBERS AT WHICH THE DISBURSEMENT OR  
19 ALLOCATION OF FUNDS IS DISCUSSED OR AT WHICH ANY FORMAL ACTION  
20 MAY BE TAKEN THEREON SHALL BE SUBJECT TO THIS PART 4.

21 SECTION 2. 24-6-402, Colorado Revised Statutes, 1982  
22 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to  
23 read:

24 24-6-402. Meetings - open to public. (2.2) All  
25 meetings subject to the provisions of this part 4 shall be  
26 conducted so as to afford any person the opportunity to obtain

1 information about and to participate in the decision-making  
2 process of the meeting. Such participation shall be in  
3 accordance with the rules and regulations as adopted by the  
4 body in question, but shall at least include the right to  
5 speak and give testimony.

6 SECTION 3. 24-6-402 (5), Colorado Revised Statutes, 1982  
7 Repl. Vol., is amended to read:

8 24-6-402. Meetings - open to public. (5) (a) The  
9 minutes of a meeting of any such board, committee, commission,  
10 or other policy-making or rule-making body OR OF EXECUTIVE  
11 OFFICERS shall be promptly recorded, and such records shall be  
12 open to public inspection. The minutes of executive sessions  
13 authorized under subsections (2.3) and (2.5) of this section  
14 need only reflect the general subject matter of discussions.

15 (b) IN ADDITION TO THE PROVISIONS OF PARAGRAPH (a) OF  
16 THIS SUBSECTION (5), ANY MEETING OF A BODY OF THE GENERAL  
17 ASSEMBLY SUBJECT TO SAID PARAGRAPH (a) HELD DURING THE TIME  
18 THE GENERAL ASSEMBLY IS IN SESSION SHALL BE DULY RECORDED IN A  
19 MANNER PRESCRIBED BY THE RULES OF THE HOUSE OF REPRESENTATIVES  
20 AND THE SENATE, AND A REPORT OF ANY OUTCOME OF SUCH MEETING  
21 SHALL BE PUBLISHED IN THE JOURNALS OF THE HOUSE OF  
22 REPRESENTATIVES AND THE SENATE.

23 SECTION 4. 2-2-404 (1), Colorado Revised Statutes, 1980  
24 Repl. Vol., is amended to read:

25 2-2-404. Legislative rules and regulations. (1) The  
26 senate and the house of representatives shall each have the

1 power to adopt rules or joint rules, or both, for the orderly  
2 conduct of their affairs and to preserve and protect the  
3 health, safety, and welfare of their members, officers, and  
4 employees in the performance of their official duties, as well  
5 as that of the general public in connection therewith, and to  
6 preserve and protect property and records under the  
7 jurisdiction of the general assembly or either house thereof,  
8 consistent with public convenience, the public's rights of  
9 freedom of expression and to peaceably assemble and petition  
10 government, and the established democratic concepts of the  
11 openness of the legislative process, AND THE SPECIFIC  
12 REQUIREMENTS OF PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S.

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

## APPENDIX A

## HOUSE JOINT RESOLUTION NO. 1041.

BY REPRESENTATIVES Paulson, Bird, Groff, Johnson, Pankey, Prendergast, Scherer, Bledsoe, Dambman, Entz, Herzog, Larson, Mielke, Moore, Mutzebaugh, Robb, Schauer, and Taylor-Little; also SENATORS Meiklejohn, Brandon, Donley, Rizzuto, Traylor, Powers, and Strickland.

WHEREAS, The Executive Department has evacuated employees from the State Office Building and has executed a five-year lease of alternative office space with First Western Plaza, Ltd.; and

WHEREAS, The Executive Director of the Department of Administration has specific statutory authority to lease office or other space pursuant to section 24-30-102 (2) (d) and section 24-30-1303 (1) (d), Colorado Revised Statutes; and

WHEREAS, Section 24-30-202 (3), Colorado Revised Statutes, however, provides that any obligation incurred in excess of appropriation or without legislative authority is not binding on the state, is void ab initio, and cannot be administratively ratified; and

WHEREAS, There is no appropriation for rent or penalty payments under the lease; and

WHEREAS, The lease purports to create an immediate obligation against the state; and

WHEREAS, This type of transaction has obvious unfavorable effects on the ability of the General Assembly to make tax and budget decisions with regard to funds committed under the lease; and

WHEREAS, An emergency nonetheless does exist with regard to conditions in the State Office Building, and such finding has been supported by testimony of the Executive Director of the Department of Administration, Mr. Robert Turner, before the Interim Committee on State Fiscal Policy at the

Committee's October 7 meeting; and

WHEREAS, The 1983-84 capital construction appropriation for specific maintenance projects and controlled maintenance carries a footnote concerning emergency projects which is flexible enough to allow capital construction funds to be used for the "life safety" repairs and rehabilitation projects proposed for the State Office Building; now, therefore,

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

(1) That the Governor is hereby informed that a review of the circumstances surrounding the execution of the lease, the terms of the lease, and the pertinent state statutes indicates that the lease is void, and that the General Assembly desires to minimize unbudgeted losses to the state and to minimize any losses of the lessors resulting from this transaction.

(2) That, since the State Office Building apparently requires certain "life safety" repair and rehabilitation projects, work on these projects should begin as soon as possible.

(3) That the funds for these projects are available in the current general appropriation act's capital construction appropriation, but any expenditures for such repair and rehabilitation projects should not exceed \$500,000 during the 1983-84 fiscal year; and that while this would require a reduction in the number of projects specified in the current general appropriation act, a footnote allows this reduction in an emergency, and Mr. Turner's testimony indicated that conditions at the State Office Building pose a serious emergency.

(4) That any expenditure for "life safety" repairs on the State Office Building and the corresponding reduction of capital construction maintenance projects should be made in consultation with the General Assembly's Joint Budget Committee.

(5) That state employees now occupying the First Western Plaza Building should be returned to the State Office Building immediately upon completion of such "life safety" repair and rehabilitation projects.

(6) That representatives of the state should inform the lessors that, although the lease is void under state statute, the state would agree to pay a minimum reasonable rental

charge for the period state employees occupy the First Western Plaza Building; and that the penalties in the lease for early termination will not be paid.

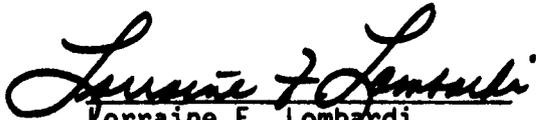
Be It Further Resolved, That copies of this Resolution be transmitted to the Governor and to the Attorney General.



Carl B. Bledsoe  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES



Ted. L. Strickland  
PRESIDENT OF  
THE SENATE



Lorraine F. Lombardi  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES



Marjorie L. Nielson  
SECRETARY OF  
THE SENATE