

Biennial Report
of the
ATTORNEY GENERAL
of the
STATE OF COLORADO



Years 1955-1956

DUKE W. DUNBAR
Attorney General

Publication Approved by James A. Noonan, Controller

Printed by Publishers Press, Denver

ATTORNEYS GENERAL OF COLORADO

From the Organization of the State

A. J. Sampson.....	1877-1878
Charles W. Wright.....	1879-1880
Charles H. Toll.....	1881-1882
David F. Urmy.....	1883-1884
Theodore H. Thomas.....	1885-1886
Alvin Marsh.....	1887-1888
Samuel W. Jones.....	1889-1890
Joseph H. Maupin.....	1891-1892
Eugene Engley.....	1893-1894
Byron L. Carr.....	1895-1898
David M. Campbell.....	1899-1900
Charles C. Post.....	1901-1902
Nathan C. Miller.....	1903-1906
William H. Dickson.....	1907-1908
John T. Barnett.....	1909-1910
Benjamin Griffith.....	1911-1912
Fred Farrar.....	1913-1916
Leslie E. Hubbard.....	1917-1918
Victor E. Keyes.....	1919-1922
Russell W. Fleming.....	1923
Wayne C. Williams.....	1924
William L. Boatright.....	1925-1928
Robert E. Winbourn.....	1929-1930
John S. Underwood.....	1930
Clarence L. Ireland.....	1931-1932
Paul P. Prosser.....	1933-1936
Byron G. Rogers.....	1936-1940
Gail L. Ireland.....	1941-1944
H. Lawrence Hinkley.....	1945-1948
John W. Metzger.....	1949-1950
Duke W. Dunbar.....	1951-1956

PERSONNEL
DEPARTMENT OF LAW

DIVISION OF LEGAL AFFAIRS

DUKE W. DUNBAR, Attorney General

FRANK A. WACHOB, Deputy Attorney General
(Passed away April 10, 1955)

FRANK E. HICKEY, Deputy Attorney General
(Appointed Assistant 1/17/55, Deputy 4/1/55)

OMER GRIFFIN, First Assistant Attorney General
(Resigned 9/30/55)

JOHN B. BARNARD, JR., First Assistant Attorney General
(Appointed 9/12/55)

Assistant Attorneys General

ROBERT F. CARR

NORMAN H. COMSTOCK
(Resigned 8/31/56)

PETER L. DYE

JOHN M. EVANS

SAMUEL R. FREEMAN

RONALD J. HARDESTY

JOHN P. HOLLOWAY

EDWARD N. JUHAN
(Appointed 7/15/55;
resigned 3/1/56)

PATRICIA H. MALOY

WILLIAM H. MOULTON
(Appointed 11/19/56)

GAIL F. OUREN
(Appointed 4/1/56)

JOHN W. PATTERSON
(Appointed 8/1/56)

WILBUR M. PRYOR, JR.
(Resigned 6/30/56)

JAMES E. RENNER

DONALD B. ROBERTSON

WILBUR ROCCHIO
(Resigned 6/30/55)

WENDELL P. SAYERS

WM. T. SECOR
(Resigned 7/31/55)

HENRY E. ZARLENGO

ANN G. LANDY, Administrative Assistant

Clerk-Stenographers

JOSEPHINE J. BARROWS (Resigned 5/16/55)

ELEANOR GIACOMOZI

EDITH HEZMALHALCH

ELIZABETH V. KITTO

MARGIE LANPHERE (Certified 1/4/55)

MARY D. POPE (Passed away July 21, 1957)

INHERITANCE TAX DEPARTMENT

NEIL TASHER, Assistant Attorney General and Inheritance
Tax Commissioner

FLOYD B. ENGEMAN, Assistant Attorney General

CATHERINE H. COURSEY, Administrative Assistant

Inheritance Tax Analysts

MICHAEL J. O'HARA DAVID CREGER MERLE GIBSON

Inheritance Tax Appraisers

J. CHALMERS EWING SAMUEL TELEP

JAMES KNOX DEAN MAHAFFEY

CHARLES GAST

Clerks and Stenographers

LENA DINSMORE

VERA B. DeCOU

ELVERA BISH

ELNORA VERGENGRUBER

ANN COGAN

MARY SPENCER

LEGISLATIVE REFERENCE OFFICE

JACK E. KENNEDY, Director 1955

E. B. EVANS, Director 1956

CLAIR T. SIPPEL, Secretary

DIVISION OF SECURITIES

CURTIS WHITE, Commissioner (Deceased March 1956)

ROBERT S. DAVIES, Commissioner (Resigned)

H. A. NIKKEL, Commissioner

R. G. LUXFORD

W. J. ANDERSON

RHODA SON, Secretary

EVELYN FOLSOM, Clerk

IN MEMORIAM

Mr. Frank A. Wachob, Deputy Attorney General, who had been associated with the Attorney General's office since 1946, departed this life on April 10, 1955.

The Attorney General's office and Colorado lost one of its most conscientious, valued and loyal public servants.

"Well done, thou good and faithful servant" expresses the sentiment of those whose good fortune it was to have known and worked with him. His services to the office were above and beyond the call of duty.

January 8, 1957

HONORABLE STEPHEN L. R. McNICHOLS
Governor of Colorado
State Capitol
Denver, Colorado

Dear Governor McNichols:

As required by law, I herewith submit the Biennial Report of the Attorney General, covering the period beginning January 1, 1955, and ending December 31, 1956.

Respectfully submitted,

DUKE W. DUNBAR

Attorney General

BIENNIAL REPORT
OF THE
ATTORNEY GENERAL
OF THE
STATE OF COLORADO

REPORT OF THE INHERITANCE TAX DIVISION

The Inheritance Tax Law and Gift Tax Law of the State of Colorado are administered by the Inheritance Tax Division of the Department of Law, as well as all estates escheating to the State of Colorado.

During the period January 1, 1955, to January 1, 1957, this division collected more taxes than at any other time since both laws went into effect. Inheritance taxes in the amount of \$7,132,190.96 and gift taxes in the amount of \$500,162.42 were collected. These taxes total \$7,632,353.38 and are paid to the General Fund of the State of Colorado.

In addition, an Old Age Pension Tax, which is levied against inheritance tax by the Old Age Pension Law, in the amount of \$541,489.87 was collected.

During the same period 16,199 estates were audited and closed in the department. This was the largest number of estates ever handled in a two-year period and resulted in the above amount of tax.

During this two-year period, eighty-three escheat estates were handled by the department and the proceeds from these escheat estates were deposited with the State Treasurer where they will be held for twenty-one years. At the end of this period if they are not claimed by lawful heirs they will be paid into the School Fund.

LEGISLATIVE REFERENCE OFFICE

The Legislative Reference office was established by an act of the General Assembly approved May 6, 1927. The office has two primary functions: legislative reference work and bill drafting for members of the Colorado General Assembly and the Governor.

Legislative Reference Work—The office maintains a legislative informational service for members of the General Assembly, state departments and agencies, and the public. The purpose of this service is to make available studies and information on legislative subjects and the laws of other states. A small but select legislative library is maintained. Office facilities are also available for special reports prepared at the request of individual legislators and legislative standing, special and interim committees.

Bill Drafting—Assistance in bill drafting and advice on matters of legislative procedure and forms of bills, resolutions and amendments are given. Since the establishment of the office approximately ninety per cent of all legislation introduced in the various General Assemblies has gone through the office at one time or another. The office, however, avoids offering recommendations as to the desirability of any proposed legislation.

REPORT OF THE DIVISION OF SECURITIES
for the period
January 1, 1955, to December 31, 1956

	1955	1956
Receipts from fees.....	\$28,447.00	\$57,328.58
Expenditures	23,241.21	32,811.30
Original prospectuses filed.....	271	272
Renewal prospectuses filed.....	37	23
Supplemental prospectuses filed.....	12
Dealers' Original Licenses issued.....	124	82
Dealers' Renewal Licenses issued.....	169	151
Salesmen's Original Licenses issued.....	556	1,239
Salesmen's Renewal Licenses issued....	432	503

The investing public of the State of Colorado and the Division of Securities suffered a great loss due to the untimely death of Mr. Curtis White in March, 1956. Curtis White had been head of the Securities Division since 1938, except for a tour of duty in the U. S. Navy during World War II. It is felt that a contributing factor to his death was his extreme devotion to protection of the interests of Colorado's investing public and his dedication to administering the Securities Act in a fair and equitable manner. Mr. White's death came near the completion of a four-month investigation, the most extensive ever undertaken by the Securities Division.

Curtis White's successor as Securities Commissioner, Robert S. Davies, carried on the policies of his predecessor very capably until his recent resignation May 1, 1957, to re-enter private business.

For many years Curtis White had labored for changes in the Securities Laws to provide more adequate protection for the investing public of Colorado. Our original Securities Law, commonly referred to as the Blue Sky Law, was enacted in 1923. The Fraudulent Practice Act was enacted in 1931. These are the core of Colorado's Securities Laws and there had been no material changes, except as to fees, since those dates. Mr. White's efforts were rewarded to a large extent after his death. The Colorado General Assembly enacted a revised securities act which was signed and made into law by Governor Stephen L. R. McNichols on April 24, 1957.

Article I of the new Act either dropped several antiquated exemptions or brought them up to date. Other logical exemptions such as employee's incentive plans and offerings to existing security holders in certain instances were added. Registration by coordination with the Federal Securities and Exchange Commission was provided for. This specifically provides for a method of registration which this office had previously used as an administrative procedure. Under the old law a purchaser of unregistered securities had only his common law remedies. The new Act gives such purchaser the right to rescind or bring an action for damages.

Article II now requires that broker-dealers show evidence of financial responsibility. In the past numerous investors contacted this office with the complaint that they had neither received stock they had paid for nor a return of their money due to the fact that the dealer had become insolvent. This Article also provides that this department may require an applicant to show some knowledge, training or experience in the securities business before his dealer's or salesman's license is issued. The department also has power to subpoena now which should help preclude long and costly delays previously encountered frequently in investigations.

Article 5 provides a penalty for dealers or salesmen who engage in what is known in the securities business as the switching racket.

Insurance companies are now required to register with this department if they engage in the sale of securities.

There are numerous other changes, but the foregoing seem to be the most material ones.

Several injunctions were obtained against companies and individuals during the last two years, mainly on the grounds of not having registered their securities or misrepresentations in regard to registered securities.

The personnel of the Division presently consists of H. A. Nikkel, Securities Commissioner; D. J. Cameron, Assistant Securities Commissioner; R. G. Luxford and W. J. Anderson, Attorneys; Rhoda Son and Evelyn Folsom, Secretaries.

Part I
DIGEST OF OFFICIAL OPINIONS OF THE
ATTORNEY GENERAL

FOR
BIENNIAL PERIOD
1955-1956

NOTE: A copy of each opinion is on file under a number corresponding with that of the digest hereof.

PROFESSIONAL ENGINEERS BOARD**Opinion 55-2766**

C. C. Hezmalhalch, Secretary
 Board of Registration for Professional Engineers
January 3, 1955

Chap. 51, CRS '53, supersedes all prior laws relating to professional engineers and land surveyors, and it is improper to use a pamphlet entitled laws of the state which contains a repealed statute. Disposition of funds collected and examination requirements discussed.

STATUTES CONSTRUED—Chap. 51, CRS '53.

**COLORADO A & M COLLEGE—CITIES AND TOWNS—
TAXATION****Opinion 55-2767**

President W. E. Morgan
 A & M College
January 6, 1955

Annexation of state-owned land occupied by college by City of Fort Collins.

A city may annex state-owned land used for purposes of a state institution and the state would not lose its sovereign rights for tax exemption. The property would not be subject to building and zoning regulations unless the college proposed to build in a zoning area. The Board of Agriculture may contract with the city for special rates on public utilities.

STATUTES CONSTRUED—124-10-41 and 42; 124-11-2, CRS '53.

GAME AND FISH**Opinion 55-2768**

John D. Hart, Assistant Director
 Game and Fish Department
January 11, 1955

The game and fish department has no authority to revoke a hunting and fishing license of a person who has not been convicted of careless or reckless hunting, nor can the department inform its license agents that said person is ineligible to purchase or use a Colorado hunting license for a period of either three or five years after said date.

STATUTES CONSTRUED—40-11-8, CRS '53.

COUNTY COMMISSIONERS**Opinion 55-2769**

Howard M. Schmidt
 County Attorney of Baca County
January 12, 1955

The county commissioners cannot use funds from the surplus fund of the Roads and Bridges Fund, etc., to build roads

and bridges for the purpose of alleviating unemployment. This use of said fund is in excess of the annual appropriation and is not an unforeseen contingency within the meaning of the statute.

STATUTES CONSTRUED—36-2-2, CRS '53.

CITIES AND TOWNS—SCHOOLS

Opinion 55-2770

A. M. Emigh
City Attorney
Durango, Colo.
January 17, 1955

A school district is a subdivision of the state and school district property would be "public property" and condemnation proceedings must be under 50-3-1, CRS '53.

STATUTES CONSTRUED—50-3-1, CRS '53.

COLORADO A & M COLLEGE

Opinion 55-2771

Joseph M. Whalley
Business Manager and Treasurer
January 20, 1955

The college would not be liable for the death of an animal which died while undergoing treatment at the veterinary college.

INCOME TAX—STATE TREASURER

Opinion 55-2772

Hon. Earl E. Ewing
State Treasurer
January 28, 1955

The oil income tax moneys paid pursuant to the provisions of 138-1-7, CRS '53 (formerly Sec. 1, Chap. 131, S.L. 1953) should be credited to the general fund except as to the allocation provisions of ten percent thereof as provided in 138-1-45, CRS '53 and 138-1-40, CRS '53 covering refunds.

STATUTES CONSTRUED—138-1-40 and 45, CRS '53.

INSURANCE

Opinion 55-2773

Sam N. Beery
Commissioner of Insurance
January 28, 1955

Re Colo. Premium Tax Refund—Refunded Group Annuity Considerations.

It is not proper for a life insurance company to exclude or deduct in the calculation of taxable premium income considerations received by it under annuity contracts which were later returned to the annuitant.

STATUTES CONSTRUED—72-1-14, CRS '53.

SOIL CONSERVATION—MOTOR VEHICLES

Opinion 55-2774

Kenneth W. Chalmers
State Soil Conservation Board
February 2, 1955

Vehicles owned by a soil conservation district are subject to the registration and ton mile provisions.

STATUTES CONSTRUED—Chap. 31, S.L. 1954.

LIQUORS—SCHOOLS

Opinion 55-2775

Hon. George J. Baker
Secretary of State
February 3, 1955

Re Juvenile Hall. The institution within the City and County of Denver known as Juvenile Hall is not a "public school" within the prohibition contained in 75-2-12(9), CRS '53, and is not one of the other educational institutions therein named.

STATUTES CONSTRUED—75-2-12(9).

STATE TREASURER—RACING COMMISSION

Opinion 55-2776

Hon. Earl E. Ewing
State Treasurer
February 7, 1955

Under the provisions of 130-2-5, CRS '53, all sums now in the breakage fund for which no claim for refund has been or was filed within one year after such money was collected or received by the State of Colorado may be transferred to the general fund.

STATUTES CONSTRUED—130-2-5, CRS '53.

CITIES AND TOWNS

Opinion 55-2777

William Atha Mason
City Attorney, Rifle
February 7, 1955

It is not permissible for a member of the board of trustees or city council to sell supplies to or to perform labor or services

for the city and charge the municipality for the same.
 STATUTES CONSTRUED—139-17-5, CRS '53.

**REAL ESTATE DEALER—INSURANCE
 MOTOR VEHICLES**

Opinion 55-2778

Sam N. Beery
 Commissioner of Insurance
February 7, 1955

A real estate development company may, for promotional and advertising purposes, give to a purchaser of a home from such company a \$1,000 Ordinary Life Insurance Policy with the first year's premium fully paid, etc.

A motor vehicle dealer who is a duly licensed insurance agent may not legally give to his customers of a new or used car a comprehensive insurance policy covering liability, property damage and collision coverage, the premium for such policy less commission to be paid by the said dealer.

STATUTES CONSTRUED—71-1-19, CRS '53; 72-3-17, CRS '53; 72-15-4(8) (a), CRS '53.

DEPARTMENT OF HIGHWAYS—SCHOOL OF MINES

Opinion 55-2779

Mark U. Watrous
 Department of Highways
February 15, 1955

Acquisition of property from the School of Mines: The department should not proceed under any agreement calling for a perpetual use or exchange of property, but should submit a bill to the general assembly authorizing the School of Mines to convey to the department of highways the required property.

STATUTES CONSTRUED—124-9-1, CRS '53.

DEPARTMENT OF HIGHWAYS

Opinion 55-2780

Mark U. Watrous
 Department of Highways
February 16, 1955

Changes in the Manual on Uniform Traffic Control Devices—new sign called "YIELD RIGHT OF WAY".

1. The department may change the signs from black-on-yellow to white-on-red under the present Colorado law.

2. There should be a dual operating standard set out in the Manual during the conversion.

3. Special legislation would be required to give the "YIELD RIGHT OF WAY" sign enforceable authority and meaning.

4. The procedure to be observed and effecting the revision of the Manual is within the discretion of the State Highway Commission. However, this Manual should correlate so far as possible with the current system approved by the American Association of State Highway Officials.

STATUTES CONSTRUED—13-4-9, 10, 52, 54 and 70, CRS '53.

LIQUORS

Opinion 55-2781

H. C. Wilson, Deputy Director
State Liquor Department
February 18, 1955

Under the provisions of 75-2-12(9), CRS '53, a hotel and restaurant liquor license may be issued to the premises which have been licensed for the sale of beer and wine continuously since 1937, and at which there has been a restaurant conducted continuously since before the enactment of the Liquor Code of 1935.

STATUTES CONSTRUED—75-2-12(9), CRS '53.

LIVESTOCK

Opinion 55-2782

Ed Paul, Brand Commissioner
February 21, 1955

The State Board of Stock Inspection Commissioners should not continue to purchase the \$10,000 treasurer's bond. Surety bonds for state officials handling state funds is now covered by the Administrative Code, 3-1-7, CRS '53, which repealed Sec. 79, Chap. 160, CSA '35.

STATUTES CONSTRUED—3-1-7, CRS '53.

PURCHASING AGENT

Opinion 55-2783

Lacy L. Wilkinson
State Purchasing Agent
February 28, 1955

The Division of Purchases may not sell merchandise from its storeroom to the State Employees Credit Union and the Civil Service Employees Association, except where property is declared not to be needed for public use, nor may it buy for such agencies at the regular rate of discount allowed the state.

STATUTES CONSTRUED—3-4-1, CRS '53.

CIVIL DEFENSE

Opinion 55-2784

General Henry L. Larsen, Director
Civil Defense Agency
March 1, 1955

The General Assembly could not meet and legally transact business outside of the city of Denver in case of a major

disaster destroying or rendering it uninhabitable. A law could be passed, but it would require a vote of two-thirds of all the qualified electors of the state. The members of the Ground Observer Corps would be covered by the Volunteer Civil Defense Workers Compensation Act, if the provisions of the statute are met.

STATUTES CONSTRUED—24-1-3(1), CRS '53.

LEGISLATURE—CITIES AND TOWNS

Opinion 55-2785

William Bodan, Jr.
City Attorney, Englewood
March 1, 1955

There is no prohibition against a state representative holding office as city councilman inasmuch as he was elected to the latter office. *Carpenter v. People*, 8 Colo. 116, 5 Pac. 828.

COUNTY SURVEYOR

Opinion 55-2786

Leon H. Snyder
County Attorney, Colorado Springs
March 1, 1955

A county surveyor can retain his position as such and at the same time hold the position as engineer for the county road department, for which he will receive a full time salary, if the positions are not incompatible.

STATUTES CONSTRUED—35-9-1 to 5, CRS '53.

LEGISLATURE

Opinion 55-2787

Miss Lee Matties, Chief Clerk
House of Representatives
March 7, 1955

One house of the legislature acting independently of, and without notice to the other house, cannot allocate moneys from a general fund previously appropriated for the use of both houses to subscribe to the weather forecasting services of Irving P. Krick.

TAXATION—COUNTY ASSESSOR

Opinion 55-2788

Colorado Tax Commission
March 10, 1955

Disposition of abatement petitions filed by irrigated land owners in Weld County.

The board of county commissioners acting as a county board of equalization and the tax commission may legally take action on petitions asking for an abatement of increased taxes.

A taxpayer may not be denied administrative remedies to correct assessment where such assessment is made after cessation of the regular sessions of the county and state boards of equalization. Such administrative remedies are for the benefit of the taxpayer who cannot without fault on his part be deprived of a right to be heard.

STATUTES CONSTRUED—137-3-37, CRS '53, and 137-8-4, CRS '53.

INSURANCE

Opinion 55-2789

Sam N. Beery
Commissioner of Insurance
March 10, 1955

Non-Forfeiture Life Insurance Policy Values.

Non-forfeiture benefits in a term policy running in excess of twenty years should contain a provision therein as to such non-forfeiture benefits, if any, as may be specified in the policy.

STATUTES CONSTRUED—72-3-12, CRS '53.

INSURANCE

Opinion 55-2790

Sam N. Beery
Commissioner of Insurance
March 10, 1955

Mutual and stock participating companies, other than life, may not deduct dividends to policyholders in computing the gross amount of premium tax.

STATUTES CONSTRUED—72-1-14, CRS '53.

DISTRICT ATTORNEYS—FEES—SALARIES

Opinion 55-2791

J. Stump Witcher
District Attorney
March 11, 1955

The counties in each judicial district should pay the full salary of the district attorney if no appropriation is made by the legislature out of which the state can contribute.

STATUTES CONSTRUED—45-2-3, CRS '53.

ACCOUNTANTS

Opinion 55-2792

C. B. Neville, Secretary
State Board of Accountancy
March 15, 1955

The board may register the limited partnership described.

STATUTES CONSTRUED—Chap. 2, CRS '53.

COUNTY ASSESSOR—TAXATION**Opinion 55-2793**

Fred E. Sisk
 District Attorney

March 16, 1955

It is the duty of the county assessor to separately assess oil, gas and minerals or mineral rights that have been severed from the surface ownership either through a reservation or exception contained in a deed, or by a mineral deed, regardless of who makes the request or whether a request is made or not.

STATUTES CONSTRUED—137-1-2, 12 and 16, CRS '53.

CITIES AND TOWNS—MOTOR VEHICLES**Opinion 55-2794**

Messrs. Moses & DeSouchet
 Attorneys, Alamosa, Colo.

March 18, 1955

13-10-1, CRS '53, does not apply to the motor vehicles owned and driven by the volunteer firemen while answering regular city fire calls but applies to the operator of the vehicle while engaged in the line of duty.

13-10-3 directs that municipalities "shall cover the liabilities of their motor vehicle drivers" while answering regular city fire calls regardless of the motor vehicle used.

STATUTES CONSTRUED—13-10-1 and 3, CRS '53.

AGRICULTURE DEPARTMENT**Opinion 55-2795**

Paul W. Swisher, Commissioner

March 23, 1955

The Agricultural Commission has the authority in quarantined areas known to have an infectious or contagious disease to require individual livestock owners to treat their livestock to prevent the spread of and to eradicate infectious and contagious diseases.

It is necessary for the Agricultural Commission to have proof that said livestock has the disease or has been exposed directly to livestock that had the disease before they can require an individual to treat the livestock. It is not within the province of this office to say what evidence shall be sufficient or insufficient.

STATUTES CONSTRUED—8-5-9 and 10, CRS '53.

ESTATES—COURTS**Opinion 55-2796**

Hon. Charles J. Simon
 County Judge, El Paso County
March 28, 1955

Court fees and costs for the probate of estates are governed by the statute in effect when the estate was filed.
 STATUTES CONSTRUED—56-5-2, CRS '53.

MOTOR VEHICLES—HIGHWAYS**Opinion 55-2797**

Earl Blevins, Director of Revenue
March 31, 1955

Meaning of "roadway", "highway" and "the right of the roadway" construed.

Construction of rules respecting the stopping at grade crossings by motor vehicles carrying passengers for hire, school buses and vehicles carrying explosive substances or flammable liquids.

STATUTES CONSTRUED—13-4-68, CRS '53.

LEGISLATION—TAXATION**Opinion 55-2798**

Senator Wm. Albion Carlson
April 2, 1955

Legal aspects as to whether a proposed bill levying a severance tax on oil and gas produced in Colorado would be considered an excise tax.

PURCHASING AGENT—ADVERTISING**Opinion 55-2799**

Lacy Wilkinson
 State Purchasing Agent
April 4, 1955

The Purchasing Agent may in his discretion but is not required to let an annual contract for the publication of legal notices and advertisements of the State of Colorado.

STATUTES CONSTRUED—3-4-3, CRS '53.

SCHOOLS**Opinion 55-2800**

Dr. H. Grant Vest
 Commissioner of Education
April 7, 1955

The Rifle Union High School may adopt by-laws providing: (a) On failure of a director of a school board to attend four consecutive regular meetings, the director would not be entitled to vote until he had attended one regular meeting

immediately prior to the meeting at which he proposed to vote; (b) directors of a school board must appoint election judges and the directors themselves may not serve as such judges.

Judges appointed by the board of directors or the board of education of a school district shall serve as the election board for school district board elections.

STATUTES CONSTRUED—123-10-9 and 10, CRS '53.

LEGISLATURE—CONSTITUTIONAL LAW

Opinion 55-2801

Earl Blevins
Director of Revenue
April 12, 1955

The appointment of a state representative as supervisor of ports of entry would not violate any constitutional or statutory provisions.

CONSTITUTION CONSTRUED—Art. V, Sec. 8.

STATUTES CONSTRUED—3-1-6, CRS '53.

SCHOOLS

Opinion 55-2802

Dr. H. Grant Vest
Commissioner of Education
April 11, 1955

A retired school teacher may become a candidate for the school board in the same district in which the teacher is receiving a retirement pension.

STATUTES CONSTRUED—40-19-10 and 11, CRS '53 not applicable.

JURORS—FEES

Opinion 55-2803

Hon. William L. Gobin
Judge, 16th Judicial District
April 14, 1955

“Jurors” shall receive \$6.00 per day only during the time between which they are sworn to try a case and the time when they are discharged from service in that case. At all other times while in attendance on panel they shall receive \$3.00 per day.

STATUTES CONSTRUED—56-6-1, CRS '53, as amended by Chap. 150, S.L. 1955.

LEGISLATURE

Opinion 55-2804

Governor Edwin C. Johnson
April 27, 1955

The Joint Interim Standing Committee on State Institution Building and Construction, created by Resolution No. 33,

has no power other than to study and ascertain facts for the purpose of making recommendations to the legislative body and may function in an investigative and advisory capacity only.

SOIL CONSERVATION

Opinion 55-2805

Kenneth W. Chalmers, Secretary
State Soil Conservation Board
May 3, 1955

The board of supervisors of a soil conservation district, by official action on petition by landowners or of their own volition, may exclude lands devoted exclusively to commercial and industrial uses as noted, subject to the provision in 128-1-15(5), CRS '53; that no land shall be so excluded from a district unless and until all lawful taxes and other charge of the district against such lands shall have been paid. Lands devoted to residential use may not be so excluded.

STATUTES CONSTRUED—128-1-15 (5), CRS '53.

CITIES AND TOWNS—FEES—EMPLOYEES

Opinion 55-2806

Guy R. Justis
Director of Public Welfare
May 3, 1955

The statute which prohibits payments of mileage in excess of 8c per mile to state, county or municipal employees does not apply to Denver, a home-rule city.

The mileage statute states no state or county officer shall be allowed mileage fees in excess of 8c per mile. "Payment" and "reimbursement" are synonymous. The state may not reimburse in excess of 85% of 8c per mile.

The State Board of Public Welfare cannot reimburse the county a full 8c per mile if the rate established is such that 85% of mileage claim is equal or exceeds the 8c limitation.

STATUTES CONSTRUED—119-1-15, CRS '53, and 56-4-21, CRS '53.

PUBLIC UTILITIES

Opinion 55-2807

Joseph W. Hawley, Chairman
Public Utilities Commission
May 12, 1955

Commercial carriers and private carriers by motor vehicle operating within Colorado home-rule cities are public utilities and are subject to the regulations and jurisdiction of the Public Utilities Commission.

Sec. 5 of Ch. 231, S.L. 1955 (Commercial Carrier Act) authorizes the commission to charge and collect the \$3.00 application fees for commercial carrier permits and pay such fees directly into the treasury of the State of Colorado to the credit of the general fund of the state.

CONSTITUTION—Art. XXV, Colo. Constitution.

STATUTES CONSTRUED—115-10-23 et seq. as amended by Ch. 231, S.L. 1955.

COLORADO STATE HOSPITAL

Opinion 55-2808

Guy R. Justis, Director
Department of Public Welfare

May 16, 1955

Residency in a private institution outside of the state for more than one year would cause forfeiture of Colorado residency and right to treatment in the state hospital.

STATUTES CONSTRUED—71-1-22, CRS '53.

BOARD OF STANDARDS OF CHILD CARE

Opinion 55-2809

John C. Stoddard, Director

May 16, 1955

The Board of Standards of Child Care is empowered to amend or change or provide exceptions to any of the rules which were adopted by it, but cannot by rule or regulation amend or change any statutory requirement.

PUBLIC WELFARE—COLORADO STATE HOSPITAL

Opinion 55-2810

Guy R. Justis, Director
Department of Public Welfare

May 16, 1955

The term "residency" defined.

STATUTES CONSTRUED—71-1-22, CRS '53.

HIGHWAYS

Opinion 55-2811

Mark U. Watrous, Chief Engineer
Department of Highways

May 16, 1955

1. The Highway Department cannot acquire access rights abutting on a county highway. Such rights may be acquired only as appurtenances to a state highway.

2. Access rights on county roads could be acquired by the department if the freeway was designed with flared corners at these intersections, or the highway could obtain

these access rights by declaring the county highway intersection to be part of the state highway system.

STATUTES CONSTRUED—120-6 CRS '53 and 120-13-1, CRS '53.

SCHOOLS

Opinion 55-2812

Dr. H. Grant Vest
Commissioner of Education
May 18, 1955

Chap. 259, S.L. 1955, providing procedure for changing boundaries between two adjoining school districts, does not incorporate limitations contained in 123-7-2, CRS '53.

STATUTES CONSTRUED—123-7-7, CRS '53, amended by Chap. 259, S.L. 1955.

GAME AND FISH

Opinion 55-2813

Game and Fish Commission
May 20, 1955

Violations prosecuted under the 1955 Fishing Seasons and Regulations.

STATUTES CONSTRUED—62-2-13, CRS '53.

TAXATION—COUNTY COMMISSIONERS

Opinion 55-2814

Charles R. Casey
County Attorney, Leadville
May 25, 1955

Respecting the publication of taxes rebated, the county commissioners are not required to publish a report of the sale of tax sale certificates at a price less than the full amount of taxes due.

STATUTES CONSTRUED—36-2-11, CRS '53, as amended by Chap. 102, S.L. 1955.

FIREMEN'S PENSION FUND—CITIES AND TOWNS

Opinion 55-2815

William O. DeSouchet, Jr.
Attorney at Law
May 25, 1955

Firemen's pension funds may not be invested in sewer revenue bonds authorized by 139-52-1 to 11, CRS '53.

A municipality may not purchase sewer revenue bonds.
STATUTES CONSTRUED—139-52-1 to 11, CRS '53.

SOIL CONSERVATION BOARD**Opinion 55-2816**

Kenneth W. Chalmers, Secretary

May 26, 1955

Under the provisions of Ch. 287, Sec. 4 (1) (d), S.L. 1955, a land use ordinance should be adopted by a vote of the majority of the qualified voters voting, whether this is in person or proxy.

STATUTES CONSTRUED—128-1-9 (1) (d), CRS '53, as amended by Ch. 287, p. 948, S.L. 1955.

HIGHWAYS—STATE AUDITOR**Opinion 55-2817**

Stewart Cosgriff, Chairman

State Highway Commission

May 12, 1955

The Department of Auditing is the only agency responsible for accounting and auditing procedures to be followed by the Department of Highways. The State Controller prescribes the procedure to be followed with reference to pre-audits.

STATUTES CONSTRUED—3-8-1(1), 3-8-5, 3-3-1(14) and 3-3-1(16), CRS '53.

SCHOOLS—FEDERAL GOVERNMENT**Opinion 55-2818**

Dr. H. Grant Vest

Commissioner of Education

May 25, 1955

As soon as the property lying within El Paso County School District 38 is acquired by the Colorado Land Acquisition Commission, it is no longer subject to the assessment levy established to discharge said bonded indebtedness, and the balance of the property remaining in the district will be charged with the responsibility of discharging this obligation.

STATUTES CONSTRUED—123-11-15, CRS '53.

**PLANNING COMMISSION
PUBLIC FUNDS—LEGISLATION****Opinion 55-2819**

W. M. Williams, Director

State Planning Commission

May 31, 1955

Legislation construed concerning maintenance, operation and financing of State Home for the Aged at Trinidad.

STATUTES CONSTRUED—106-1-8, 133-2-1 and 2, 133-1-8, CRS '53, and Ch. 60, S.L. 1954.

MOTOR VEHICLES—LEGISLATION**Opinion 55-2820**

David Walker, Supervisor
Motor Vehicle Dealers Administrator
June 1, 1955

Interpretation of provisions of 1955 amendments to Motor Vehicle Dealers licensing law in respect to those required to be licensed and the form of the license bond.

STATUTES CONSTRUED—Ch. 77, S.L. '55, amending 13-11, CRS '53.

SCHOOLS**Opinion 55-2821**

Dr. H. Grant Vest
Commissioner of Education
June 14, 1955

Notice of meeting to vote on consolidation combined with notice of annual meeting for purpose of electing directors is valid.

SOIL CONSERVATION**Opinion 55-2822**

Clarence M. Svedman, President
Soil Conservation Board
June 15, 1955

Under Sec. 4, Ch. 287, S.L. 1955, amending 128-1-9(1) (d) CRS '53, the Soil Conservation District in its by-laws may not require a favorable vote greater than a majority of those voting. Said section requires only a majority of those voting on land use ordinances to adopt same.

Said section 4 of Ch. 287 does not amend 128-1-9(2) (c), CRS '53. Thus a district may require by its by-laws more than a majority of the voters to adopt an assessment or tax levy.

STATUTES CONSTRUED—128-1-9(1) (d), CRS '53, as amended by Sec. 4, Ch. 287, S.L. 1955, p. 849. 128-1-9 (2) (c), CRS '53.

LIQUORS**Opinion 55-2823**

George J. Baker
Secretary of State
June 21, 1955

The finding of the municipal court in dismissing the charge against a clerk in a retail liquor licensed outlet and finding him not guilty of a violation of a municipal ordinance

was not binding on the Manager of Safety concerning violation of the Colorado Liquor Code, and he is not precluded from holding a hearing thereon and initially determining the existence of a violation for purposes of suspending or revoking a license.

STATUTES CONSTRUED—75-2-11 and 28, CRS '53.

GAME AND FISH

Opinion 55-2824

Thomas L. Kimball
Executive Director, Game and Fish
June 24, 1955

The Game and Fish Department should honor the \$3.00 resident combined fishing and small game hunting licenses which were issued earlier this year in conformity with the provisions of 62-3-7 (11), CRS '53 prior to its amendment by Ch. 153, S.L. 1955.

A person purchasing license plates from another state is not necessarily accepting a resident privilege of another state; however, such license plates would strongly indicate that the purchaser either had not been a resident of Colorado for one year as required to purchase a resident hunting license or was violating Colorado's motor vehicle registration laws.

A person in military service otherwise qualified to purchase a resident game and fish hunting license is not disqualified from doing so because he has purchased current automobile license plates from a state other than Colorado.

STATUTES CONSTRUED—62-3-7 (11), CRS '53, as amended by Ch. 153, S.L. 1955.

CONTROLLER—CITIES AND TOWNS FIREMEN'S PENSION

Opinion 55-2825

James A. Noonan
State Controller
June 24, 1956

Should the tax collected for the calendar (which is also the fiscal) year 1954 be apportioned to the qualified cities and towns under Ch. 318, S.L. 1955, which amends 130-50-4, CRS '53. Since said Ch. 318 was approved by the Governor and became effective on April 20, 1955, and if on that date the four hundred thousand dollars of the revenues derived from the tax imposed by 72-1-14, CRS '53, for the fiscal and calendar year 1954 had not reached the General Fund, then such portion of the revenues should be applied as provided in Section 1 of said Ch. 318.

The \$400,000.00 is to be taken from the tax received from all foreign or alien insurance companies under 72-1-14, CRS '53, regardless of the type of insurance from which the premium comes upon which the tax is levied, if such type of insurance is one of the types mentioned therein.

STATUTES CONSTRUED—Sec. 1, Ch. 318, S.L. 1955, amending 139-50-4, CRS '53. 72-1-41, CRS '53.

PAROLE DEPARTMENT—LEGISLATION

Opinion 55-2826

Wayne K. Patterson, Executive Director

June 23, 1955

Interpretations of H.B. 387, 40th G.A. (Ch. 121, S.L. 1955) respecting proceedings by board of parole in cases where a convict is eligible for parole and the board has reason to believe that such convict may be insane, with consideration of the provisions of Arts. 1 and 2, Chap. 71, '53 CRS.

JUSTICE OF THE PEACE

Opinion 55-2827

Theron K. Fluke

Justice of the Peace, Kiowa County

June 27, 1955

Incarceration in jail by a justice of peace for failure to pay fine when no jail sentence imposed at time of conviction.

INSURANCE—SCHOOL OF MINES

Opinion 55-2828

Gurnett Steinhauer, Business Manager

July 1, 1955

In general, as to procuring of life, health and accident insurance by School of Mines for employees and payment of part of insurance premiums thereon by School, but see No. 55-2844 when such plan embraces only faculty members who are not classified employees or employees within the meaning of 26-2-3 and 26-2-4, '53 CRS.

WATER

Opinion 55-2829

J. E. Whitten, State Engineer

July 7, 1955

Water officials of the state are charged with the duty of measuring and deliivering water imported into the basin as fully as they are charged with similar functions concerning water arising within the basin.

LIQUORS**Opinion 55-2830**

Myron R. Donald, Director
State Liquor Department

June 17, 1955

The Home of the Good Shepherd is not a public or parochial school within the meaning of 75-2-12 (9), '53 CRS, which prohibits the licensing of an outlet where liquor is to be sold by the drink within 500 feet of any public or parochial school.

HIGHWAYS—CONTRACTS**Opinion 55-2831**

Mark U. Watrous, Chief Engineer

July 1, 1955

The Dawson case, 126 Colo. 490, does not in and of itself remove any of the transactions authorized by 120-12-6, 120-2-7, 120-2-6, 120-1-8, 120-3-23 and 120-3-17, '53 C.R.S. from the signatory requisites of the Administrative Code, **except** contracts entered into pursuant to 120-2-7, '53 CRS.

It should be pointed out that a 1952 enactment (Ch. 57, S.L. '52) known as the "Department of Highway Act of 1952" did supplement the Administrative Code as to its application to the Department. (Sec. 9 (b-6) of this enactment, now codified as 120-2-11(6), '53 CRS, imposes a supplemental duty on the controller to disapprove any expenditure where the reports of the department as required by 120-2-11(5), '53 CRS reflects excessive expenditures.)

HIGHWAYS—MOTOR VEHICLES**Opinion 55-2832**

Mark U. Watrous

July 5, 1955

The prohibition set forth in 13-4-103(3), '53 CRS, applies to all motor vehicles, whether moving, stopped or disabled.

**REAL ESTATE—MISCELLANEOUS
CORPORATIONS****Opinion 55-2833**

Hon. J. R. Wedlake
Assistant Attorney General
Madison, Wisconsin

July 6, 1955

There is no statute, court decision or administrative regulation which would prevent the State of Wisconsin Investment Board from purchasing real estate in the State of Colorado, but the Board would have to qualify in Colorado as a foreign corporation.

COLORADO GENERAL HOSPITAL—COUNTIES**Opinion 55-2834**

Robert L. Denholm, Director of Hospital
 University of Colorado
 July 8, 1955

Manner of charging and billing county welfare departments for county patients at Colorado General Hospital.

SCHOOLS—COUNTY COMMISSIONERS**Opinion 55-2835**

Robert S. Zimmerman, Esq.
 Glenwood Springs, Colo.
 July 11, 1955

Authority of Board of County Commissioners of Garfield County to lease land deeded to it by ordinance of the Town of Rifle for county fair purposes to local board of education for use by latter for athletic activities and games.

CITIES AND TOWNS—FIREMEN'S PENSION**Opinion 55-2836**

Bernard E. Bailey, Sec.
 Firemen's Relief and Pension Board
 Colorado Springs, Colo.
 July 12, 1955

The deputy treasurer is the proper person to become a member of the board of trustees of the firemen's pension fund. 139-50-2, CRS '53.

MOTOR VEHICLES—FEES**Opinion 55-2837**

John F. Healy, Jr.
 Deputy Director of Revenue
 July 14, 1955

Moneys arising from forfeiture of bail in offenses before a justice of the peace arising under the motor vehicle statute (Ch. 13, CRS '53) should be collected in toto by the district attorney either by proceedings on the bond or, in case of a cash bond, from the court.

RACING COMMISSION**Opinion 55-2838**

H. A. Christensen, Executive Secretary
 Colorado Racing Commission
 July 18, 1955

An ineligible person may not participate in racing events at track under jurisdiction of racing commission by leasing his horses to a third person who is eligible where the lease provides that the lessor will receive a percentage of the winnings and earnings of the horses.

SURPLUS PROPERTY AGENCY—FEDERAL**Opinion 55-2839**

R. L. Cleere, M.D.
 Department of Public Health
July 22, 1955

The Colorado Education and Health Agency for Surplus Property has the power to enter into cooperative agreements or contracts with the federal government pursuant to Public Law 61, 84th Congress. (See analysis)

HIGHWAYS—CITIES AND TOWNS**Opinion 55-2840**

Mark U. Watrous
 Department of Highways
July 22, 1955

The Department of Highways does not have authority to regulate traffic and parking restrictions on streets within cities, cities and counties and incorporated towns which, as urban connecting links, have been designated as part of the highway system, except as to regulations adopted by such municipalities after March 28, 1953. See 12-13-35 (7) CRS '53, which is distinguished from 120-13-33 (8) and (9) CRS '53.

LEGISLATION—INCOME TAX**Opinion 55-2841**

Harry S. Allen
 Legislative Council
July 27, 1955

The legislature may adopt a properly drafted income tax bill which would permit one optional short form return in which the taxpayer reported the amount of adjusted gross income reported to the federal government in lieu of the current long form return. Also the legislature may adopt a return in which the taxpayer pays the state a given percentage of his federal income tax. Such legislation must be carefully drawn to avoid conflict with Secs. 17 and 24, Article V, State Constitution, and to provide exclusion of income over which Colorado has no jurisdiction.

COUNTY COMMISSIONERS—SALARIES**Opinion 55-2842**

Stinemeyer & Stinemeyer,
 Canon City, Colorado
July 29, 1955

A county commissioner may be appointed a county road supervisor and receive a salary therefor in addition to his compensation as county commissioner, under subdivisions 1 and 4 of Sec. 120-31-11, CRS '53.

**CITIES AND TOWNS
POLICE AND FIREMEN'S PENSION****Opinion 55-2843**

Mrs. Olga E. McCullough, Treasurer
Ovid, Colo.

August 4, 1955

Police and firemen's pension funds may not be loaned to Town on promissory note to pay off water bonds and treasurer of funds would violate his duty in using money for this purpose.

INSURANCE—SCHOOL OF MINES**Opinion 55-2844**

Gurnett Steinhauer, Business Manager
School of Mines

August 5, 1955

Requirements and conditions necessary to procurement of life, accident and health insurance for faculty members and part payment of premiums thereon by school. (See Opinion 55-2828)

COLO. A & M COLLEGE—FEDERAL**Opinion 55-2845**

J. M. Whalley, Business Manager
Colorado A & M College

August 8, 1955

The State Board of Agriculture as governing body of Colo. A & M has the authority to borrow on short term notes pledging as security the proceeds from the sale of a duly authorized revenue bond issue. Both the proceeds of short term notes and the bond issue can only be used for the construction of Newsom Hall—dormitory constructed under 124-1-6, '53 CRS.

MARRIAGE LAWS**Opinion 55-2846**

Miss Sarah Frances Drown

August 8, 1955

Because of certain requirements in the marriage laws, a marriage by proxy in this state cannot be performed.

MOTOR VEHICLES**Opinion 55-2847**

John C. Banks
City Attorney

August 12, 1955

(1) The authority of the Department to suspend an operator's license is limited to the period of one year.

(2) The suspension does not remain in effect, but written application must be made for return of the license.

ACCOUNTANCY

Opinion 55-2848

Paul L. Schmitz, Pres.
State Board of Accountancy
August 15, 1955

A national firm of certified public accountants, the members of which are licensed in other states in the union, may be registered in Colorado if the local office is in charge of a resident manager who is a Colorado licensed certified public accountant when no partner in the firm is a resident of the State of Colorado.

OPTOMETRIC EXAMINERS

Opinion 55-2849

Dr. Otto J. Bebber, Sec.
Board of Optometric Examiners
August 22, 1955

The statute requires "each Colorado licensed Optometrist" to take the post graduate course before his license may be renewed. The board cannot exempt special cases because of illness or hardship, and cannot exempt an age group, such as those above 65 or 70 who are practicing on the grounds that it would be a hardship to attend meetings.

PUBLIC WELFARE

Opinion 55-2850

Guy R. Justis, Director
Department of Public Welfare
August 23, 1955

The County Board of Public Welfare cannot reveal the identity, the amount of payment, or other details concerning the recipients of welfare assistance to some unauthorized person who has no purpose directly connected with the administration of public assistance and such information can be lawfully refused.

The County Board of Public Welfare, as a part of the County Department, may hold private meetings and is under the duty to comply with the State Department's ruling and policies in this regard.

INHERITANCE TAX

Opinion 55-2851

Neil Tasher
Inheritance Tax Commissioner
August 24, 1955

Real estate brokers' commissions are not proper deductions under the Inheritance Tax Laws and, more specifically,

Section 138-4-16, '53 CRS. They are deductible only if a sale was necessary to pay the debts; if the will directs the real estate must be sold, as distinguished from a mere power to sell; or in the event of some other contingency whereby a sale was necessary to carry out the provisions of the will, and such sale was not for the convenience of the heirs.

COAL MINES

Opinion 55-2852

Thomas Allen, Chief Inspector
State Inspector of Coal Mines
August 29, 1955

The owner of the fee title of the coal mining property is responsible for the payment of the seven-tenths of one cent per ton of coal estimated on a run-of-mine basis, provided by statute to be paid into the state treasury for the state coal mine inspection fund, when such payment was not made by the lessee who operated the mine.

PURCHASING AGENT— GAME AND FISH—MOTOR VEHICLES

Opinion 55-2853

Thomas L. Kimball, Director
Game and Fish Department
September 1, 1955

What constitutes "special equipment" within the meaning of 3-4-11(b), '53 CRS, is a matter of fact to be determined by the Purchasing Agent. The legislative intent would appear to be to prohibit state agencies from acquiring passenger vehicle equipment of a luxury, pleasure and unnecessary nature, such as pleasure radios, but not to prevent the acquiring of functional and utilitarian equipment necessary in the performance of the duties of the state employees driving such vehicles, or items necessary for the economical maintenance of a motor vehicle in good repair.

COSMETOLOGY

Opinion 55-2854

Beryl W. Maus, Executive Secretary
Board of Cosmetology
September 1, 1955

The board must refund the \$10.00 fee, which was sent with application, if same was rejected.

CONTROLLER—GAME AND FISH

Opinion 55-2855

Thomas L. Kimball, Executive Director
September 1, 1955

The executive branch of the state government may not by rule, regulation or determination prevent officers or employees

of the game and fish department from recovering their actual and necessary expenses incurred by them in the discharge of their official duties as they are entitled to such expenses under 62-2-5, '53 CRS. Any official required to process such expenses for payment, or to approve the same may require adequate proof that such expenses were actually incurred and that such expenses were necessarily incurred by such employees in the discharge of their official duties.

FAIR EMPLOYMENT PRACTICES—MISCELLANEOUS

Opinion 55-2856

Colo. Anti-Discrimination Commission

September 13, 1955

The term "public employer" defined as used in Section 81-19-2, '53 CRS, as amended by House Bill 284, 40th G.A. (Chap. 187, S.L. '55), Fair Employment Practices Act.

COLO. A & M COLLEGE—FEDERAL

Opinion 55-2857

Joseph M. Whalley, Business Manager

Colorado A & M College

September 14, 1955

Data re application for Loan Assistance from the Federal government to construct three new dormitories on the campus at the College.

LEGISLATION—COUNTIES ANTICIPATION WARRANTS

Opinion 55-2858

Hon. Sam T. Taylor

State Senator, Walsenburg

September 20, 1955

Interpretation of S.B. 313, 40th G.A., First Session 1955 (Chap. 106, S.L. '55), authorizing cities and counties to issue anticipation warrants to construct or build public projects.

PAROLE DEPARTMENT

Opinion 55-2859

Wayne K. Patterson, Executive Director

September 15, 1955

The Parole Board has jurisdiction over a case at the Reformatory beyond the maximum term specified by the county court and the limitation of two years imposed by the county court must yield to the mark system provided in section 105-3-3, '53 CRS.

**PLANNING COMMISSION—
STATE COLLEGE OF EDUCATION**

Opinion 55-2860

W. M. Williams, Director
State Planning Commission
September 21, 1955

Building mill levy funds cannot be used for the purchase of additional land but are confined entirely to construction of buildings on the grounds of the college and for the equipping and furnishing of said buildings, and for the remodeling of, addition to and improvement of existing buildings and facilities.

BLIND COMMISSION—EMPLOYEES' RETIREMENT

Opinion 55-2861

Herman Kline, General Manager
Colo. Industries for the Blind
September 22, 1955

Under new state plan governing the vending stand program which became effective September 1, 1955, the visually handicapped operators are not eligible for social security for the reason that the blind operators are still covered by the Public Employees' Retirement Association, irrespective of their new federal classification as "self-employed persons."

CONTRACTS—FEDERAL

Opinion 55-2862

Arthur C. Sheely, Pres.
Land Acquisition Commission
September 22, 1955

The Land Acquisition Commission may enter into contracts for the sale and purchase of land with the Department of the Air Force or the United States and such contracts, if properly executed by both parties, would bind the State of Colorado even if they were not fully performed on the date of the expiration of the Commission's corporate existence.

COAL MINES

Opinion 55-2863

Thomas Allen, Chief Inspector
September 23, 1955

A mechanized mine where loading crews are supervised constantly, employing less than three persons, including the owner, must be supervised by a person having at least a fire boss certificate, notwithstanding the provisions of 92-4-1, '53 CRS. (See 92-6-1 (6), '53 CRS)

WATER CONSERVATION BOARD**Opinion 55-2864**

Ivan C. Crawford, Director
Water Conservation Board

September 28, 1955

The director does not have the power to revoke a well driller's license for failure to file the required logs of wells he has drilled, on forms provided by the board. The board cannot give such authority to the director. 147-18-4, '53 CRS.

PUBLIC WELFARE—OLD AGE PENSIONS**Opinion 55-2865**

Guy R. Justis, Director
Department of Public Welfare

October 3, 1955

Whether income and property of a non-recipient spouse are factors in determining eligibility of the other spouse for OAP payment. No change or modification since Opinion 1605-49 was rendered to Clifford J. Gobble, dated August 23, 1949.

CONTROLLER—COURTS**Opinion 55-2866**

James A. Noonan, State Controller
October 4, 1955

Eligibility of a surviving spouse of a former supreme court judge for pension under provisions of Chap. 107, S.L. 1955.

INCOME TAX**Opinion 55-2867**

Earl Blevins, Director
Department of Revenue
October 6, 1955

Federal income and excess profits taxes should be deducted in determining the "net income from the property" for the purpose of computing the depletion allowance applicable to income from oil and gas properties as provided in 138-1-23 (1), '53 CRS. In this case, all such taxes paid in 1951 should be deducted, including taxes accruing in 1950 and 1951, which payments were made in 1951, the taxpayer being on a cash basis.

HIGHWAYS—CITIES AND TOWNS**Opinion 55-2868**

Mark U. Watrous, Chief Engineer
Department of Highways
October 14, 1955

Whether "existing filling stations, lunch rooms or other such businesses" located along highways qualify as "unincor-

porated business communities" defined under Chap. 248, S.L. 1955, entitled "Re-routing of Highways." Would be violative of state public policy for department to enter into agreements with governing bodies of the enumerated communities in order to relieve itself of the obligation to maintain the existing highway through said community.

BOILER INSPECTION

Opinion 55-2869

F. W. Andersen, Commissioner
Industrial Commission

October 18, 1955

A vaporizer (boiler) employing organic compounds such as "Dowtherm" or similar products as a heat exchange medium is not subject to inspection and regulation under the Boiler Inspection Law of this state.

PUBLIC INSTITUTIONS—REFORMATORY

Opinion 55-2870

State Department of Public Institutions

October 26, 1955

No statutory authority for accepting inmates of the Utah State Industrial School at the Colorado State Reformatory at Buena Vista.

CITIES AND TOWNS—ELECTIONS

Opinion 55-2871

Hon. H. M. Shulenburg
Mayor of Arvada

October 27, 1955

(City Manager Form of Government)

In cases of conflict, a special statute, Art. 6, Chap. 139, '53 CRS, would prevail over a general statute, 139-4-1, '53 CRS, and therefore the new councilmen elected at the regular election in November 1955 will take office upon the completion of the November 1955 election, the canvass of the votes thereof and the declaration of the results thereof.

HEALTH—PHARMACY

Opinion 55-2872

Dr. R. L. Cleere, Executive Director
Department of Public Health

November 4, 1955

No administrative action is necessary to make the rulings of the U. S. Commissioner of Narcotics effective in Colorado which authorizes the dispensing of certain narcotic drugs by a druggist upon the oral prescription of a licensed practitioner.

An apothecary need not obtain individual authorization

from the federal government to dispense oral prescriptions pursuant to federal law.

Chap. 128, S.L. 1955 (S.B. 121) does not amend either 48-6-16 or 48-6-19, CRS '53, but is so worded that it corresponds to the existing legislation. The intent of said act was to allow persons authorized under the above sections to inspect the files required in said Senate Bill 121.

STATUTES CONSTRUED—48-6-6(4), CRS '53, as amended by Chap. 128, S.L. 1955.

OPTOMETRIC EXAMINERS

Opinion 55-2873

Dr. Otto J. Bebber, Sec.-Treas.
State Board of Optometric Examiners
November 4, 1955

The State Board of Optometric Examiners may not by administrative action delay the effective date of Chap. 209, S.L. 1955 (H.B. 148), regarding post graduate education as a prerequisite for the annual license renewal until a complete calendar year has elapsed, that is, January 1, 1956 to January 1, 1957.

The board may not purchase insurance from state funds to protect themselves from liability should they be sued individually or collectively in enforcing said statute. Any suit brought against the board or its members in carrying out their duties would be defended by the Attorney General.

STATUTES CONSTRUED—102-1-15, CRS '53, as amended by Chap. 209, S.L. 1955.

SHORTHAND REPORTERS

Opinion 55-2874

Mr. Harold E. Hastings
Board of Shorthand Reporters
November 9, 1955

The State Board of Shorthand Reporters does not have authority to certify people using the Stenomask system to record proceedings unless the applicants pass a satisfactory examination in shorthand reporting. The board has some discretion in granting or refusing certification, but only within the terms of the statute and the board may not give an examination on anything excepting shorthand reporting.

STATUTES CONSTRUED—Chap. 126, CRS '53.

COLORADO PSYCHOPATHIC HOSPITAL

Opinion 55-2875

Dr. James Galvin, Medical Director
Colorado Psychopathic Hospital
November 10, 1955

Where a patient is admitted on a voluntary status, the director of the hospital shall have the same authority and

control over said patient as if he had been admitted by order of court, provided said person shall not be detained against his will for a period of more than ten days unless an order of commitment is obtained in the interval.

STATUTES CONSTRUED—124-3-14, CRS '53.

INSURANCE

Opinion 55-2876

Sam N. Beery, Commissioner of Insurance

November 15, 1955

Domestic insurance companies may legally invest their funds in Management and Liquidating Notes authorized by 12 U.S.C.A. 1721 (b), if the Federal National Mortgage Association is solvent and not in default in the payment of interest on their bonds at the time the investment is made. Investments of domestic insurance companies governed by statute.

STATUTES CONSTRUED—72-2-8 to 72-2-10, CRS '53.

DEPARTMENT OF HIGHWAYS—TAXATION

Opinion 55-2877

Mark U. Watrous, Chief Engineer

Department of Highways

November 29, 1955

Where the department purchases real estate prior to the time that said real estate is assessed and the taxes thereon levied for the current taxable year, the department should require the landowner to extinguish any tax lien or liens that may have attached and convey title free and clear of all encumbrances as the State cannot agree to pay its own tax, or any portion thereof. In order to avoid any misunderstanding a clause to this effect should be inserted in the Contract of Settlement and Deed.

STATUTES CONSTRUED—137-9-8, CRS '53. See *City and County of Denver v. Tax Research Bureau*, 101 Colo. 140, 71 P. 2d 908.

COUNTIES—FEDERAL

Opinion 55-2878

Walter A. Koons, Regional Counsel

Housing & Home Finance Agency

Fort Worth, Texas

December 1, 1955

El Paso County Planning Commission qualifies as a metropolitan or regional commission for an urban planning assistance grant under Section 701 of the Housing Act of 1954.

The language appearing in 106-2-3, CRS '53, is not sufficient to empower the commission "to accept and expend fed-

eral grant funds and contract with reference thereto.”

The contract between United Western Engineers and Land Surveyors, Inc., and Board of County Commissioners of El Paso County is authorized by 106-2-5 and 6, CRS '53.

STATUTES CONSTRUED—106-2-3, 5 and 6, CRS '53.

WATER—WATER CONSERVATION BOARD

Opinion 55-2879

Ivan C. Crawford, Director

Water Conservation Board

December 6, 1955

The Colorado Water Conservation Board is under no legal responsibility to determine the boundaries of the Ellicott Underground Water Basin and the underground water district therefor, as requested by petition filed with the board. The board has statutory duty to adopt and promulgate rules and regulations in conformance with the article under which such requests may be submitted to the board for determination.

Funds received from fees paid by persons licensed under Art. 18, Chap. 147, CRS '53, may be used for that purpose.

STATUTES CONSTRUED—147-18, CRS '53.

COAL MINES

Opinion 55-2880

Thomas Allen

State Inspector of Coal Mines

December 7, 1955

Under the provisions of 92-4-3, CRS '53, there is no authority for the temporary appointment of an assistant mine foreman.

STATUTES CONSTRUED—92-4-2, CRS '53.

COUNTY COMMISSIONERS—FEES

Opinion 55-2881

Leon H. Snyder, County Attorney

Colorado Springs, Colo.

December 8, 1955

A flat rate in lieu of the statutory mileage fees with respect to certain county officials would not be permitted under our statutes as they exist at the present time.

STATUTES CONSTRUED—52-5-7 (8), CRS '53, and 54-2-41, CRS '53.

ELECTIONS—FEDERAL**Opinion 55-2882**

Michael J. Galvin
Office of Asst. Sec. of Defense
Washington, D. C.
December 9, 1955

Re: Federal Voting Assistance Program.

Interpretation of statutes affecting absentee voting in general elections and primaries by members of the Armed Forces and their dependents actually accompanying them beyond the continental limits of the United States.

STATUTES CONSTRUED—49-11-1 and 2; 49-6-15, 49-6-13 and 49-5-13, CRS '53.

SCHOOLS—STATE TREASURER**Opinion 55-2883**

Earl E. Ewing
State Treasurer
December 12, 1955

School district refunding bond issues are not required to be registered or recorded in the office of the county clerk in the same manner as original bond issues.

STATUTES CONSTRUED—123-11-18, CRS '53.

LEGISLATURE—BUILDING SUPERINTENDENT**Opinion 55-2884**

James Merrick
Supt. of Public Buildings
December 15, 1955

No statutory authority exists which would permit the state to enter into an agreement for the leasing of suitable quarters in the capitol building for a modern and sanitary cafeteria. The General Assembly may delegate the necessary authority to the superintendent of public buildings to execute a lease for a modern, sanitary cafeteria, provided, the legislature lays down adequate standards to guide the superintendent in carrying out the authority.

STATUTES CONSTRUED—130-8-1, CRS '53.

FEDERAL—WESTERN STATE COLLEGE**Opinion 55-2885**

President P. P. Mickelson
Western State College
December 15, 1955

Re: Loan Assistance for the construction of a student dormitory under the Housing and Home Finance Agency, Title IV, Housing Act of 1950. Project to be self-liquidating.

STATUTES CONSTRUED—124-1-6 to 9, CRS '53.

PUBLIC UTILITIES**Opinion 55-2886**

Ralph C. Horton, Chairman
Public Utilities Commission
December 19, 1955

All rights under certificates granted by the Public Utilities Commission prior to enactment of Art. XX of the Colo. Constitution involving Home Rule cities, unless voided, remained the same after termination of the 25th Amendment, as the original rights granted, with the exception of the certificates granted by the commission to operate exclusively intracity after the city became a Home Rule City, and holders of such certificates should apply for and obtain certificates from the commission.

CONSTITUTION CONSTRUED—Art. XXV.

CITIES AND TOWNS—CONTRACTS**Opinion 55-2887**

Angelo F. Mosco
City Attorney, Walsenburg
December 20, 1955

Where the City of Walsenburg acquired the generating plant and the distribution system from a company that had a contract with a Union, the City Council may not enter into a contract with the Union. Municipalities are without legal authority to enter into contracts granting preferential rights to employees in such Unions and cannot bargain away their continuing legislative discretion.

COUNTIES—TAXATION**Opinion 55-2888**

Charles R. Casey
County Attorney, Leadville
December 21, 1955

At any time after five years from the issuance of the tax sale certificate, when the county makes application for tax deeds, it may include in one request all certificates issued in any given year on property outside the incorporated limits, and in respect to all requests and demands, after the five-year period has expired, notice as required by 137-1-28 need not be given, but only the notice required in Sec. 42.

STATUTES CONSTRUED—137-1-42, CRS '53.

SCHOOLS—GAME AND FISH COMMISSION**Opinion 55-2889**

Dr. H. Grant Vest
Commissioner of Education
December 22, 1955

Interpretation of Chap. 255, S.L. 1955, amending 123-3-1, CRS '53, concerning school fees to be paid by the Game and

Fish Commission to the school districts wherein the Game and Fish Commission owns property.

STATUTES CONSTRUED—123-3-1, CRS '53, amended by Chap. 255, S.L. 1955.

FEDERAL—UNIVERSITY OF COLORADO

Opinion 55-2890

D. W. Bray, Business Manager

University of Colorado

December 27, 1955

Re: Loan Assistance for construction of a student dormitory under the Housing and Home Finance Agency. Project to be self-liquidating.

STATUTES CONSTRUED—124-2-1, CRS '53.

CONSTITUTION CONSTRUED—Articles VIII and IX.

MOTOR VEHICLES

Opinion 55-2891

David Walker, Supervisor

Motor Vehicle Dealers Administration

December 29, 1955

Factory representatives who contact a local distributor are employed by a manufacturer and make contracts with the distributor for the purpose of making or promoting sales and as such, are required to obtain a license.

STATUTES CONSTRUED—13-11-7 (5), CRS '53, as amended by Sec. 6, Ch. 77, S.L. 1955.

GAMBLING DEVICES—LIQUORS

Opinion 55-2892

Myron R. Donald, Director

State Liquor Department

December 29, 1955

Assuming pinball machines, shuffle board machines, bowling machines, and skill pool tables are not gambling devices; so constructed they may be adjusted to pay anything of value; installed with the intent of using them as gambling devices; or knowingly used, after installation, for gambling purposes, such devices would appear to come within the prohibition of Regulation No. 19 A of the Rules and Regulations of the State Licensing Authority.

STATUTES CONSTRUED—74-2-4(14), CRS '53.

HIGHWAYS—CITIES AND TOWNS

Opinion 55-2893

Mark U. Watrous,

State Highway Engineer

January 3, 1956

1. In cases where the Department of Highways improves or relocates a highway within a municipality, thereby necessi-

tating the relocation of municipally owned utilities, the municipality would be responsible for the cost of such re-location.

2. In cases where the Department of Highways improves or relocates a highway within a municipality, thereby necessitating the relocation of privately owned utilities and connections located in the public way, the private abutting owner is responsible for the cost of such re-location.

STATUTES CONSTRUED—77-1-2, CRS '53.

EMBALMERS—CORONERS

Opinion 55-2894

James Buchanan

Board of Funeral Directors etc.

January 11, 1956

In the case of a violent or sudden death of an individual the coroner may order an autopsy or postmortem examination of the deceased without the consent of his family, provided he has notice the deceased was supposed to have died by unlawful means or that the cause of his death is unknown, and he impanels a jury and in the inquisition the jury deems it requisite that an autopsy or postmortem examination be had.

STATUTES CONSTRUED—35-6-3 and 9, CRS '53.

CITIES AND TOWNS—ELECTIONS

Opinion 55-2895

Worth F. Shrimpton

Town Attorney, Craig

January 13, 1956

1. The last par. of Sec. 5, Art. IX, State Constitution, applies only to existing home rule cities and not to elections to determine whether or not a charter convention should be called.

2. The names of candidates for a charter convention election under Art. XX are selected in accordance with the laws governing the nomination of candidates for municipal officers.

3. Upon adoption of a home rule city charter, an election of city officials may be held under the terms thereof, even though the terms of office of the old board of trustees have not expired.

CONSTITUTION CONSTRUED—Sec. 5, Art. XX.

COSMETOLOGY

Opinion 55-2896

Miss Beryl W. Maus

Department of Cosmetology

January 13, 1956

A student is entitled to take the examination upon receipt of his diploma. The regulation that a student forfeits all his

credits upon fifteen months' absence from the school has no application. The school withheld the license until the fees were paid, and the diploma merely constituted evidence of completion of the course.

FEES—COURTS—PUBLIC RECORDS

Opinion 55-2897

Hon. Dale E. Shannon
Judge, District Court
Fort Collins, Colo.
January 20, 1956

Courts have supervisory control and charge of its files and records. Parties in interest have right to examine same.

District courts may not by rule assess costs additional to those specified by statute.

District courts may order payment to "Probation Fund". Amount and use discretionary, subject to provision of "reasonable sum for supervision" contained in 39-16-7.

STATUTES CONSTRUED—35-1-1 and 39-16-7, CRS '53.

LEGISLATURE

Opinion 55-2898

Hon. Albert J. Tomsic
House of Representatives
January 24, 1956

An amendment to a revenue bill is a "revenue raising" measure within the meaning of constitutional provision, although the effect would be to decrease tax return.

CONSTITUTION CONSTRUED—Art. V, Sec. 7, State Constitution.

CITIES AND TOWNS

Opinion 55-2899

Worth F. Shrimpton
Attorney, Craig
January 26, 1956

Since a municipality is an agency of the state, it may by ordinance adopt a code in whole or in part of another municipality by reference.

STATUTES CONSTRUED—139-34-1 to 7, CRS '53.

CITIES AND TOWNS—ELECTIONS

Opinion 55-2900

Rolland W. Jones
Town Attorney
Irondale, Colorado
January 26, 1956

A county judge may not appoint an election commission for a town that has failed to have a municipal election within

the last twenty years, when the mayor, town clerk, board of trustees, and council are no longer present in the town.

STATUTES CONSTRUED—139-1 and 139-20, CRS '53.

LEGISLATURE—VOCATIONAL EDUCATION

Opinion 55-2901

Hon. Palmer L. Burch
House of Representatives
January 30, 1956

An appropriation to the State Department of Education "for the use and benefit of the State Board for Vocational Education" might jeopardize receipt of federal funds for vocational education inasmuch as the Federal act requires that the appropriation be made to the state agency having the powers necessary to allocate and administer all funds involved.

STATUTES CONSTRUED—Ch. 17, S.L. 1956 (H.B. 123).

LEGISLATURE

Opinion 56-2902

Hon. Wm. Albion Carlson
Senate Chambers
February 1, 1956

A bill once passed on second reading does not need to be repassed on second reading, where:

1. A substantial amendment to the bill is made on third reading.
2. A conference committee's report is adopted which substantially amends the bill.
3. One House amends the bill of the other House and the first House does not concur in the amendment, and the amending House recedes from its amendment.

CONSTITUTION CONSTRUED—Art. V, Secs. 22 and 23, State Constitution.

COUNTY CLERK AND RECORDER

Opinion 56-2903

Theodore L. Brooks
District Attorney
Montrose, Colorado
February 2, 1956

A clerk and recorder has no authority to receive an instrument for recording at a future date. In the absence of a statute giving a recorder power to act as a repository for unrecorded instruments, he must record immediately upon receipt.

STATUTES CONSTRUED—35-4-9, CRS '53.

**DEPARTMENT OF HIGHWAYS—
ANTICIPATION WARRANTS**

Opinion 56-2904

State Highway Commission

February 6, 1956

State Highway Fund Revenue Anticipation Warrants—
Series January 1, 1956—\$8,000,000 defined.

STATUTES CONSTRUED—120-11-12, et seq. CRS '53 as
amended by Chap. 244, S.L. 1955.

120-11-24 et seq. CRS '53, as amended by Chap. 245, S.L.
1955.

FEDERAL—SURPLUS PROPERTY AGENCY

Opinion 56-2905

John L. Myers, Director

Colo. Education and Health

Agency for Surplus Property

February 9, 1956

Warehouse issue sheet, F-14 SPA, and signature card, F-13
SPA, approved as forms to be used by Colo. Education and
Health Agency for Surplus Property in acquisition and distri-
bution of surplus property.

STATUTES CONSTRUED — 66-1-8(7) and 123-1-7(12),
CRS '53.

LEGISLATURE—LIEUTENANT GOVERNOR

Opinion 56-2906

Hon. Stephen L. R. McNichols

Lieutenant Governor

February 10, 1956

The Lieutenant Governor may cost a vote in the Senate
where there is a tie vote in consideration of special orders.

CONSTITUTION CONSTRUED—Art. I, Sec. 12; Art. IV,
Sec. 14, State Constitution.

PUBLIC WELFARE—HOSPITALS

Opinion 56-2907

Guy R. Justis, Director

State Department of Public Welfare

February 14, 1956

Under existing law, out-patients and home care patients,
as well as patients hospitalized, may be included in computing
the average cost per day per patient care to indigent persons
affected with tuberculosis.

STATUTES CONSTRUED—119-2-9, CRS '53.

ANTI-DISCRIMINATION COMMISSION**Opinion 56-2908**

Colo. Anti-Discrimination Commission
February 17, 1956

The Colorado Anti-Discrimination Commission is not empowered to receive and process complaints alleging discrimination because of race from persons residing outside the boundaries of Colorado.

STATUTES CONSTRUED—81-9-6(1), CRS '53, as amended by Ch. 187, S.L. 1955.

JUSTICES OF THE PEACE—FEES AND SALARIES**Opinion 56-2909**

M. E. H. Smith
 District Attorney
 Greeley, Colorado
February 23, 1956

A justice of the peace elected in 1954, and taking office in January 1955, must charge the schedule of fees set forth in 56-4-4, CRS '53, as amended by Ch. 147, S.L. 1955.

Art. V, Sec. 30, prohibits a justice of peace elected in 1954 and taking office in January 1955, receiving an increase in salary by virtue of Ch. 144, S.L. 1955.

STATUTES CONSTRUED—56-4-4, as amended by Ch. 147, S.L. 1955. 56-2-13, as amended by Ch. 144, S.L. 1955.

PLANNING COMMISSION—FEDERAL—CONTRACTS**Opinion 56-2910**

Colorado State Planning Commission
February 24, 1956

106-1, CRS '53, as amended by Ch. 95, S.L. 1956, empowers the Planning Commission to contract in its own name and enter into planning grant contracts with the federal government under Sec. 701 of the Housing Act of 1954; and to receive and expend funds, gifts and grants with respect thereto. All contracts involving expenditure of public moneys must be approved by the Governor, Controller and State Purchasing Agent.

STATUTES CONSTRUED—106-1, CRS '53, as amended by Ch. 95, S.L. 1956.

CIVIL DEFENSE—WORKMEN'S COMPENSATION**Opinion 56-2911**

Lt. Gen. Henry L. Larsen, Director
 Civil Defense Agency
February 29, 1956

Volunteers in the Ground Observer Corps are covered by workmen's compensation in the same sense as all other civil defense volunteers.

STATUTES CONSTRUED—24-1-3, 24-2-2 and 23-1-3, CRS '53.

CIVIL SERVICE—EMPLOYEES

Opinion 56-2912

Hon. Harry M. Locke

State Senator

March 1, 1956

The Civil Service Commission may adopt a rule to provide authorization for an employee to be paid as a starting salary an amount in excess of the minimum listed in 26-2-3, CRS '53.

A Joint Resolution of the General Assembly is not effective as authorization for an agency to exceed the personnel service appropriation.

STATUTES CONSTRUED—26-2-3, CRS '53.

CITIES AND TOWNS—FEDERAL—FIREMEN'S PENSION

Opinion 56-2913

Leslie A. Gifford

City Attorney, Aurora

March 1, 1956

A special United States census of a municipality does not comply with the requirements of 139-50-4, CRS '53. The census there contemplated is the legal ten year census.

In the absence of an express state statute, so authorizing, a city council does not have the authority to impose, by ordinance, an assessment on salaries of firemen as a contribution to the firemen's pension fund.

STATUTES CONSTRUED—139-50-4, CRS '53.

COUNTY ASSESSOR—TAXATION

Opinion 56-2914

J. R. Seaman, Chairman

Colo. Tax Commission

March 1, 1956

Specific ownership tax does not apply to trailer coaches and mobile homes where the same are not operated on highway during entire year. Rather, the same are subject to assessment for ad valorem tax.

Specific ownership tax is enforced by imposition of penalty.

STATUTES CONSTRUED—13-5, as amended by Ch. 36, S.L. 1954. (References in 1954 Act and CSA '35.)

INDUSTRIAL COMMISSION**Opinion 56-2915**

H. E. Dill, Chairman
Industrial Commission

March 6, 1956

A firm, whose basic purpose is to furnish services to others for which a fee is charged, is not an employment agency within the definition of 80-18-3, and is therefore not subject to the provisions of 80-18-1 to 80-18-17, CRS '53.

STATUTES CONSTRUED—80-18-3, CRS '53.

CITIES AND TOWNS**Opinion 56-2916**

J. Harrison Hawthorne, City Attorney
Canon City, Colorado

March 8, 1956

A home rule city does not lose its status as such by consolidating with a town under the provisions of 139-9, CRS '53.

A home rule city does not have the power to provide for consolidation and annexation procedures in its charter, inasmuch as Art. 20, Secs. 1 and 6, State Constitution, specifically provides that the general state statutes shall apply.

STATUTES CONSTRUED—139-9, CRS '53.

CONSTITUTION CONSTRUED—Art. 20, Secs. 1 and 6, State Constitution.

**A & M COLLEGE
SURPLUS PROPERTY AGENCY—FEDERAL**

Opinion 56-2917

John P. Gifford
Division of Surplus Property
San Francisco, California

March 9, 1956

The State Board of Agriculture has the authority to acquire real estate by virtue of 124-11-2, CRS '53.

STATUTES CONSTRUED—124-11-2, CRS '53.

EMPLOYMENT SECURITY**Opinion 56-2918**

Bernard E. Teets
Executive Director
Department of Employment

March 9, 1956

Contributions legally collected but paid under protest prior to amendment of employment security act cannot be

refunded as the same would constitute retroactive application.
 STATUTES CONSTRUED—82-6-4, CRS '53, as amended
 by Ch. 189, S.L. 1955.

SOIL CONSERVATION—WATER—FEDERAL

Opinion 56-2919

Kenneth Chalmers, Secretary
 State Soil Conservation Board

March 13, 1956

Water districts organized by virtue of Ch. 30, CRS '53, are legal entities capable of contracting with the United States under Public Law 566 of the 83rd Congress, except that such districts may not construct or operate irrigation projects. Therefore, the same would not meet the qualifications of Public Law 566, insofar as such irrigation projects are concerned.

STATUTES CONSTRUED—Ch. 30, CRS '53.

COUNTY COMMISSIONERS

Opinion 56-2920

Leon H. Snyder, County Attorney
 Colorado Springs, Colorado

March 13, 1956

85-1, CRS '53, pertaining to mercantile licenses, requires the county commissioners, upon application for a license, must act by either denying or granting such license. The statute does not contemplate that licensing procedures for all business establishments covered by the act are required to be established by the commissioners.

STATUTES CONSTRUED—85-1, CRS '53.

SOIL CONSERVATION

Opinion 56-2921

Kenneth W. Chalmers, Secretary
 State Soil Conservation Board

March 15, 1956

A soil conservation district may lawfully transport private equipment belonging to cooperating farmers within the district and make a charge therefor.

STATUTES CONSTRUED—128-1-8, CRS '53.

SCHOOLS—CONSTITUTIONAL LAW

Opinion 56-2922

Dr. H. Grant Vest
 Commissioner of Education

March 16, 1956

In annexing territory to a school district, a county superintendent is governed by the statutes below.

STATUTES CONSTRUED—123-7-3, CRS '53, as amended by Ch. 258, S.L. 1955, and further amended by Ch. 98, S.L. 1956.

HEALTH

Opinion 56-2923

Dr. R. L. Cleere, Executive Director
Department of Public Health
March 13, 1956

The State Board of Health may not by rule or regulation establish educational or experience requirements for admission to an examination as a journeyman or master plumber.

STATUTES CONSTRUED—107-1-4 and 7, CRS '53.

The State Board of Health may establish qualifications of apprentices, including a requirement that a person serve a specified number of years as an apprentice before he is eligible to qualify for an examination as a journeyman plumber.

STATUTES CONSTRUED—107-1-12, CRS '53.

EMPLOYMENT SECURITY

Opinion 56-2924

Bernard E. Teets, Executive Director
Department of Employment
March 22, 1956

Truck drivers who own their own trucks and use the same to transport various items in the brick and clay products industry are independent contractors under the Employment Security Act. *Ind. Com. v. Bonfils*, 78 Colo. 306 and *Meyer v. Lakewood Country Club*, 122 Colo. 110, do not apply to the Employment Security Act but to the Workmen's Compensation Act.

STATUTES CONSTRUED—Ch. 82, CRS '53.

MOTOR VEHICLES

Opinion 56-2925

Carroll G. Bryan
Motor Vehicle Division
March 23, 1956

Procedure outlined to be followed by Motor Vehicle Division in respect to the suspension or revocation of licenses to operate motor vehicles where an appeal has been taken from a conviction of motor vehicle laws or ordinances.

COUNTY ASSESSOR—TAXATION

Opinion 56-2926

J. R. Seaman, Chairman
Tax Commission
March 27, 1956

Severed minerals not used for railroad purposes are not excluded from assessment in a fire protection district.

STATUTES CONSTRUED—89-6-16 and 89-6-8, CRS '53.

LEGISLATURE—CIVIL SERVICE**Opinion 56-2927**

George E. Saunders, Chairman
 Com. on Organization of State Government
April 2, 1956

Senate Concurrent Resolution No. 6, 40th G.A., does not permit exclusion of any state position or employee from the classified civil service except those specifically excluded by the amendment or specified to be excluded by the General Assembly.

STATUTES CONSTRUED — 3-1-5, CRS '53, proposed amendment to Art. XII, Sec. 13, State Constitution.

FEDERAL—PLANNING COMMISSION—COUNTY**Opinion 56-2928**

Walter A. Koons, Regional Counsel
 Fort Worth, Texas
April 5, 1956

Project No. Colo. P-2, Inter-County Regional Planning Commission is eligible to apply and accept federal financial assistance and to contract with respect to federal financial assistance.

STATUTES CONSTRUED—106-2, CRS '53, as amended by Ch. 97, S.L. 1956.

LEGISLATURE**Opinion 56-2929**

Hon. Ed C. Johnson
 Governor of Colorado
April 13, 1956

All subjects to be considered by the General Assembly, including House and Senate Resolutions submitting constitutional amendments to the vote of the people, should be included in the call for an extraordinary session.

CONSTITUTION CONSTRUED—Art. IV, Sec. 9, Colo. Const.

PUBLIC WELFARE**Opinion 56-2930**

Guy F. Justis, Director
 Department of Public Welfare
April 16, 1956

When a person receiving assistance under 36-10-12, CRS '53, changes his residence from one county in this state to another county therein, the date of the change is to be computed from the date such person actually makes the move.

STATUTES CONSTRUED—36-1-12 and 15, CRS '53.

COUNTY COMMISSIONERS—ELECTIONS**Opinion 56-2931**

Mrs. Irma D. Morris
 Clerk, County of Dolores
April 17, 1956

A vacancy in the office of county commissioners elected in 1954 for a term of four years is filled by appointment which extends only until the next general election in 1956.

STATUTES CONSTRUED—35-3-9, 49-19-11, CRS '53 as amended by Ch. 134, S.L. 1955 held inapplicable here.

CIVIL SERVICE—EMPLOYEES—GOVERNOR**Opinion 56-2932**

Hon. Ed C. Johnson
 Governor of Colorado
April 17, 1956

The Governor does not have authority to suspend a civil service employee pending a decision and hearing on a complaint for dismissal.

LEGISLATURE—COUNTIES—CONSTITUTIONAL LAW**Opinion 56-2933**

Hon. Ed C. Johnson
 Governor of Colorado
April 23, 1956

The legislature does not have the power to strike territory from one county and add it to an adjoining county without submitting the question to the qualified voters.

CONSTITUTION CONSTRUED—Art. 14, Sec. 3, State Const.

Procedure to be followed where territory in one county is annexed to another.

STATUTES CONSTRUED—34-2-5, 6, 7, 8 and 9, CRS '53.

JUNIOR COLLEGES—SCHOOLS**Opinion 56-2934**

Charles E. Hathaway
 Director of Finance
 Department of Education
April 24, 1956

A Junior College has the right to issue revenue bonds and build dormitories without holding an election. Such bonds may be retired from revenues of the district excluding revenues derived from ad valorem taxes.

STATUTES CONSTRUED—123-23-32 and 123-11-1, CRS '53.

CORONERS—STATE PATROL**Opinion 56-2935**

G. R. Carrel, Chief
 Colorado State Patrol
April 26, 1956

A coroner has the authority to order a blood sample to be taken by a physician or surgeon from a dead body.

STATUTES CONSTRUED—35-6-9, CRS '53.

CITIES AND TOWNS**Opinion 56-2936**

William O. DeSouchet, City Attorney
 Alamosa, Colorado
April 27, 1956

Recall of a city councilman of a second class city must be accomplished in accordance with ordinances of the city. 139-16-1, et seq. does not apply to a city of the second class; Art. XXI of the constitution does not apply; nor does there appear to be any state statute providing for recall of city officers by petition.

STATUTES CONSTRUED—139-16-1, CRS '53.

CITIES AND TOWNS**Opinion 56-2937**

D. C. Rider, Town Administrator
 Rangely, Colorado
May 1, 1956

A town board does not have authority to adopt a suggested ordinance by reference prepared by a federal agency. The statutory definition of "code" does not include suggested ordinances which have not been adopted by federal or state or an agency of either of them.

STATUTES CONSTRUED—139-34-1, as amended by Ch. 316, S.L. 1955.

PUBLIC WELFARE—FEDERAL—COUNTIES**Opinion 56-2938**

Guy R. Justis, Director
 Department of Public Welfare
May 3, 1956

State welfare funds may not be used for the purpose of providing or building county welfare buildings. Federal funds available to the state welfare department for such purposes may be allocated by said department for such purposes.

STATUTES CONSTRUED—119-1-15, 119-4-1, 2 and 3, CRS '53.

TAXATION—MOTOR VEHICLES**Opinion 56-2939**

A. A. Hall
 Tax Commission
 May 3, 1956

The filing of an affidavit under Ch. 13, Art. 5, CRS '53, as amended by Ch. 36, Sec. 3, S.L. 1954, subjects motor vehicles, trailer coaches or mobile homes to ad valorem assessment. There is no authorization for using previous year's levy in computing such ad valorem assessment.

STATUTES CONSTRUED—13-5, CRS '53, as amended by Ch. 36, Sec. 3, S.L. 1954.

REFORMATORY—PAROLE DEPARTMENT**Opinion 56-2940**

James S. Thomas, Warden
 State Reformatory
 May 4, 1956

Under 39-10-1, no one may be sentenced to the reformatory upon a second felony conviction. Where a district judge sentenced a person to the reformatory on conviction of two counts on information charging burglary and larceny, the sentence is to run consecutively, the prisoner should be required to earn only the number of marks set for the first offense in order to be paroled.

STATUTES CONSTRUED—39-10-1, CRS '53.

LEGISLATURE—CIVIL SERVICE—SALARIES**Opinion 56-2941**

Hon. John G. Mackie
 State Representative
 May 9, 1956

The General Assembly can delegate its authority to fix the actual amount to be paid as salary to civil service employees within maximum and minimum limitations set by statute. Such authority cannot be delegated to an interim committee of the legislature, inasmuch as such committee may not perform legislative or administrative functions.

CONSTITUTION CONSTRUED—Art. V, Secs. 27, 28 and 30, State Const.

GOVERNOR**Opinion 56-2942**

Hon. A. W. Hewett
 State Representative
 May 10, 1956

The Governor's Executive Order calling the First Extraordinary Session of the 40th G.A. included authorization to consider a bill regarding toll authorities.

STATUTES CONSTRUED—120-8, CRS '53.

SCHOOLS—ELECTIONS**Opinion 56-2943**

H. Grant Vest
 Commissioner of Education
 May 11, 1956

Under 123-10-3, as amended by Ch. 262, Sec. 1, S.L. 1955, the twenty day notice may be given within the 30 day period if the election date is 30 days or more after the filing of the petition; likewise, the 20 day notice may be given after the expiration of the 30 day period so long as the petition is filed at least 30 days prior to the election and the notice of the election is likewise 20 days prior to the election.

STATUTES CONSTRUED—123-10-1, CRS '53, as amended by Ch. 262, Sec. 1, S.L. 1955.

SURPLUS PROPERTY AGENCY—SCHOOLS**Opinion 56-2944**

John L. Myers, Director
 Colo. Education and Health Agency, etc.
 May 15, 1956

The Colorado Education and Health Agency for Surplus Property is validly established, exists as a legal agency of the State of Colorado, has authority to acquire warehouse and distribute donable personal property to eligible persons and institutions and to take any action required to carry out these powers, including the right to delegate necessary functions to employees.

STATUTES CONSTRUED—123-1-7(12), CRS '53, enacted as Ch. 209, S.L. 1953.

UNIVERSITY OF COLORADO**Opinion 56-2945**

President Ward Darley
 University of Colorado
 May 17, 1956

The President of the University of Colorado is ex-officio a member of the Board of Regents and may not be counted in order to determine whether or not there is a quorum present to transact business.

STATUTES CONSTRUED—124-4-5 and 124-2-8, CRS '53.

HIGHWAYS**Opinion 56-2946**

Mark U. Watrous, Chief Engineer
 Department of Highways
 May 18, 1956

Property owners presently abutting the abandoned railroad right of way may successfully claim title thereto, provided

1. The patent to their property was issued prior to March 8, 1922.
2. Said patent contained no reservation or exception in favor of a railroad right of way, and
3. Nobody in the chain of title from the patentee to the present owner's immediate predecessor in title *excepted* said right of way in their conveyance or conveyances.

SCHOOLS—SURPLUS PROPERTY AGENCY

Opinion 56-2947

John L. Myers, Director
 Colo. Education and Health Agency, etc.
May 23, 1956

Certification on the submitted form of warehouse issue sheet by the president or other authorized officer of a school board constitutes prima facie evidence that the board took the action set forth therein.

HEALTH—FEDERAL

Opinion 56-2948

Dr. R. L. Cleere, Executive Director
 Department of Public Health
May 28, 1956

The State Department of Public Health, with the advice of the State Advisory Hospital Council, may request the Surgeon General to transfer a portion of Colorado's allotment of Federal Medical Facilities Construction Funds to the State of Utah, to be used by Utah for the Rehabilitation Center at Salt Lake City, it being understood that all "matching funds" will be supplied by the State of Utah.

STATUTES CONSTRUED—152-12-2, CRS '53.

PUBLIC WELFARE

Opinion 56-2949

Guy R. Justis, Director
 Department of Public Welfare
June 4, 1956

Where an individual practices fraud in obtaining payment of general assistance and aid to the needy disabled, a claim for same may be recovered. Further, such claim may be filed against the estate of a mental incompetent.

STATUTES CONSTRUED—152-12-2, CRS '53.

**FEDERAL—PLANNING COMMISSION—
CITIES AND TOWNS**

Opinion 56-2950

Walter A. Koons, Regional Counsel
Fort Worth, Texas

June 5, 1956

Fort Collins Regional Planning Commission approved as an eligible applicant under Sec. 701 of the Housing Act of 1954 as amended.

Applicant authorized to accept federal financial assistance and to contract with respect thereto.

STATUTES CONSTRUED—106-2-4, CRS '53.

**STATE TREASURER—CITIES AND TOWNS
POLICE AND FIREMEN'S PENSIONS**

Opinion 56-2951

Hon. Earl E. Ewing
State Treasurer

May 18, 1956

Policemen's pension fund should be paid to every municipality in the state which has one or more marshals performing police duties although such municipality may not have a marshal devoting 80 per cent of his working time to police duties.

STATUTES CONSTRUED—139-49-2 and 19, CRS '53.

PUBLIC UTILITIES

Opinion 56-2952

Ralph C. Horton, Chairman
Public Utilities Commission

June 6, 1956

Carriers may not transport property for the United States Government, State Government and municipalities at reduced rates inasmuch as 134-4-5, repealed authorization for such reduced rates found in Sec. 4, Ch. 29, CSA '35.

STATUTES CONSTRUED—134-4-5, CRS '53.

SCHOOL OF MINES—FEDERAL

Opinion 56-2953

Gurnett Steinhauer
School of Mines

June 11, 1956

Concerning data required for Part III of Form H-1000 of the Housing and Home Finance Agency, Application for Loan Assistance under Title IV of the Housing Act of 1950.

STATUTES CONSTRUED—124-9-1, CRS '53.

CONSTITUTION CONSTRUED—Art. VIII, Sec. 5, State Const.

SURPLUS PROPERTY AGENCY**Opinion 56-2954**

Colo. Education and Health Agency for Surplus Property

June 12, 1956

Form HEW 135 (9-55), Application for Surplus Property—Federal Property and Administrative Services Act 1949, as amended, meets the law requirements, and the Colorado Education and Health Agency for Surplus Property is authorized to execute said forms.

SCHOOLS**Opinion 56-2955**

Dr. H. Grant Vest
Commissioner of Education

June 12, 1956

Distribution of Gideon Bibles through the public school system of this state is in violation of the constitution.

CONSTITUTION CONSTRUED—Art. II, Sec. 4, and the First and Fourteenth Amendments to the Constitution of the United States.

LIQUORS—COUNTY COMMISSIONERS**Opinion 56-2956**

Laurence E. Langdon, Attorney
Pueblo, Colorado

June 19, 1956

The reasonableness of a zoning regulation which prohibits the sale of intoxicating beverages depends upon the facts, and the question is one to be resolved in the first instance by the county commissioners, subject to a review thereof by the courts in a proper case.

STATUTES CONSTRUED—106-2-14, CRS '53.

PENITENTIARY—PAROLE BOARD**Opinion 56-2957**

Harry C. Tinsley, Warden
State Penitentiary

June 20, 1956

1. While serving under a sentence that is later corrected, the determination of the sentence of one who attempts to escape must be made on the basis of the sentence he was then serving, and a later imposed maximum is not the limit of the service of such an escapee. The two year requirement of serving without good time does apply.

2. The determination of whether a deadly weapon was used in the attempted escape is one for the warden to make,

unless the weapon was used and is a deadly weapon as a matter of law.

STATUTES CONSTRUED—39-18-1 and 4, CRS '53. 105-4-6, CRS '53.

INDUSTRIAL COMMISSION

Opinion 56-2958

Truman C. Hall, Chairman
Industrial Commission

June 21, 1956

The Industrial Commission may make sub-classification of employers insured in the State Compensation Insurance Fund with respect to the condition of their places of employment so that the risk involved for each employee may be more accurately taken into account in the determination of actual premium for such insurance.

STATUTES CONSTRUED—81-15-2(1), 5, 6, 9 and 11, CRS '53.

SCHOOLS

Opinion 56-2959

Ralph Rutherford, Secretary
School District No. 3, Mt. Harris, Colo.

June 21, 1956

A third class school district may pay transportation expenses for students living outside the district so long as the same is authorized by a majority vote of the qualified electors.

STATUTES CONSTRUED—123-10-44, CRS '53.

BANKING—TAXATION—FEES—COUNTIES

Opinion 56-2960

James F. Quine, Jr., District Attorney
Colorado Springs, Colorado

June 22, 1956

A finance company is exempt from payment of personal property tax.

STATUTES CONSTRUED—138-1-6(2) (4), CRS '53.

Expenses of public trustee's office are paid out of county funds rather than fees of the office.

STATUTES CONSTRUED—118-3-5 and 36-2-6, CRS '53.

SOIL CONSERVATION—CONTRACTS

Opinion 56-2961

Kenneth W. Chalmers, Secretary
Soil Conservation Board

June 22, 1956

A soil conservation district is empowered to enter into contracts with private individuals and corporations capable of

contracting with respect to matters in which the conservation district is authorized to act.

STATUTES CONSTRUED—128-1, CRS '53.

GAME AND FISH

Opinion 56-2962

Thomas L. Kimball, Executive Director
Game and Fish Department

June 22, 1956

The game and fish department can sell land by parcels. Further, each parcel sold must bring the price of \$2,500 per acre and all sales must be at public auction.

STATUTES CONSTRUED—Ch. 295, S.L. 1955.

CORPORATIONS—REAL ESTATE

Opinion 56-2963

Board of Real Estate Brokers

June 29, 1956

117-1-2 does not apply to a corporation selling its own property.

STATUTES CONSTRUED—117-1-2, CRS '53.

COUNTIES—FEES AND SALARIES

Opinion 56-2964

Dutcher and Seraphine, Attorneys
Gunnison, Colorado

June 29, 1956

Reclassification of county does not raise the salaries of present elected county officials.

STATUTES CONSTRUED—56-2-8, as amended by Ch. 78, S.L. 1956.

CONSTITUTION CONSTRUED—Art. V, Secs. 28 and 30, Colo. Const.

COURTS—PENITENTIARY

Opinion 56-2965

Kenneth A. Johnson, Clerk
Larimer District Court

July 3, 1956

Discharge from probation restores citizenship rights lost by virtue of conviction and confinement in the state penitentiary.

STATUTES CONSTRUED—30-10-17 and 18, CRS '53.

CONSTITUTION CONSTRUED—Art. VII, Sec. 10, State Const.

CITIES AND TOWNS—SOIL CONSERVATION

Opinion 56-2966

Kenneth Chalmers, Secretary
Soil Conservation Board

July 5, 1956

A flood control conservancy district may exercise its authorized powers although such powers are in conflict with the public works of a home rule city.

CONSTITUTION CONSTRUED—Art. XX, State Const.

UNIVERSITY OF COLORADO

Opinion 56-2967

Regents of University of Colorado

July 9, 1956

The regents of the University of Colorado may issue revenue bonds for the purpose of constructing an addition to Folsom Stadium and secure payment thereof by pledging the net income derived from the receipts of said students.

STATUTES CONSTRUED—124-2-10, 130-4-4 and 124-1, CRS '53.

CONSTITUTION CONSTRUED—Art. IX, Sec. 14, State Const.

BANKING

Opinion 56-2968

Frank Goldy
State Bank Commissioner

July 17, 1956

A building acquired by a state bank for the purpose of providing quarters for the conduct of the business of the bank when it was apparently necessary to do so, must be disposed of within a reasonable time after it is determined that the building will not be needed for that purpose.

STATUTES CONSTRUED—14-1-31, CRS '53.

RACING COMMISSION

Opinion 56-2969

H. A. Christensen, Executive Secretary
Racing Commission

July 17, 1956

A licensee under the provisions of 129-2-8, as amended, may meet monetary obligations by transfer of stock, as well as by payment of money.

STATUTES CONSTRUED, 129-2-8, CRS '53.

SCHOOLS**Opinion 56-2970**

Dr. H. Grant Vest
 Commissioner of Education

July 17, 1956

A county superintendent of schools might not technically be violating the law by writing insurance policies on school property, but it would appear to be poor policy for such officials to do so.

STATUTES CONSTRUED—40-19-10 and 11, CRS '53.

PUBLIC INSTITUTIONS—TRAINING SCHOOLS**Opinion 56-2971**

Herbert E. Allen
 Director, Public Institutions

July 17, 1956

Inmates may be transferred from the State Home and Training School at Ridge, Colorado, to the State Home and Training School at Grand Junction, Colorado, and vice versa, through administrative authority of the superintendent, without regard to the provisions of Ch. 52, S.L. 1955.

INSURANCE**Opinion 56-2972**

Sam Beery
 Commissioner of Insurance

July 23, 1956

A domestic insurance company holding a certificate of authority with territory limited to Colorado, cannot be permitted to write insurance covering property or persons in another state, under any circumstances, unless and until it acquires a certificate of authority to do business not limited to Colorado, and makes the larger required deposit therefor with the commissioner of insurance.

STATUTES CONSTRUED—72-1-36, CRS '53.

BANKING**Opinion 56-2973**

Frank E. Goldy
 State Bank Commissioner

July 27, 1956

An unconditional promise to pay the obligation of another when due, coupled with other facts indicating that an instrument is a contract of suretyship and not of guaranty, renders the instrument a contract of suretyship. In such a case, the surety is a principal debtor, and the obligee becomes his cred-

itor within the meaning of 14-1-37, fixing the limits of indebtedness of any one individual to state banks.

STATUTES CONSTRUED—14-1-37, CRS '53.

ADVERTISING—CONTRACTS—A & M COLLEGE

Opinion 56-2974

Joseph M. Whalley, Business Manager
A & M College

August 2, 1956

Procedure outlined regarding calling for bids for three projects to be built by one contractor where the money to pay for the projects is from two different sources and allocation of costs to each building.

REFORMATORY

Opinion 56-2975

James S. Thomas, Warden
State Reformatory

August 9, 1956

Requisite for performance of operations upon prisoners who are minors.

HEALTH

Opinion 56-2976

Dr. R. L. Cleere, Executive Director
Department of Public Health

August 13, 1956

The State Department of Public Health may not require dating of milk containers. However, if in the opinion of the department, the age of milk is related to minimum general sanitary standards of quality, it might be possible to require "dating" of milk under the power to establish the minimum general sanitary standards of quality.

STATUTES CONSTRUED—66-1-7(15), CRS '53.

ANTI-DISCRIMINATION COMMISSION

Opinion 56-2977

Roy M. Chapman, Coordinator
Colorado Anti-Discrimination Commission

August 21, 1956

There is no provision in the unfair employment practices act which empowers the Anti-Discrimination Commission to cease and desist from accepting and servicing job orders containing race and color specifications. See Opinion 56-2908.

STATUTES CONSTRUED—81-9-6, '53 CRS, as amended by Chap. 187, S.L. 1955.

EMPLOYMENT SECURITY—EMPLOYEES**Opinion 56-2978**

E. G. Spurlin

State Accountant and Budget Officer

September 4, 1956

The Colorado Survival Plan Commission is a political subdivision as defined in 111-7-2(6), '53 CRS.

The employees of said commission are not included in the definition of "state employee" as set forth in 111-1-1(1), '53 CRS, because the employees are temporary employees of a temporary instrumentality, but such employees are employed by an instrumentality of government which is a juristic entity which is legally separate and distinct from the state or subdivision and are eligible for social security coverage.

STATUTES CONSTRUED—111-7-2(6), '53 CRS.

INSURANCE**Opinion 56-2979**

Sam N. Beery

Commissioner of Insurance

September 5, 1956

A domestic insurance company organized and licensed under the Mutual Act of 1921 cannot enlarge the scope of its business in accordance with said Mutual Act, which Act has now been repealed by Chap. 198, S.L. 1951.

STATUTES CONSTRUED—Mutual Act of 1921 as repealed by Chap. 198, S.L. 1951.

PUBLIC WELFARE—CHILDREN**Opinion 56-2980**

Guy R. Justis, Director

State Department of Public Welfare

September 7, 1956

Under the Colorado non-resident insane law, a minor's residence should be considered that of his parents, as a minor cannot "acquire residence in another State" while his parents remained in Colorado.

STATUTES CONSTRUED—71-1-22, '53 CRS.

EMPLOYMENT SECURITY**Opinion 56-2981**

Truman C. Hall, Chairman

Industrial Commission of Colorado

September 7, 1956

Under 82-3-2, CRS '53, the Department of Employment Security cannot promulgate a regulation preventing a claimant, if otherwise eligible to receive unemployment benefits,

from receiving such benefits because of the receipt of supplemental unemployment benefits. Such proposed regulation would be contrary to the present act and therefore would be illegal and void.

STATUTES CONSTRUED—82-3-2, CRS '53.

LEGISLATURE—EMPLOYEES

Opinion 56-2982

Mrs. Betty Kirk West
Member, House of Representatives

September 10, 1956

A person employed in the Medical Records Department of the Colorado State Hospital may serve as a state legislator and not be in violation of Art. V, Sec. 8, State Constitution. However, he may not draw salary from the State Hospital while the legislature is in session.

CONSTITUTION CONSTRUED—Art. V, Sec. 8, State Constitution.

FEES—COURTS

Opinion 56-2983

A. E. Addis
Clerk, District Court, Golden, Colo.

September 12, 1956

(1) Petitions of exclusion filed before the hearing of organization should carry a docket fee of \$5.00.

(2) Petitions of inclusion, no matter when filed, would carry no docket fee.

(3) Petitions of exclusion filed after the hearing of organization would carry no docket fee.

(4) The above three statements would be applicable irrespective of the number of petitioners and whether filed per se or by an attorney.

STATUTES CONSTRUED—89-5-1 to 32, CRS '53.

HEALTH

Opinion 56-2984

Dr. R. L. Cleere, Executive Director
Department of Public Health

September 12, 1956

(1) A food dispensing and selling operation, selling only packaged food such as wrapped sandwiches, candy bars, and dispensing coffee obtained from a central commissary and operating from a truck such as a delivery van, would not be subject to the Restaurant Law.

(2) A grocery store, sundry store or filling station, and other similar businesses not preparing any food on the premises but selling only food, including packaged sandwiches from

an approved source, and not providing space for the use of the purchaser to consume such packaged food on the premises, would also not be subject to the provisions of the Restaurant Law.

STATUTES CONSTRUED—68-2, CRS '53.

FAIR COMMISSION

Opinion 56-2985

Hon. Homer F. Bedford
State Auditor

September 18, 1956

The bonding of the director of the State Fair at Pueblo does not extend to the cashier. It is suggested that the terms of the director's bond be worded to include the defalcation of his subordinates, or that the subordinates be individually bonded.

ELECTIONS

Opinion 56-2986

Walter L. Grutter
County Attorney, Yuma County

September 19, 1956

The person elected to fill the vacancy of the County Assessor of Yuma County whose term will expire January 1959, but who intends to resign on October 1, 1956, holds office for the balance of the unexpired term of the resigning assessor.

STATUTES CONSTRUED—49-4-24, CRS '53.

PUBLIC UTILITIES

Opinion 56-2987

Ralph C. Horton, Chairman
Public Utilities Commission

September 20, 1956

Water and sanitation districts of Colorado are not subject to the jurisdiction of the Public Utilities Commission and should not be listed in the list of public utilities required to be given to the Director of Revenue under 115-2-10, 1955 Supp., CRS '53.

STATUTES CONSTRUED—115-2-10, 1955 Supp. CRS '53.

CITIES AND TOWNS—FEES

Opinion 56-2988

Harry M. Howard
City Attorney, Monte Vista

September 21, 1956

Under the state statutes, the police magistrate has authority to charge a fee of \$4.00 for each case in which the collateral security of an appearance bond has been forfeited by the non-

appearance of the party charged. If Monte Vista is a home-rule city, no opinion is rendered.

STATUTES CONSTRUED—13-3-22 and 139-84-6, CRS '53; Ch. 147, S.L. 1955.

**CONSTITUTIONAL LAW—MOTOR VEHICLES
LEGISLATION**

Opinion 56-2989

Robert A. Theobald
Director of Revenue
September 24, 1956

The Federal Court Decision in General Motors Corporation v. Earl Blevins, holding the Motor Vehicle Dealer's Licensing Act of 1955 invalid, does not bind the department of revenue with respect to fees to be paid by licensees other than G.M.C. The decision holds that certain regulatory features are invalid, and that the entire act must fall for the reason that the remainder, such as the provision for fees, is not severable. The Federal Court recognized that this question of severability is one for the state courts, except in respect to the party actually before the court. Thus, until the state courts rule on this question of severability, it may be presumed that the remaining portions of the act are constitutional, and enforceable. Hence, the revenue department may continue to collect and hold the fees from the other licensees until a Colorado Court rules otherwise.

FEDERAL—PLANNING COMMISSION

Opinion 56-2990

Walter A. Koons
Regional Counsel
Fort Worth 4, Texas
October 1, 1956

Re: Application for Planning Assistance Grant, Project No. Colo. P-3 (Revised). The State Planning Commission has authority to perform the planning activities and provide the planning assistance, as proposed and requested by the cities of Golden, Aurora, Fort Collins and Westminster, Colorado.

STATUTES CONSTRUED—106-1-1, 3, 5, CRS '53.

EMPLOYMENT SECURITY

Opinion 56-2991

Frank J. Burk
State Representative
October 1, 1956

The receipt of unemployment benefits by an employee from a trust fund with the provisions stated in the opinion, set up by his employer under a contract between the employer

and the union does not affect the eligibility of such employee for benefits under the Colorado Employment Security Act.

STATUTES CONSTRUED—82-4-2(1), 82-1-3(10) (a) and 82-1-3(12) (d), CRS '53.

A & M COLLEGE—COUNTY SHERIFFS

Opinion 56-2992

Colorado A & M College

October 8, 1956

1. The primary responsibility for suppression of forest fires and liability for payment thereof rests with the county in which the fire occurs.

2. The duties, responsibilities and authorities of a sheriff extend to a fire in another county.

OPINION NO. 2097-51 OVERRULED BY ABOVE.

STATUTES CONSTRUED—35-5-12 and 13, CRS '53. 112-7-22 and 23, '55 Supp. CRS '53.

ELECTIONS—COUNTY SHERIFFS

Opinion 56-2993

Leroy J. Williams

Central City, Colorado

October 8, 1956

Procedure outlined to fill a vacancy for county sheriff caused by the death of the incumbent on October 2, 1956, whose term expires in January 1959.

STATUTES CONSTRUED—49-19-8, 9 and 10, CRS '53. 49-4-24, CRS '53.

FEES—COUNTY SHERIFFS

Opinion 56-2994

Mark U. Watrous, Chief Engineer

Department of Highways

October 10, 1956

A sheriff may, in addition to charging a fee as provided by statute for mileage in serving process, also charge the mileage as expense.

STATUTES CONSTRUED—56-4, CRS '53. 56-2, CRS '53.

PURCHASING AGENT

Opinion 56-2995

Lacy L. Wilkinson

State Purchasing Agent

November 8, 1956

If a state car pool is to be established by the State Purchasing Agent, it must be pursuant to 3-4-8, 3-4-9 and 3-4-10, CRS '53, and not by virtue of 3-4-1(9). If such state car pool is established, it must be established and operated by the state

purchasing agent and not by the individual state agencies, institutions, or educational institutions.

STATUTES CONSTRUED—3-4-8, 3-4-9 and 3-4-10, CRS '53.

CITIES AND TOWNS—CRIMINAL LAW

Opinion 56-2996

H. Keith Cunningham

Chief of Police

November 15, 1956

The taking of photographs and finger-prints of persons held in jail and charged with the commission of a misdemeanor does not violate any constitutional rights of the individual.

JUSTICES OF THE PEACE—CRIMINAL LAW

Opinion 56-2997

Corporal G. W. Miles

State Patrol

November 15, 1956

There is no statute permitting the acceptance of cash bail or of a deposit of money in lieu of bail in a criminal case.

CIVIL DEFENSE—WORKMEN'S COMPENSATION

Opinion 56-2998

Lt. Gen. Henry L. Larsen

Colorado Survival Plan Commission

November 21, 1956

Members of the Colorado Survival Plan Commission and its employees are eligible for compensation under provisions of the Volunteer Civil Defense Act following enrollment by the Colorado Civil Defense Agency as Civil Defense Workers. Regular employees of the Colorado Survival Plan Commission, who are paid out of state funds, may be considered to be state employees pursuant to 81-2-7, CRS '53, and entitled to Workmen's Compensation benefits without limitation as to available funds imposed upon civil defense workers by 24-2-6, CRS '53.

STATUTES CONSTRUED—24-1-3(1), 24-2-2, 24-2-6, CRS '53, and 81-2-7, CRS '53.

COUNTY ATTORNEYS

Opinion 56-2999

Charles A. Petrie

Attorney at Law, Montrose, Colo.

December 14, 1956

A county attorney appointed with no definite term of office fixed by the county commissioners serves at the will of the commissioners.

CONSTITUTION CONSTRUED—Art. XIV, Sec. 8, as amended Nov. 2, 1954. L. 55, p. 247.

STATUTES CONSTRUED—49-1-6, CRS '53, as amended by Ch. 75, S.L. 1956.

**PUBLIC FUNDS—PLANNING COMMISSION
FT. LEWIS A & M COLLEGE**

Opinion 56-3000

W. M. Williams, Director
State Planning Commission

December 19, 1956

No tax funds levied by the state for the benefit of a college, or any part thereof, may be used for the building of a chapel on the college campus.

CONSTITUTION CONSTRUED—First Amendment to U.S. Constitution.

FIREMEN'S PENSIONS

Opinion 56-3001

Layton D. Munson, Secretary
Board of Trustees
Sedgwick, Colorado

December 21, 1956

The firemen's pension board of trustees in an incorporated town having a volunteer fire department may reduce or completely stop the payment of a pension to any individual at any time when such individual is pensioned because of age and length of service and not because of injury received in line of duty as a fireman.

STATUTES CONSTRUED—139-50-15 and 16, CRS '53.

INSURANCE

Opinion 56-3002

Sam N. Beery
Commissioner of Insurance

December 27, 1956

A mutual benefit association shall be allowed to issue policies which are non-assessable when it maintains a deposit of \$25,000, or a deposit of \$50,000 if it does business outside the State of Colorado, and if its surplus is in excess of 10% of its mortality reserve fund.

STATUTES CONSTRUED—72-1-15, CRS '53.

LIQUORS

Opinion 56-3003

George J. Baker
Secretary of State

December 31, 1956

The failure to include the names of the directors of a corporation applying for a liquor license on the notice of hearing is a violation of Regulation No. 16 of the State Licensing Authority and is sufficient grounds to reject the application.

PART II
CASES PENDING AND DISPOSED OF IN ALL
COURTS

1955-1956

**UNITED STATES COURT OF APPEALS
TENTH CIRCUIT**

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**UNITED STATES DISTRICT COURT FOR THE
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**IN THE SUPREME COURT OF THE
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27	<i>Jacquelyn E. Meier v. People of the State of Colorado.</i> No. 17635. Involuntary manslaughter. Case closed.
32	<i>Douglas Paul Becksted v. People of the State of Colorado.</i> No. 17641. Murder. Case closed.
46	<i>Duke W. Dunbar, Attorney General, et al. v. County Court, Clear Creek County, et al.</i> No. 17651. Claim against Estate of George Cooper for old age pension. Case pending.
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30	<i>Robert Ronald Barrett v. People of the State of Colorado.</i> No. 18106. Burglary. Case closed.
31	<i>George H. Koch, et al. v. J. E. Whitten, State Engineer, et al.</i> No. 18135. Water rights. Case pending.
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95	<i>People of the State of Colorado v. Joseph C. Boulder.</i> No. 18170. Disbarment.
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- 444 *Board of County Commissioners of Jefferson County, et al. v. Browne, et al.* Jefferson County No. 9587. Condemnation. Case closed.
- 448 *Chester A. Bennett v. Fort Collins, et al.* Larimer County No. 11762. Proposed charter. Case closed.

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- 1 *Chester V. Davis, et al. v. J. E. Whitten, State Engineer, et al.* Kit Carson County No. 4278. Water rights. Case closed.
- 7 *The Poudre Valley National Bank of Ft. Collins v. Duke W. Dunbar, Attorney General, et al.* Larimer County No. 11776. Trust fund. Case closed.
- 9 *Benjamin D. Ritholtz, et al. v. City and County of Denver, et al.* City and County of Denver No. B1139. Constitutionality of Municipal Ordinance No. 17. Case closed.
- 12 *Wheat Farmers Insurance Company v. Sam N. Beery, Insurance Commissioner.* City and County of Denver No. B613. Insurance matter. Case closed.
- 16 *People ex rel. Earl Blevins, Director of Revenue v. Trio Television Sales and Service, et al.* City and County of Denver No. B1340. Recover sales tax. Case pending.
- 26 *F. R. Booth, et al. v. Mary R. Ryder, et al.* Clear Creek County No. 9673. Highway matter. Case pending.
- 28 *E. H. Georges v. J. E. Whitten, State Engineer, et al.* Custer County No. 1485. Declaratory Judgment—water priorities. Case pending.
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- 39 *Board of County Commissioners of Jefferson County, et al. v. Gordon K. Larson, et al.* Jefferson County No. 9672. Condemnation. Case closed.
- 40 *Bruno J. Celentano v. Colorado State Board of Examiners of Architects.* City and County of Denver No. B1767. Licensing matter. Case closed.
- 51 *Sidney Crane v. E. V. Blevins, Director of Revenue, et al.* Pueblo County No. 37607. Suspension of operator's license.
- 57A *Max Mosko, et al. v. Duke W. Dunbar, Attorney General, et al.* Jefferson County No. 9712. Injunction—enforcement of Sunday closing law for auto dealers.
- 57B *Jack P. Palmer, et al. v. Duke W. Dunbar, Attorney General, et al.* Arapahoe County No. 11302. Injunction—enforcement of Sunday closing law for auto dealers.
- 62 *Town of Castle Rock, Colorado, et al. v. Barbara A. Berks, et al.* Douglas County. Condemnation. Case pending.
- 63 *Vernon H. Berks, et al. v. State Highway Commission of Colorado, et al.* Douglas County No. 1931. Damages. Case closed.
- 68 *Margaret E. Mead v. Earl Blevins, Director of Revenue, et al.* City and County of Denver No. B2384. Income tax matter. Case closed.
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118	<i>The California Company v. State of Colorado, et al.</i> City and County of Denver No. B3709. Refund income tax paid. Case pending.
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184	<i>Weller Lumber Company v. George W. Rigel, et al.</i> Weld County No. 12456. Foreclosure. Case pending.
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193	<i>Bessie S. West and Adele M. Schuff v. Industrial Commission of Colorado.</i> City and County of Denver. Appeal. Case pending.
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213	<i>Dr. K. D. A. Allen, et al. v. Industrial Commission of Colorado, et al.</i> City and County of Denver No. B5963. Appeal. Case pending.
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- 265 *Board of County Commissioners of Larimer County, et al. v. George Ross, et al.* Larimer County. Condemnation. Case closed.
- 266 *Board of County Commissioners of Pueblo County, et al. v. Alice Hitchcock, et al.* Pueblo County. Condemnation. Case pending.
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311	<i>Edward M. O'Bannon v. City and County of Denver, et al.</i> City and County of Denver No. B8117. Constitutionality of Housing Code. Case pending.
313	<i>Plumbers and Steamfitters Local Union No. 20 v. Industrial Commission of Colorado.</i> City and County of Denver. Appeal. Case pending.
320	<i>State of Colorado ex rel Land Acquisition Commission v. Ray L. Pierson, et al.</i> El Paso County No. 34296. Condemnation—Air Force Academy. Case pending.
321	<i>In the matter of the determination of interest in property of R. B. Massey, Deceased.</i> El Paso County No. 34295. Condemnation—Air Force Academy. Case pending.
323	<i>Les Lea Manors Construction Co. v. Emma Perry, et al.</i> Adams County. Highway Department—unlawful possession of land. Case pending.
324	<i>State Highway Commission v. Colsman Company, Inc., et al.</i> Arapahoe County No. 11961. Condemnation. Case pending.
325	<i>Board of County Commissioners of Huerfano County, et al. v. Estate of Delphine Ward, Deceased.</i> Huerfano County. Condemnation. Case pending.
326	<i>Board of County Commissioners of Weld County, et al. v. Bose Hayes, et al.</i> Weld County. Condemnation. Case pending.
328	<i>City and County of Denver v. State Board of Land Commissioners, et al.</i> City and County of Denver No. B8496. Condemnation. Case pending.
329	<i>Board of County Commissioners of Moffat County, et al. v. R. M. Watts, et al.</i> Moffat County No. 1635. Condemnation. Case pending.
332	<i>State of Colorado, et al. v. J. F. Abrahamson, et al.</i> El Paso County No. 34362. Condemnation — Air Force Academy. Case pending.
336	<i>In the matter of the Petition of Jesse Jesus Gonzales for a Writ of Habeas Corpus.</i> Jefferson County No. 10283. Habeas Corpus. Case closed.

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339	<i>Otis J. Wilkins v. Harry Tinsley, Warden, Colorado State Penitentiary.</i> Fremont County. Habeas Corpus. Case closed.
340	<i>In the matter of the application of Donald Edward Hines for a Writ of Habeas Corpus.</i> City and County of Denver No. 42316. Habeas Corpus. Case closed.
344	<i>Lester A. Short, et al. v. Oil and Gas Conservation Commission, et al.</i> La Plata County No. 6389. Pooling Orders. Case pending.
345	<i>Charles E. Clovis, Sr., et al. v. Oil and Gas Conservation Commission, et al.</i> La Plata County No. 6390. Pooling Orders. Case pending.
352	<i>In the Matter of the organization of Ute Water Conservancy District.</i> Mesa County No. 10213. Water matter. Case pending.
354	<i>Sam N. Beery, Commissioner of Insurance v. United National Service Company of Colorado, et al.</i> City and County of Denver. Receivership. Case pending.
355	<i>State of Colorado, et al. v. Carl B. Lindell, et al.</i> El Paso County No. 34412. Condemnation — Air Force Academy. Case pending.
358	<i>State of Colorado, et al. v. American Machinery and Foundry Company, et al.</i> El Paso County. Condemnation—Air Force Academy. Case pending.
359	<i>Eugene Lewis v. Warden—Colorado State Penitentiary.</i> Jefferson County No. 1943. Habeas Corpus. Case closed.
360	<i>Board of County Commissioners of Arapahoe County, et al. v. Annie M. Howe, et al.</i> Arapahoe County. Condemnation. Case pending.
361	<i>Board of County Commissioners of Adams County, et al. v. Claude C. Craig, et al.</i> Adams County. Condemnation. Case pending.
362	<i>State Highway Commission v. Harry A. Gleason, et al.</i> City and County of Denver. Condemnation. Case pending.

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363	<i>Board of County Commissioners of Jefferson County, et al. v. Raymond L. Kook, et al.</i> Jefferson County. Condemnation. Case pending.
365	<i>In the Matter of the proceedings of a special Grand Jury sitting at the October, 1955, term of said Court.</i> Montezuma County. Investigation of District Attorney.
369	<i>State Highway Commission v. Vern E. Fellows, et al.</i> City and County of Denver. Condemnation. Case pending.
380	<i>Bill Sapetti, et al. v. Board of County Commissioners of Arapahoe County, et al.</i> Arapahoe County. Damages and unlawful possession of land—Highway Dept. Case pending.
381	<i>The Handy Ditch Company v. J. E. Whitten, State Engineer, et al.</i> Larimer County No. 12057. Water rights. Case closed.
385	<i>State of Colorado, et al. v. Eugene R. Cummins, et al.</i> El Paso County No. 34542. Condemnation—Air Force Academy. Case pending.
386	<i>The California Company v. Earl Blevins, Director of Revenue, et al.</i> City and County of Denver No. B9793. Refund income tax paid. Case pending.
387	<i>Roy A. Woods v. Harry C. Tinsley, Warden, Colorado State Penitentiary.</i> Fremont County No. 7542. Habeas Corpus. Case pending.
389	<i>John C. Bartell v. Harry C. Tinsley, Warden, Colorado State Penitentiary.</i> Pueblo County No. 38696. Habeas Corpus. Case closed.
393	<i>State Highway Commission v. William O. Chinery, et al.</i> Gunnison County No. 5483. Condemnation. Case pending.
394	<i>State Highway Commission v. Anthony S. Milano, et al.</i> Gunnison County No. 5484. Condemnation. Case pending.
395	<i>State Highway Commission v. Henry L. Senter, et al.</i> Mesa County No. 10359. Condemnation. Case pending.

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396	<i>Board of County Commissioners of Mesa County, et al. v. Jerry Ligrani, et al.</i> Mesa County No. 10360. Condemnation. Case pending.
400	<i>Homesteaders Life Company v. Sam N. Beery, Insurance Commissioner.</i> City and County of Denver No. B9623. Insurance matter. Case pending.
402	<i>Frank A. Briggs v. Harry Pangborn, et al.</i> Delta County. Water rights. Case pending.
403	<i>Robert E. Carnes v. Earl Blevins, Director of Revenue, et al.</i> City and County of Denver No. B10218. Suspension of driver's license. Case closed.
404	<i>Board of County Commissioners of Routt County, et al. v. Victor American Fuel Company, et al.</i> Routt County No. 3190. Condemnation. Case pending.
405	<i>Board of County Commissioners of Lincoln County, et al. v. W. H. Newsom, et al.</i> Lincoln County No. 1898. Condemnation. Case pending.
416	<i>Millie Sirokman, et al. v. Industrial Commission, et al.</i> City and County of Denver No. B7718. Unemployment Compensation matter. Case pending.
417	<i>In Re: Labor Dispute in the matter of the employees of the Coors Porcelain Company and the Adolph Coors Company, before Referee of the Department of Employment.</i> City and County of Denver No. B9262. Case closed.
419	<i>Englewood Savings and Loan Association v. Quinton E. Smith, et al.</i> Arapahoe County No. 12071. Foreclosure. Case pending.
420	<i>Metropolitan Television Co. v. Industrial Commission, et al.</i> City and County of Denver. Labor dispute. Case pending.
422	<i>Emma Becker Emperius v. Department of Revenue.</i> Alamosa County No. 2825. Suspension of driver's license. Case closed.
423	<i>Property Owners Mutual Insurance Company v. Sam N. Beery, Insurance Commissioner.</i> City and County of Denver No. B8737. Suspension of Certificate of Authority. Case closed.

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424	<i>City Council of the City of Pueblo, et al. v. Rev. Dennis Daniel Burger, et al.</i> Pueblo County No. 38809. Condemnation. Case pending.
430	<i>Board of County Commissioners of Otero County, et al. v. Charles E. Sabin, et al.</i> Otero County No. 6863. Condemnation. Case pending.
431	<i>Bernard E. Teets, Department of Employment v. Harold Adams.</i> Morgan County. Unemployment Compensation matter. Case pending.
432	<i>Chester V. Davis, et al. v. J. C. Lengel, et al.</i> Kit Carson County No. 4352. Water rights. Case pending.
436	<i>Victor George Rose v. Colorado State Board of Examiners of Architects.</i> City and County of Denver No. B10977. Licensing matter. Case pending.
437	<i>Maurice D. Isaacson v. Colorado State Board of Examiners of Architects.</i> City and County of Denver No. B10910. Licensing matter. Case pending.
438	<i>Eugene E. Neverdahl v. Colorado State Board of Examiners of Architects.</i> City and County of Denver No. B10909. Licensing matter. Case pending.
439	<i>John N. Haan, et al. v. Colorado State Board of Examiners of Architects.</i> City and County of Denver No. B11044. Licensing matter. Case closed.
442	<i>Norton C. Conklin v. State Civil Service Commission.</i> City and County of Denver No. B11239. Action for Dismissal. Case pending.
443	<i>People ex rel Albert Cohen v. Lawrence Henry, et al.</i> City and County of Denver No. B10976. Mandamus—placing name on ballot. Case closed.
447	<i>In Matter of the Complaint of Charles E. Green against Elizabeth Shelton Rice.</i> No. B12176. Revoke Real Estate Broker's license. Case pending.
450	<i>Board of County Commissioners of Arapahoe County, et al. v. Hester Donoho, et al.</i> Arapahoe County No. 12225. Determine residence for AND payments. Case pending.
453	<i>State of Colorado v. Standard Fire Brick Company, et al.</i> El Paso County No. 34772. Condemnation—Air Force Academy. Case pending.

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455	<i>Miles V. Lantz, et al. v. Leonard J. Grant, et al.</i> Arapahoe County, Declaratory judgment—recover sum paid in protest. Case pending.
458	<i>State Highway Commission v. Delmar Tolle, et al.</i> City and County of Denver. Condemnation. Case pending.

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2	<i>People ex rel Robert S. Davies, Securities Commissioner, v. Three Forks Oil and Uranium Company, et al.</i> City and County of Denver No. B11599. Fraudulent Practice. Case pending.
3	<i>Petroleum, Inc., v. Oil and Gas Conservation Commission, et al.</i> City and County of Denver No. B11614. Pooling Orders. Case closed.
6	<i>Board of County Commissioners of Adams County, et al. v. Frank Serratore, et al.</i> Adams County. Condemnation. Case pending.
7	<i>Roy A. Davis, et al. v. William C. Giggall, et al.</i> Arapahoe County No. 12261. Public Welfare matter.
9	<i>Ruth A. Nichols v. Colorado State Patrol.</i> Pueblo County. Damages. Case closed.
14	<i>In the Matter of the Designation of Albin Anderson, Jr., for the office of District Attorney in and for the Seventh Judicial District, State of Colorado.</i> Mesa County No. 10468. Election matter. Case closed.
17	<i>Florence Hutchinson v. City and County of Denver, et al.</i> City and County of Denver No. B11885. Zoning ordinance. Case pending.
23	<i>Groendyke Transport, Inc. et al. v. Public Utilities Commission.</i> City and County of Denver No. B12341. Freight rates and charges.
24	<i>Walter H. Bicknell v. State Board of Examiners of Architects, et al.</i> City and County of Denver. Licensing matter. Case pending.
28	<i>State Highway Commission v. James H. Failing, et al.</i> City and County of Denver No. B12355. Condemnation. Case pending.

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- 29 *State Highway Commission v. Sidney P. Stillwaugh, et al.* City and County of Denver No. B12356. Condemnation. Case pending.
- 33 *State Highway Commission v. The Lakeside Park Company, et al.* Jefferson County No. 10780. Condemnation. Case pending.
- 34 *M. McAlpine, Sr., et al. v. G. B. Jeter, et al.* Huerfano County No. 3357. Water rights. Case pending.
- 37 *Sinclair Oil and Gas Company v. State of Colorado, et al.* City and County of Denver No. B12660. Refund income tax paid. Case pending.
- 38 *The Stanolind Oil and Gas Company v. State of Colorado, et al.* City and County of Denver No. B12687. Refund income tax paid. Case pending.
- 41 *Albert M. Knight v. Robert Theobald, Director of Revenue.* El Paso County No. 34938. To issue Motor Vehicle license. Case pending.
- 43 *John P. Cleary v. Robert A. Theobald, Director of Revenue.* City and County of Denver No. B12695. Suspension of operator's license. Case pending.
- 44 *Don Griffith v. State Board of Examiners of Architects.* City and County of Denver, Licensing matter. Case pending.
- 46 *Woodrow W. Ramsey v. State Board of Examiners of Architects.* City and County of Denver No. B12845. Licensing matter. Case closed.
- 49 *Roger A. Reeves v. State Board of Examiners of Architects.* City and County of Denver. Licensing matter. Case closed.
- 52 *In the Matter of the Application of Mary Angele for a Writ of Habeas Corpus.* City and County of Denver No. 12595. Colorado State Hospital.
- 57 *State of Colorado, et al. v. Colorado Land Sales, et al.* El Paso County No. 35074. Condemnation—Air Force Academy. Case pending.
- 59 *People ex rel Robert S. Davies, Securities Commissioner v. United States Rare Earths, Inc., et al.* City and County of Denver. Fraudulent practices. Case pending.

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64	<i>Donald L. Marshall v. State Board of Examiners of Architects.</i> City and County of Denver No. B13155. Licensing matter. Case closed.
65	<i>James Earl Reagan v. State Board of Examiners of Architects.</i> City and County of Denver No. B13154. Licensing matter. Case closed.
69	<i>Board of County Commissioners of Logan County, et al. v. Charles E. Barton.</i> Logan County. Condemnation. Case pending.
70	<i>Board of County Commissioners of Pueblo County, et al. v. Catherine Ellswood, et al.</i> Pueblo County. Condemnation. Case pending.
71	<i>Aegis Insurance Company v. John P. Cleary, et al.</i> City and County of Denver No. B13283. Insurance matter. Case closed.
75	<i>State of Colorado, et al. v. Ella W. C. Magruder, et al.</i> El Paso County. Condemnation—Air Force Academy. Case pending.
87	<i>W. C. Rump v. McCollum Law Corporation, et al.</i> Mesa County No. 10453. Foreclosure. Case pending.
88	<i>Mary A. Kimber v. Colorado Real Estate Brokers Board, et al.</i> City and County of Denver, Licensing matter. Case pending.
89	<i>People ex rel Curtis White, Securities Commissioner, v. Investors' Services, Inc., et al.</i> City and County of Denver No. A93011. Securities matter. Case pending.
90	<i>City Council of the City of Pueblo, et al. v. Raffaele Bruno, et al.</i> Pueblo County No. 39290. Condemnation. Case pending.
94	<i>The Jefferson County School District No. R-1 v. Judd J. L. Bruns, et al.</i> Jefferson County. Exempt certain lands from taxation. Case pending.
96	<i>Board of County Commissioners of Jefferson County, et al. v. LaVerne S. Johnson, et al.</i> Jefferson County. Condemnation. Case pending.
97	<i>State Highway Commission v. Jake M. Miller, et al.</i> Adams County. Condemnation. Case pending.

**SUPERIOR COURT OF THE
CITY AND COUNTY OF DENVER****Docket No. 13**

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186	<i>R. A. Haines, et al. v. Department of Employment.</i> No. S-1162. Breach of Contract. Case pending.
241	<i>Elmer John Mikita v. Earl Blevins, Director of Revenue, et al.</i> No. S-1880. Suspension of driver's license. Case closed.
382	<i>State Board of Industries for the Blind v. Isadore Wedgle.</i> No. S-2580. Money Demand. Case closed.
383	<i>State Board of Industries for the Blind v. E. J. Scarry.</i> No. S-2581. Money Demand. Case closed.
418	<i>Department of Employment v. George W. Barnes, et al.</i> No. S-2106. Secure payment of promissory note. Case pending.

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62	<i>Sprague Rodda v. Irwin N. Hahn.</i> No. S-3354. Damage to car by Highway Department employee. Case pending.
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**IN THE COUNTY COURTS OF THE
STATE OF COLORADO****Docket No. 12**

446	<i>Boulder County Welfare Department v. Estate of Daisy J. Ferrier, Deceased, et al.</i> Boulder County No. 8088. Claim against estate for old age pension paid.
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3	<i>In the Matter of the Estate of Opal Baker.</i> Denver County No. 98335. Claim for maintenance at Colorado State Hospital. Case pending.
34	<i>In the Matter of the Estate of Cora E. Vorhang.</i> Denver County No. P2957. Caveat—Probate of Will. Case closed.
78	<i>In the Matter of the Estate of Katherine Heberton.</i> Denver County No. P3569. Probate of will. Case pending.

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- 89 *In the Matter of the Estate of Hallie M. Hays.* Denver County No. 86379. Probate of will. Case pending.
- 157 *People of the State of Colorado in the interest of Mabel Miller.* Denver County No. 48942. Transfer of custody. Case closed.
- 171 *In the Matter of the Estate of Eliza J. Wolf.* Denver County No. 97901. Caveat—Probate of will. Case pending.
- 194 *In the Matter of the Estate of Susie Riddle.* Pueblo County No. 12428. Construction of will. Case pending.
- 201 *In the Matter of the Estate of William Page Harlow.* Boulder County No. 3525. Trust. Case closed.
- 218 *In the Matter of the Petition of William Fred Weber, Jr.* Bent County No. 7055. Revocation of driver's license. Case closed.
- 224 *In the Matter of the Estate of Bertha G. Mansfield.* Denver County No. 64586. Claim for maintenance at Colorado State Hospital. Case pending.
- 225 *In the Matter of the Estate of John B. Swanland.* Denver County No. P1096. Determination of Heirship. Case pending.
- 334 *In the matter of the Estate of Rachel Shavallia.* Pueblo County No. 10877. Care and maintenance of Bessie Fisher at Colorado State Hospital. Case pending.
- 364 *In the Matter of the Appeal of Charles Franklin Benton.* La Plata County No. 5504. Denial of driver's license. Case closed.

Docket No. 14

- 54 *Alfred James Christian v. Department of Revenue.* El Paso County No. 17158. Appeal from license suspension.

**APPEALS FROM AWARDS OF THE
INDUSTRIAL COMMISSION OF COLORADO**

1955-1956

In The Supreme Court of Colorado

No.	Title	S. Ct. No.	Disposition
988	<i>Ashworth Transfer Co., et al. v. Industrial Commission, et al.</i>	18006	Award Affirmed
1024	<i>City Elite Laundry Co. v. Industrial Commission, et al.</i>	18017	Dismissed
989	<i>Continental Casualty Co., et al. v. Industrial Commission, et al.</i>	18005	Award Affirmed
965	<i>Contractors Heating & Supply Co., et al. v. District Court of Denver, et al.</i>	17676	Rule Discharged
962	<i>Dr. Pepper Bottling Company, et al. v. Industrial Commission, et al.</i>	17993	Award Affirmed
970	<i>Denver Truck Exchange, et al. v. Industrial Commission, et al.</i>	18027	Award Reversed
982	<i>Employers Casualty Co., et al. v. Industrial Commission, et al.</i>	17926	Award Affirmed
961	<i>Hamilton v. Industrial Commission, et al.</i>	17698	Award Affirmed
956	<i>Iacino, et al. v. Industrial Commission, et al.</i>	17628	Award Affirmed
959	<i>Industrial Commission, et al v. International Minerals and Chemical Corp., et al.</i>	17712	Award Reversed
969	<i>Industrial Commission & Gobel v. Vancil</i>	17817	Award Reversed
968	<i>Industrial Commission and Herberg v. Vancil</i>	17818	Award Reversed
971	<i>Industrial Commission, et al. v. Swort</i>	18007	Award Reversed
963	<i>Industrial Commission, et al. v. Valley Chip & Supply Co., et al.</i>	17766	Award Affirmed

No.	Title	S. Ct. No.	Disposition
992	<i>Industrial Commission, et al. v. London & Lancashire Indemnity Co., et al.</i>	18169	Pending
984	<i>Metz Lumber Co., et al. v. Industrial Commission, et al.</i>	17996	Award Affirmed
977	<i>Smith v. Industrial Commission, et al.</i>	18098	Award Reversed
944	<i>Standard Oil Co. v. Industrial Commission, et al.</i>	17556	Award Affirmed
975	<i>State Fund and Industrial Commission v. Howington, et al.</i>	17881	Award Reversed
986	<i>Vanadium Corp. of America, et al. v. Industrial Commission, et al.</i>	18092	Award Affirmed
974	<i>Wisdom v. Industrial Commission, et al.</i>	17863	Award Affirmed

**In The Districts Courts of Colorado
Arapahoe County**

991	<i>Graham Furniture Co. v. Industrial Commission, et al.</i>	11984	Pending
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Boulder County

1006	<i>Hays v. Industrial Commission, et al.</i>		Advisement
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Conejos County

1004	<i>R. C. S. Lumber Co., et al. v. Industrial Commission, et al.</i>	2742	Award Affirmed
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City and County of Denver

967	<i>Alexander Film Co., et al. v. Industrial Commission, et al.</i>	B4140	Award Affirmed
988	<i>Ashworth Transfer Co., et al. v. Industrial Commission, et al.</i>	B8590	Award Affirmed
926	<i>Boulevard Cleaners v. Industrial Commission, et al.</i>	A89171	Pending
954	<i>Bowers v. Industrial Commission, et al.</i>	A97064	Award Affirmed

No.	Title	Dist. Ct. No.	Disposition
1024	<i>City Elite Laundry Co. v. Industrial Commission, et al.</i>	B10222	Dismissed
1005	<i>Cain v. Industrial Commission, et al.</i>	B13113	Award Affirmed
981	<i>Colorado Fuel & Iron Corp. v. Industrial Commission, et al.</i>	B6847	Award Reversed
989	<i>Continental Casualty Co., et al. v. Industrial Commission, et al.</i>	B8431	Award Affirmed
1007	<i>Cosner, et al. v. Industrial Commission, et al.</i>	B14036	Dismissed
962	<i>Dr. Pepper Bottling Co., et al. v. Industrial Commission, et al.</i>	B1564	Award Affirmed
1025	<i>Dry Cleaning & Laundry Workers Local No. 304 v. Industrial Commission, et al.</i>	B10625	Pending
970	<i>Denver Truck Exchange, et al. v. Industrial Commission, et al.</i>	B4160	Award Affirmed
982	<i>Employers Casualty Co., et al. v. Industrial Commission, et al.</i>	B7006	Award Reversed
995	<i>Employers Casualty Co., et al. v. Industrial Commission, et al.</i>	B10118	Pending
964	<i>Gary, et al. v. Industrial Commission, et al.</i>	B2452	Pending
987	<i>Graden Coal Co., et al. v. Industrial Commission, et al.</i>	B8356	Pending
978	<i>Gates Rubber Co. v. Industrial Commission, et al.</i>	B6258	Award Affirmed
957	<i>Garden of the Gods, et al. v. Industrial Commission, et al.</i>	A99152	Award Affirmed
927	<i>General Cleaners v. Industrial Commission, et al.</i>	A89648	Pending
1002	<i>Havens v. Industrial Commission, et al.</i>	B11474	Award Reversed

No.	Title	Dist. Ct. No.	Disposition
985	<i>Hendricks, et al. v. Industrial Commission, et al.</i>	B8472	Pending
956	<i>Iacino, et al. v. Industrial Commission, et al.</i>	A97751	Award Affirmed
972	<i>International Union Operating Engineers v. Industrial Commission, et al.</i>	B4279	Dismissed
959	<i>International Minerals & Chemicals Corp., et al. v. Industrial Commission, et al.</i>	B966	Award Reversed
1000	<i>J. J. Newberry, et al. v. Industrial Commission, et al.</i>	B11178	Pending
1003	<i>Kurgsner v. Industrial Commission</i>	B12268	Pending
923	<i>Laundry & Dry Cleaning Workers Union No. 304 v. Industrial Commission, et al.</i>	A89144	Pending
1008	<i>Lerner v. Industrial Commission, et al.</i>	B14014	Dismissed
992	<i>London & Lancashire Indemnity Co., et al. v. Industrial Commission, et al.</i>	B9419	Award Reversed
984	<i>Metz Lumber Co., et al. v. Industrial Commission, et al.</i>	B8387	Award Affirmed
980	<i>Morris, dba Helen O'Boyle Secretarial Service v. Industrial Commission, et al.</i>	B6897	Dismissed
979	<i>Newton Lumber Co., et al v. Industrial Commission, et al.</i>	B6544	Award Reversed
997	<i>Ohio Casualty Co., et al. v. Industrial Commission, et al.</i>	B10191	Pending
924	<i>Pepper, dba Triangle Cleaners v. Industrial Commission, et al.</i>	A89164	Pending
993	<i>Phelps v. Industrial Commission, et al.</i>	B10080	Pending
976	<i>Schmidt v. Industrial Commission, et al.</i>	B6221	Award Affirmed

No.	Title	Dist. Ct. No.	Disposition
958	<i>Sheffield v. Industrial Commission, et al.</i>	B1205	Dismissed
862	<i>Shepards, et al. v. Industrial Commission, et al.</i>	A72760	Dismissed
977	<i>Smith v. Industrial Commission, et al.</i>	B6154	Award Affirmed
990	<i>State Compensation Ins. Fund, et al. v. Industrial Commission, et al.</i>	B8769	Award Affirmed
971	<i>Swort v. Industrial Commission, et al.</i>	B4374	Award Reversed
950	<i>Thedford v. Industrial Commission, et al.</i>	A95101	Pending
999	<i>Thedford v. Industrial Commission, et al.</i>	A95191	Pending
955	<i>Vancil v. Industrial Commission, et al.</i>	A97758	Advisement
969	<i>Vancil v. Industrial Commission & Gobel</i>	B4148	Award Reversed
968	<i>Vancil v. Industrial Commission & Herberg</i>	B4149	Award Reversed
963	<i>Valley Chip & Supply Co., et al. v. Industrial Commission, et al.</i>	B1563	Award Reversed
986	<i>Vanadium Corporation of America, et al. v. Industrial Commission, et al.</i>	B8420	Award Affirmed
998	<i>Vorhies v. Industrial Commission and Climax Molybdenum Co., et al.</i>	B10834	Pending
941	<i>Warden v. Industrial Commission, et al.</i>	A92229	Award Affirmed
951	<i>Winner, et al. v. Industrial Commission, et al.</i>	A96536	Award Affirmed

El Paso County

996	<i>Conover v. Industrial Commission, et al.</i>	34629	Award Affirmed
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No.	Title	Dist. Ct. No.	Disposition
Gunnison County			
960	<i>Schiber v. Industrial Commission, et al.</i>	5422	Dismissed
La Plata County			
961	<i>Hamilton v. Industrial Commission</i>	6249	Award Affirmed
Logan County			
966	<i>Beatrice Foods v. Industrial Commission, et al.</i>	9066	Dismissed
Mesa County			
975	<i>Howington, et al. v. Industrial Commission, et al.</i>	10089	Award Reversed
Otero County			
973	<i>Zellers v. Industrial Commission, et al.</i>	6738	Dismissed
Pueblo County			
940	<i>Russell v. Industrial Commission, et al.</i>	36359	Dismissed
974	<i>Wisdom v. Industrial Commission, et al.</i>	38050	Award Affirmed
Weld County			
983	<i>Brown v. Industrial Commission, et al.</i>	13103	Award Reversed
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