

**Biennial Report**  
of the  
**ATTORNEY GENERAL**  
of the  
**STATE OF COLORADO**



**Years 1963-1964**

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**DUKE W. DUNBAR**  
Attorney General

Publication Approved

Printed by Publishers Press, Denver

ATTORNEYS GENERAL OF COLORADO  
From the Organization of the State

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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

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PERSONNEL

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FRANK E. HICKEY, Deputy Attorney General  
ANN G. LANDY, Office Manager

Assistant Attorneys General

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ROBERT F. CARR, resigned 6/30/63  
JOHN J. CONWAY, resigned 2/29/64  
JAMES W. CREAMER, JR., appointed 1/1/64  
PETER L. DYE  
RICHARD L. EASON, appointed 1/1/63  
FLOYD B. ENGEMAN, resigned 2/28/63  
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JOHN P. MOORE, appointed 5/1/63  
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JOHN W. PATTERSON, appointed 7/1/63  
JAMES DAVID PENWELL, appointed 7/1/64  
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ROBERT N. TRUNK, appointed 4/1/64; resigned 12/14/64

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EDITH HEZMALHALCH	DOROTHY SACH
ELIZABETH V. KITTO	LU M. SHAFFER
retired 6/30/64	trans. from Inh. Tax 8/1/64

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Assistant Attorneys General

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JOSEPH M. MONTANO  
THOMAS W. SULLIVAN

Legal Stenographers

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SANDRA MOORE, resigned  
BETTY FIELDER, resigned

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Inheritance Tax Commissioner

CATHERINE H. COURSEY, Deputy Inheritance  
Tax Commissioner

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JAMES C. WILSON, JR., Assistant Attorney General

*Division of Securities*

STANLEY R. HAYS, Commissioner

HARRY H. HADDOCK, Assistant, resigned 5/31/63

DUNCAN J. CAMERON, Assistant, resigned 3/6/64

WILLIAM J. ANDERSON, Assistant, appointed 4/1/63

**Legal Staff Technicians:**

WILLIAM J. ANDERSON, resigned April 1, 1964

WILLIAM C. MURRAY, JR., resigned 1/14/63

JAMES C. SHEARON, appointed April 1, 1964

FRANK H. WADE, Principal Accountant

RHODA PAGLIANO, Sr. Tech. Stenographer

EVELYN DUNN, Sr. Clerk Typist

KAREN ELLIOTT, Int. Clerk-Steno, appointed 8/13/64

HONORABLE JOHN A. LOVE  
Governor of Colorado  
State Capitol  
Denver, Colorado

Dear Governor Love:

Pursuant to law, I herewith submit the Biennial Report of the Attorney General covering the period beginning January 1, 1963, and ending December 31, 1964.

Respectfully submitted,

DUKE W. DUNBAR

Attorney General

**BIENNIAL REPORT**  
**OF THE**  
**ATTORNEY GENERAL**  
**OF THE**  
**STATE OF COLORADO**

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**REPORT OF INHERITANCE TAX DIVISION**

The Inheritance Tax Division of the Department of Law administers the Inheritance and Succession Tax Law and the Gift Tax Law of the State of Colorado. All escheat estates are also handled by the Inheritance Tax Department.

From January 1, 1963, to December 31, 1964, the Inheritance Tax Department collected \$14,160,220 in inheritance taxes and \$1,074,644 in gift taxes. Both the inheritance and gift taxes are paid to the General Fund of the State of Colorado.

In addition to the above amounts there is ten per cent old age pension tax levied against all inheritance taxes collected. This tax is levied and assessed under the provisions of the Old Age Pension Law.

During this period \$1,392,000 was collected and paid to the Old Age Pension Fund.

During this two-year period 22,582 estates were audited and a fee or tax assessed. A gift tax was assessed and paid by 1,144 donors during this same period.

During the 1963-64 period, the sum of \$161,448 was paid into the State Treasury on escheat estates. This amount represented 106 estates on which no heirs were located who would be entitled to inherit the estates at this time.

**REPORT OF CHIEF HIGHWAY COUNSEL**

*July 1, 1963 through June 30, 1964*

You will note that the report covers a twelve month period. The department reports on this fiscal year basis and we have correlated our records to conform.

In addition to all other phases of legal representation and counsel to the Department of Highways and the State Patrol, this division, during the period stated above, disposed of the following active law suits as indicated:

**Condemnation Cases — Disposition**

Settled	Jury	Commission	Court	Abandoned	Total
131	14	21	5	2	173

**Other Cases — Disposition**

Six cases, including four Supreme Court actions, which involved damages, contracts, real property and torts, were terminated by trial, settlement or dismissal. This does not include tort actions involving motor vehicle accidents which were docketed by this office and forwarded to the department's insurance carrier for handling.

It is again gratifying to report that we substantively prevailed in all of the Supreme Court cases above mentioned.

**P.U.C. — Disposition**

Fifteen applications were filed with the Public Utilities Commission during the above period. Certificates of Convenience and Necessity were issued in twelve of these cases, decisions pending in five.

These matters, as previously reported, are handled primarily by the Assistant to the Engineer of Surveys and Plans, who prepares the applications, contracts with other interested public utilities, etc. This office reviews the contracts and assists in the presentation of testimony at the hearings. We have further streamlined by eliminating hearings altogether, unless protests are received in answer to proper notices.

**Condemnation Disposition — Comparison**

With respect to the above condemnation disposition record, the following comparison can be made with the last twelve months operation of this division (Report October 7, 1963):

	1962-63	1963-64
Settled and abandoned: .....	61	133
Tried — commission, jury, and Court: .....	19	40
<b>Total: .....</b>	<b>80</b>	<b>173</b>



### New Cases Filed — Comparison

During the period of this report, new law suits filed, either by or against the department, and their character as compared with the previous period were as follows:

	1962-63	1963-64
Condemnations: .....	166	233
Other cases — State		
District Courts: .....	17	3
U. S. District Court: .....	0	1
Colorado Supreme Court: ....	2	1
P.U.C.: .....	7	15
	192	253
Total: .....	192	253

### Cases Pending — Comparison

Cases pending as of:	June 30, 1963	June 31, 1964
Condemnations: .....	179	226
Other cases — State		
District Courts: .....	23	22
U. S. District Court: .....	0	1
Colorado Supreme Court: ....	4	1
P.U.C.: .....	2	5
	208	255
Total: .....	208	255

## REPORT OF THE DIVISION OF SECURITIES

*For the period January 1, 1963, to December 31, 1964*

The Division of Securities is a division of the Department of Law and is the delegated Authority to administer and enforce the provisions of the Colorado Securities Act, Ch. 125-Art. 10, CRS '53 as amended. Its administrative officer is the Securities Commissioner, appointed by the Attorney General pursuant to 3-9-2 CRS '53.

The office receives and processes applications by broker-dealers, issuer-dealers and salesmen, and issues licenses to such persons permitting them to engage in the securities business. A written examination is provided for such applicants testing their general knowledge and qualification and they

must meet other requirements of training, experience and reputable character in order to become so licensed. The staff of the Division reviews documents filed, including financial statements, conducts audits and enforces compliance with minimum capital and bond requirements.

The Division examines registration statements of issuers intending to make offerings of securities to the general public, and sends out notices of effectiveness to those companies which have met the statutory requirements and complied with the Rules and Regulations adopted pursuant thereto. It holds conferences with attorneys and applicants and disseminates information and forms regarding the procedures and prerequisites of registration and licensing.

Certain standards relating to full disclosure, use of an offering circular, sales literature, and the filing of specified exhibits are incidental to registration, and, in the case of filings by qualification, i. e. intra-state offerings, limitations are placed with respect to maximum underwriting or sales commissions and the issuance of promoters' stock and options, which would result in an unreasonable dilution of the public investors' equity interest. The commissioner may also require that a portion of the proceeds from an offering be impounded under an escrow arrangement in order to insure that the purposes of the offering may be accomplished. The commissioner may deny effectiveness of registration where the offering would tend to work a fraud upon purchasers, or where the applicant fails to meet the conditions imposed by statute, rule or order. Filings made with the Division are matters of public record.

The Division issues rulings on exemptions from registration, answers inquiries and renders opinions on other matters involving clarification or interpretation of various provisions of the Act. It handles complaints on denial, suspension or revocation of registration or licenses where violations of the statute or rules have been alleged.

The total amounts of securities registered for distribution in Colorado is as follows:

	1963	1964
Coordination .....	\$215,731,791.90	\$305,189,614.26
Qualification .....	5,406,880.00	7,828,631.54
Notification .....	1,906,845.00	2,617,505.00
Mutual fund renewals .....	98,281,772.81	94,705,229.68
	<hr/>	<hr/>
Total .....	\$321,327,289.71	\$410,340,980.48

A record of the number of licenses issued, registration statements filed, and receipts and disbursements for the period is as follows:

*Registration Statements:*

	<b>1-1-63 to 12-31-63</b>		<b>1-1-64 to 12-31-64</b>	
	<b>Number</b>	<b>Amount</b>	<b>Number</b>	<b>Amount</b>
<b>By coordination</b>				
(original) .....	218	\$19,544.56	226	\$24,373.97
By qualification .....	9	1,790.94	5	643.50
By notification .....	5	742.17	3	352.00
Mutual fund renewals	64	6,400.00	56	5,600.00
Total .....	296	\$28,477.67	290	\$30,969.47
<b>Dealers' Licenses Issued</b>				
Original .....	27	\$ 1,350.00*	38	\$ 3,050.00
Renewal .....	155	7,750.00	146	7,300.00
Total .....	182	\$ 9,100.00	184	\$10,350.00
<b>Salesmen's Licenses Issued</b>				
Original .....	774	\$ 7,740.00*	781	\$12,100.00
Renewal .....	1,030	10,300.00	912	9,120.00
Total .....	1,804	\$18,040.00	1,693	\$21,220.00
<b>Miscellaneous Income</b> .....				
Total receipts .....		\$ 31.75		\$ 36.95
Expenditures .....		\$55,649.42		\$62,576.42
Receipts over expenditures		52,388.96		55,364.78
Receipts over expenditures		\$ 3,260.46		\$ 7,211.64

**\*NOTE:** Change in charges for original dealers' and salesmen's licenses took effect July 1, 1964, increasing application fee to \$100 and \$20, respectively.

**LEGISLATIVE REFERENCE OFFICE**

The Legislative Reference Office is a division of the Department of Law, under the direction of the Attorney General. The office was established in 1927 and began functioning in 1930.

The three primary functions of the office are: (1) the drafting of legislative bills, resolutions, and memorials, and

amendments thereto, for members of the General Assembly and for the Governor; (2) the maintenance of legislative records; and (3) legislative reference services.

While the office does approximately 60 to 70 percent of the actual drafting of bills, resolutions, and memorials introduced in and considered by the General Assembly, under a Joint Rule of the Senate and House adopted in 1959, all bills introduced in the assembly must be submitted to the office for approval as to form as set forth in the Joint Rule.

The office maintains complete legislative records on bills, resolutions, and memorials, and amendments thereto, and on other legislative actions. During a session of the General Assembly a subject index is maintained of all bills introduced, and a progress report is kept daily covering the consideration and passage of each bill through the assembly. Copies of all bills drafted by the office and all bills printed by the assembly are kept on file for reference purposes, and are available back to 1931.

The office maintains a legislative informational service for members of the General Assembly and the public, the purpose of which is to make available studies and information on legislative subject and laws of other states. Spot research reports are prepared for members of the assembly. A small but selective legislative library is maintained. The office works closely with the Legislative Council and the Supreme Court Library, so as to eliminate duplication of legislative and law library facilities.

**Part I**  
**DIGEST OF OFFICIAL OPINIONS OF THE**  
**ATTORNEY GENERAL**  
**FOR**  
**BIENNIAL PERIOD**  
**1963-1964**

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



**BOATS AND BOATING — LIQUOR LICENSE**

Mr. George J. Baker 63-3680  
 Secretary of State  
 January 4, 1963

**Liquor licensing of restaurant on boat.**

A beer, wine and spirituous liquor license cannot be granted for a restaurant located on a boat which would move about on a lake.

STATUTES CONSTRUED—75-2-2, 3, 7 and 21, CRS '53.

**CONSTITUTIONAL LAW — UNIVERSITY OF COLORADO**

Mr. Palmer L. Burch 63-3681  
 Mr. Allen Dines  
 House of Representatives  
 January 4, 1963

**Post high school education in the Denver metro area.**

Neither the Regents of the University of Colorado nor the General Assembly has authority, under the Colorado constitution, to establish a branch or center of the University at Denver, which would offer a four-year degree program.

CONSTITUTION CONSTRUED—Art. VIII, Sec. 5 and as amended in 1910.

**PUBLIC WELFARE — EMPLOYEES RETIREMENT**

Mr. Guy R. Justis, Director 63-3682  
 State Department of Public Welfare  
 January 15, 1963

**County welfare employees.**

The state welfare department cannot legally reimburse to Denver 80 percent of its contribution to the old age and survivors insurance program and in addition thereto make a similar reimbursement for a separate retirement plan covering county welfare employees. The word "or" defined.

STATUTES CONSTRUED—119-1-15, CRS '53, as amended.

**CONSTITUTIONAL LAW — LEGISLATION  
 INCOME TAX**

Mr. Frank L. Gill 63-3683  
 Senate Chambers  
 January 15, 1963

A proposed bill authorizing the director of revenue to make and publish withholding tax tables prescribing the

amounts to be withheld from employees' salary for state income tax and authorizing adjustments in said schedule would not be an unconstitutional delegation of legislative authority.

### CONSTITUTIONAL LAW — OLD AGE PENSION

Mr. E. G. Spurlin  
State Controller  
January 18, 1963

63-3684

#### Investment of Health and Medical Care Fund.

The state board of public welfare is only given authority to administer the medicare program and is not given custody and possession of said funds. Under chapter 83, CRS '53, as amended, the state treasurer is given authority to deposit and invest said funds as therein provided. If he does so, the earnings from such funds would accrue to the credit of the medicare fund but would be subject to transfer to the general fund as provided in Art. XXIV, Sec. 7 (c) of the Constitution. See also Opinion 57-3102.

CONSTITUTION CONSTRUED—Art. XXIV, Sec. 7 (c)  
STATUTES CONSTRUED—Chap. 83, CRS '53.

### SCHOOLS — JUNIOR COLLEGES

Dr. Byron W. Hansford  
Commissioner of Education  
January 21, 1963

63-3685

#### First class school districts.

No statutory authority for a board of education to establish and maintain a junior college by resolution within its territorial limits. 123-23, CRS '53.

No statutory authority permitting a first class district to conduct junior college courses. 123-1-21 (18) CRS (1961 Supp).

A junior college located in one district could not contract with a school district to perform services not authorized by law.

STATUTES CONSTRUED—123-23, CRS '53. 123-10-21 (18) CRS 1961 Supp.

### INCOME TAX

Mr. Roy R. Romer  
State Senator  
January 22, 1963

63-3686

The 15 percent credit provided in Chap. 277, S. L. 1963,



is applicable to taxpayers electing to use the standard short form deduction referred to in 138-1-2 (4) (a) CRS '53.

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

### WATER

Mr. J. E. Whitten  
State Engineer  
January 24, 1963

63-3687

Direct flow water rights decreed and diverted at a head-gate located on the Pine River in Colorado can be sold and transferred for use in New Mexico.

STATUTES CONSTRUED—147-1-1 and 2, CRS '53.

### STATE HOSPITAL

Dr. J. Douglass Sharpe  
Colorado State Hospital  
January 30, 1963

63-3688

It is not mandatory that patients being placed in nursing homes to whom a conditional release is given be administratively discharged at the elapse of two years. The word "may" defined as used in the statute.

STATUTES CONSTRUED—71-1-28 and 28 (1) CRS (1960 Supp).

### CONSTITUTIONAL LAW — BINGO

Hon. Byron A. Anderson  
Secretary of State  
February 4, 1963

63-3689

#### Television Bingo

From the facts submitted, the "Television-Bingo" program does not constitute a "Game of Chance" as contemplated by the constitutional amendment and by the "Bingo and Raffles" law and consequently is not the subject of licensing by the secretary of state.

CONSTITUTION CONSTRUED—Art. XVIII, Sec. 2

STATUTES CONSTRUED—129-3-2 (2) CRS '53.

### PHARMACY

Mr. Reid T. Harley, Executive Secretary  
Colorado State Board of Pharmacy  
February 15, 1963

63-3690

#### Prophylactic license

Only retail drug stores, pharmacies or drug departments

which are operating in compliance with the pharmacy law (Chap. 48, CRS '53) and which have a **pharmacy license** are eligible for a prophylactic retailer's license. Opinion 47-1068 reaffirmed. Opinion 50-1780 overruled.

STATUTES—66-10-7 (3), CRS '53. 48-1-13, CRS '53.

### SAVINGS AND LOAN DEPARTMENT

Mr. Guy L. Reed, Commissioner **63-3691**  
Savings and Loan Department  
March 4, 1963

#### **Equity Savings and Loan Association.**

May not legally issue stock in excess of the number of shares authorized by its articles of incorporation.

Commissioner may not legally issue a permit to sell stock that when issued will be in excess of the number of shares authorized by an association's articles of incorporation.

Since there is no statutory prohibition in the savings and loan act, the corporation would be entitled to issue stock to its directors in conformance with the general corporation laws of the State of Colorado.

STATUTES CONSTRUED—122-3-7 and 12, CRS '53.

### CHILDREN

Board on Standards of Child Care **63-3692**  
March 13, 1963

#### **Denver Metropolitan Area Centers for Retarded Children.**

The proposed centers contemplate the maintenance of a day nursery for part of a day within the statutory definition of a foster boarding home, which under the statute is required to be licensed by the board.

STATUTES CONSTRUED—22-12-2, CRS '53.

### HIGHWAYS — COUNTIES

Mr. James E. Tarter **63-3693**  
County Attorney, El Paso County  
March 15, 1963

Can the board of county commissioners of El Paso County by virtue of statute and resolution establish roads on certain section lines without resorting to condemnation?

If the land was public domain at the time of a **valid** dedication, the road is a public highway according to 1935 C. S. A., Chap. 143, Sec. 44, and remains as such until **vacated or aban-**

done. The fact that the statutory authority no longer exists should not affect any rights which have accrued.

STATUTES CONSTRUED — Chap. 143, Sec. 44, 1935, C. S. A., repealed in 1953.

#### ANTI-DISCRIMINATION COMMISSION

Edward Terrones, Acting Director 63-3694  
Colorado Anti-Discrimination Commission  
March 21, 1963

The Anti-Discrimination Commission has no jurisdiction over agencies of the Federal government and under the facts submitted lacks authority to receive and investigate complaints where the administration of such agencies is involved.

STATUTES CONSTRUED—80-24-1 to 8, CRS '53 (1960 Perm. Supp.)

#### PUBLIC WELFARE — CHILDREN

Mr. Guy R. Justis, Director 63-3695  
State Department of Public Welfare  
March 22, 1963

##### Laradon Hall School for Mentally Retarded Children.

There is no legal objection to the State Welfare Department reimbursing counties for the cost of the care and maintenance of mentally retarded or deficient children in private institutions, which provide education and other services on the same basis that reimbursement is made for said costs in foster homes when appropriate public institutions are unable to receive said children. Opinion No. 1880-50 not applicable in this instant.

#### CHIROPRACTORS

Leo E. Wunsch, II, D. C. 63-3696  
State Board of Chiropractic Examiners  
March 27, 1963

Nothing in the law requiring the exclusion of licensed chiropractors from participating in the old age pension health and medical care fund. Administrative policy.

Nothing in Art. 22, Chap. 123, C.R.S. '53, relating to the education of handicapped children, which would prohibit licensed chiropractors from participating in said program. Administrative policy.

Chiropractors are not within the scope of 123-21-17, CRS. '53.

Opinion 1774-50 remains unchanged denying chiropractors the right to sign death certificates.

STATUTES CONSTRUED—Art. 22, Chap. 123, CRS '53.  
123-21-17, CRS '53.

#### DETECTIVE LICENSE

Hon. John A. Love  
Governor of Colorado  
April 8, 1963

63-3697

The statute relative to licensing of detectives expressly provides that no license granted thereunder shall be transferable. A new application for license must be made by the corporation and a new bond furnished. No part of license fee may be refunded nor applied upon the fee to the license for the corporation.

STATUTES CONSTRUED—44-1-7, 2 and 4, CRS '53.

#### FIREMEN'S PENSIONS

Mr. Perry E. Williams  
Attorney at Law, Rocky Ford  
April 17, 1963

63-3698

Compensation for lawyers required by statute to represent the firemen's pension board are expenses of the city, town, etc., and not of the fund.

Expenditures of the pension fund for any purpose other than specified by statute are prohibited.

139-50-1, et seq. CRS '53, as amended by Chap. 267, S. L. 1961, did not create a new or different pension fund. Pensioners receiving funds from either fund prior to consolidation would continue to be so covered under the one fund after consolidation.

STATUTES CONSTRUED—139-50-1, et. seq., CRS '53, as amended by Chap. 267, S. L. 1961.

#### CHILDREN — PUBLIC WELFARE

Miss Grace Kenehan, Chairman  
Board on Standards of Child Care  
April 22, 1963

63-3699

Functions of Board on Standards of Child Care to be transferred to State Department of Public Welfare as of July 1, 1963, under provisions of Chapter 76, S. L. 1963.

The status of the board remains the same and any action taken by board members prior to July 1, 1963, would not be illegal.

The records of the board should be transferred to the State Department of Public Welfare.

STATUTES CONSTRUED—22-12, CRS '53, as amended by Chap. 76, S. L. 1963. 131-3-5, CRS '53.

**UNIVERSITY OF COLORADO MEDICAL CENTER —  
BLOOD TESTS**

Donn L. Smith, M. D. 63-3700  
University of Colorado Medical Center

**April 23, 1963**

If blood is withdrawn from a minor without parental consent for purpose of determining blood alcohol content, a potential liability exists if any damages ensue.

May not be done over parental objections even if minor himself consents.

A written request from the police agency concerned would not absolve any party from his own wrongful conduct.

**FEES — TAXATION — WATER — COUNTY TREASURER**

Mr. Dell V. Perry 63-3701  
Deputy District Attorney

**April 29, 1963**

Fees to be charged by a county treasurer for moneys collected by him by reason of a special assessment for delivery of water pursuant to 149-6, CRS '53 (Water Conservancy Act) are to be charged as fees on moneys received by him for taxes as provided in 56-4-2- (2) CRS '53.

STATUTES CONSTRUED—149-6, CRS '53. 56-4-2 (2) CRS '53.

**COURTS — CRIMINAL PROCEEDINGS**

Honorable Neil Horan 63-3702  
Judge of the District Court, Denver

**April 24, 1963**

**People v. Feldstein**, Denver District Court No. 48474

If request is made by an indigent person for appointment of counsel on appeal, prior to issuance of writ of error from the Supreme Court, such request must be granted by the District Court.

STATUTES CONSTRUED—39-7-31, CRS '53.

**CIVIL SERVICE — ELECTIONS**

Mr. Michael A. DiNunzio, President  
Civil Service Commission

63-3703

May 7, 1963

**Qualifications of electors—Chap. 117, S. L. 1963.**

A person who has resided in Colorado for less than a year may not vote for city, county or state officers, although he may now vote as a citizen of the United States for presidential and vice-presidential electors after residing in the state for six months and meeting other qualifications of an elector. Since he may not vote for city, county or state officers, he cannot be considered an elector of the State of Colorado within the meaning of Article XII, Sec. 13, Colorado Constitution.

STATUTES CONSTRUED—Chap. 117, S. L. 1963

CONSTITUTION CONSTRUED—Art. XII, Sec. 13.

**LIQUOR**

Mr. Byron A. Anderson  
Secretary of State

63-3704

May 10, 1963

A husband, who holds a liquor license, makes a gift of money to his wife, and with this gift money the wife becomes an owner and licensee of a tavern, such a transaction does not constitute unlawful financial assistance and is not a violation of the Liquor Code of 1935.

STATUTES CONSTRUED—75-2-15, CRS '53. 90-2-3 and 9, CRS '53.

**HEALTH**

Dr. R. L. Cleere  
Director of Public Health

63-3705

May 14, 1963

**Meat additives**

The addition of tenderizing agents to meat under the proposed process would render the meat adulterated within the meaning 66-22-10 (3) (d) CRS '53 (1960 Perm. Supp).

The State Board of Health would have no authority to adopt a rule or regulation permitting the use of the proposed tenderizing process.

STATUTES CONSTRUED—66-22-10 (3) (d) CRS '53 (1960 Perm. Supp.)

**SCHOOLS**

Dr. Byron W. Hansford  
Commissioner of Education

63-3706

May 16, 1963

Employment status of teachers as affected by the Teacher's Tenure Act and the Military Code.

A teacher is legally entitled to include the period of time of a leave of absence, under Sections 123-18-3 and 94-9-35, CRS '53, in computing the required probationary period in order to attain tenure status in a first class school district.

A teacher under tenure who is a member of the National Guard and called to active duty is entitled to the benefits of 94-9-36, CRS '53.

STATUTES CONSTRUED—123-18-3 and 94-9-34, CRS '53.

**CIVIL SERVICE**

Mr. Michael A. DiNunzio, President

63-3707

May 17, 1963

A hearing for the suspension of an employee in the classified civil service must be presided over by at least a quorum of the members of the Civil Service Commission.

STATUTES CONSTRUED—Sections 3-16-1 (1) (b), 3-16-4 (3) and 26-6-23 '53, all as amended and appearing in Volume 8, CRS '53.

CONSTITUTION CONSTRUED—Sec. 13, Art. XII, State Constitution.

**COURTS — HEALTH**

Honorable Fred Calhoun  
County Judge of Delta County

63-3708

May 20, 1963

Delayed birth certificates—changes.

Under provisions of 66-8-25, CRS '53, relating to the above, if the "Court is satisfied from such evidence as is presented to it that the facts as stated in the certificate are true, the court shall enter an order directing that such certificate be accepted."

STATUTES CONSTRUED—66-8-25, CRS '53.

**COURTS — REFORMATORY**

Hon. Don D. Bowman  
Judge of the Denver District Court

63-3709

May 21, 1963

Interpretation of statutes respecting sentencing of offend-

ers to the reformatory and their release therefrom.

STATUTES CONSTRUED—39-10-1 (1) (3), 2-3, CRS '53.  
Chapter 36, Session Laws 1958, p. 213 et seq. 105-3-3, CRS '53  
as amended.

### OLD AGE PENSION — CONSTITUTIONALITY

Honorable John A. Love, Governor 63-3710

Mr. Guy R. Justis

Director, State Department of Public Welfare

May 17, 1963

Medical Care Program.

The State Board of Public Welfare cannot—

(1) establish two monthly pension awards with persons who agree to purchase the proscribed group health and medical care insurance receiving \$3.00 more per month to pay the cost thereof;

(2) increase monthly pension awards by the said \$3.00 per month and then mandatorily deduct it from said award in order to purchase the group health and medical care insurance policy; and

(3) increase the monthly pension award and obtain from the pensioner an authorization or directive to apply \$3.00 per month thereof to the purchase of a health and medical care insurance policy.

CONSTITUTION CONSTRUED—Art. XXIV, Sec. 6 and 3  
STATUTES CONSTRUED—101-1-12, CRS '53 (1957 S. L.)

### SCHOOLS — CHILDREN — HEALTH

Dr. R. L. Cleere 63-3711

Director of Public Health

May 22, 1963

Legality of proposed form to be used by public school teachers to report physical defectiveness of children under their supervision.

STATUTES CONSTRUED—102-2-23 and 123-21-17, CRS '53.

### CITIES AND TOWNS

George W. Woodard 63-3712

County Attorney of Conejos County

May 24, 1963

The Town of Antonito has the power to adopt an ordinance requiring dance halls to be licensed within its corporate limits



and would not be usurping the authority of the Board of County Commissioners.

STATUTES CONSTRUED—139-32-1 (72) CRS '53.

### BASIC SCIENCES

Mrs. Esther B. Starks, Secretary 63-3713  
 State Board of Examiners in the  
 Basic Sciences  
**May 28, 1963**

The Board may accept the certificate from Kansas for reciprocity in regard to the candidate in question.

STATUTES CONSTRUED—91-5-7 and 9, CRS '53.

### JUNIOR COLLEGES

Dr. Byron W. Hansford 63-3714  
 Commissioner of Education  
**May 28, 1963**

Pueblo Junior College District.

Under Chap. 242, S. L. 63, only junior college districts which are "operating as such during the entire school year of distribution" are entitled to distribution under the act.

STATUTES CONSTRUED—Sec. 22, Chapter 77, S. L. 1962 as amended by Chapter 242, S. L. 1963.

### JUNIOR COLLEGES

Dr. Byron W. Hansford 63-3715  
 Commissioner of Education  
**May 28, 1963**

Pueblo Junior College District.

Under Chap. 19, S. L. 1963, Pueblo Junior College would be eligible for assistance, as entitlements under said act are based upon the 1961-1962 school year.

STATUTES CONSTRUED—123-23-35 and 51 CRS '53 (1961 Supp.)

Chap. 19, S. L. 1963.

### SCHOOLS — TAXATION

Dr. Byron W. Hansford 63-3716  
 Commissioner of Education  
**May 27, 1963**

Under Sec. 6 (2) (c), Chap. 77, S. L. 1962, as amended by Chap. 242, S. L. 1963, the Department of Education may utilize

an amended and corrected valuation from the State Tax Commission for the purpose of determining a county's required and shared support to be raised by a tax levy in 1963.

### POLITICAL PARTIES

Mr. Robert Maytag, Chairman 63-3717  
Democratic State Central Committee  
**June 4, 1963**

There is no statute requiring a resignation in writing from a precinct committeeman or committeewoman.

Whether or not a resignation was actually given in the instant case is a question of fact to be determined by the appointing authority, which would be the remaining members of the county central committee.

STATUTES CONSTRUED—Sec. 73, Colorado Election Code 1963.

### JUVENILE PAROLE BOARD

Dr. E. Ellis Graham, Chairman 63-3718  
Juvenile Parole Board  
**June 6, 1963**

Juvenile Parole Board can legally provide parole supervision for a parolee from the Mount View Girls' School. However, if such a person is on parole and a violation occurs which could be a violation of probation, the District Court could elect to impose a reformatory or penitentiary sentence.

### PUBLIC FUNDS — PARKS

Mr. Harry R. Woodward, Director 63-3719  
Game and Fish Department  
**June 10, 1963**

Internal improvement funds, as designated in 112-9-8, CRS '53, as amended, cannot be used for salaries, purchasing lands for state parks, or constructing buildings used by the state in its sovereign capacity. The fund may be used to construct access roads to parks and for construction of roads within the parks.

STATUTES CONSTRUED—112-9-8, CRS '53, as amended.

### COUNTY WELFARE DEPARTMENTS — REVENUE DEPARTMENT

Mr. Guy R. Justis, Director 63-3720  
Department of Public Welfare  
**June 13, 1963**

The Revenue Department is within its rights in refusing

to furnish confidential information on income tax returns to a county welfare department for the purpose of contacting fathers about supporting their children who are on welfare.

The statute makes exceptions but a county welfare staff member is not included therein.

STATUTES CONSTRUED—138-1-43, CRS '53.

### REAL ESTATE

Mr. Keith T. Koski  
Executive Secretary  
Real Estate Commission

63-3721

**June 24, 1963**

Real estate brokers and salesmen, who are licensed under Chapter 117, as amended, who sell, lease, or transfer, agree to sell, lease, or transfer, or negotiate to sell, lease, or transfer, in this state any part of a subdivision, as defined in Chapter 224, S. L. 1963, must be registered and issued a certificate pursuant to said Chapter 224. Said two statutes are compatible and not in conflict.

STATUTES CONSTRUED—Chap. 117, CRS '53 and Chap. 224, S. L. 1963.

### SAVINGS AND LOAN — PUBLIC FUNDS

Mr. L. Richard Bratton  
Gunnison, Colorado

63-3722

**June 25, 1963**

Each specific trust fund invested by a city or county treasurer in a savings and loan association is insured up to \$10,000, respectively. NOTE: Said opinion written by Mr. Reed, Savings and Loan Commissioner, and same made a part of the Attorney General's official opinions.

### COLLEGES — CONTRACTS

Dr. John F. Reed, President  
Fort Lewis A & M College

63-3723

**July 3, 1963**

A student who executes a promissory note on a loan and discontinues his studies shall forfeit one-third of his tuition for that academic term. No provision in contract contemplates any cash refund.

STATUTES CONSTRUED—124-10-8, CRS '53.

**TAXATION — LAND BOARD**

Mr. A. A. Hall, Commissioner  
Colorado Tax Commission

63-3724

**July 22, 1963**

Tax Sale Certificate.

Ore produced from a leaseholder's interest may not be sold to satisfy delinquent taxes assessed against the leaseholder while he was the owner of the lease. His possessory rights under his lease from the State Board of Land Commissioner having been sold to the county because of delinquent taxes, the tax sale certificate becomes a lien upon the assignee, in this case the U. S. Bank of Grand Junction.

STATUTES CONSTRUED—137-3-13 (2) and 137-5-2, CRS '53.

**BINGO**

Hon. Byron A. Anderson  
Secretary of State

63-3725

**July 25, 1963**

There is no conflict between Article XVIII, State Constitution, and 129-3-8, CRS '53, with regard to the imposition of a "tax" upon the net proceeds from bingo and raffles, as interpreted by the State Auditor's office, as the two and one-half percent of the net proceeds provided in Section 2, Chapter 235, S. L. 1961, to be paid to the state is a "charge" and not a tax.

No public official may properly question the constitutionality of any statute enacted by the Legislature and approved by the Governor until the courts have declared it to be unconstitutional.

STATUTES CONSTRUED—Sec. 2, Chap. 235, S. L. 1961.

CONSTITUTION CONSTRUED—Art. XVIII.

**ARCHITECTS**

Norton Polivnick, Secretary  
State Board of Examiners of Architects

63-3726

**July 30, 1963**

An association or partnership of architects and engineers may legally use in its title the words "Architects and Engineers," provided all members thereof are duly licensed architects or engineers and at least one member is a licensed architect and at least one member a licensed engineer.

STATUTES CONSTRUED—10-3-14 (3), CRS '53 (1960 Perm. Supp.)

**PUBLIC RECORDS — PUBLIC WELFARE**

Mr. Guy R. Justis, Director 63-3727  
State Department of Public Welfare

**August 5, 1963**

Records of the State Welfare Department pertaining to adoption cases cannot be destroyed without any preservation of their contents, but may be reproduced on microfilm and regarded as the original for all purposes. This applies equally to county welfare departments.

STATUTES CONSTRUED—131-3-7, CRS '53 and 4-1-14, CRS '53.

**JURIES**

Mr. Joseph L. Horgan 63-3728  
Jury Commissioner  
City and County of Denver

**August 6, 1963**

Persons selected for jury service in the district courts of this state may be served by mailing the process or writ to them by certified mail rather than by registered mail.

STATUTES CONSTRUED—78-2-11, CRS '53 and 135-1-2, CRS '53 as amended.

**RACING COMMISSION**

Colorado Racing Commission 63-3729

**August 7, 1963**

The authority and responsibility to promulgate rules is vested solely in the Commission and it may not delegate its authority and responsibility to another entity.

STATUTES CONSTRUED—129-2-4 (1), CRS '53.

**PUBLIC FUNDS — STATE TREASURER**

Honorable John P. Proctor 63-3730  
State Auditor

**August 9, 1963**

Securities eligible for deposit with the State Treasurer to secure the deposit of public funds.

STATUTES CONSTRUED—83-1-1, 2 and 4, CRS' 53;  
130-4-5 and 6, CRS '53.

**COLLEGES — PUBLIC UTILITIES**

Mr. C. L. Terrell, Secretary  
State Board of Agriculture

63-3731

**August 9, 1963**

The Public Utilities law does not prohibit the Colorado State University from purchasing electricity from either the Public Service Company of Colorado or from the Bureau of Reclamation.

STATUTES CONSTRUED—115-1-1, et seq. CRS '53.

**COUNTIES — FOREST FIRES**

Wesley E. Woodward, Engineer  
State Board of Land Commissioners

63-3732

**August 13, 1963**

Forest fires.

Nothing in the law placing the responsibility for the suppression of forest fires in the state forest with the State Board of Land Commissioners. This responsibility rests primarily with the sheriffs of the various counties. See Opinion No. 56-2992.

**LEGISLATION — GAME AND FISH**

Mr. Lyle C. Kyle, Director  
Legislative Council

63-3733

**August 15, 1963**

Proposed legislation imposing a tax on hunting and fishing licenses would make the state ineligible to federal aid funds under the Pittman-Robertson and Dingell-Johnson Acts.

STATUTES CONSTRUED—62-2-5 and 62-14-4, CRS '53.

**BASIC SCIENCES**

Mrs. Esther B. Starks, Secretary  
State Board of Examiners in the Basic Sciences

63-3734

**August 19, 1963**

Masseurs are not required by state law to be licensed and not required to take the Basic Sciences examination unless they practice the healing arts or any branch thereof.

STATUTES CONSTRUED—91-5-1, et seq. CRS '53.

**NURSING**

Mrs. Madolin M. Dickinson  
Director of Nursing Education and Licensing

63-3735

**August 19, 1963**

The practice of professional nursing includes the adminis-

tration of intravenous fluids and medications. It is for the Board to determine whether or not the "Intra Cath" procedure comes within this definition.

STATUTES CONSTRUED—97-2-2 (1) (1960 Perm. Supp.)  
CRS '53.

### NURSING

Mrs. Madolin M. Dickinson 63-3736  
Director of Nursing Education and Licensing

**August 19, 1963**

A professional nurse is not authorized under the law, as part of the practice of professional nursing, to make a diagnosis, tentative or otherwise, and a nurse following this procedure would be practicing medicine.

STATUTES CONSTRUED—97-2-2 (1) (1960 Perm. Supp.)  
CRS '53.

91-1-6 (1) (a), CRS '53.

### EMPLOYEES — STATE PATROL

Mr. E. G. Spurlin 63-3737  
State Controller

**August 20, 1963**

#### Overtime pay to employees

Determination of overtime pay to employees of the Colorado State Patrol under the provisions of 120-10-10, CRS '53 as amended (1960 Perm. Supp.) and Chapter 34, Session Laws of 1963.

STATUTES CONSTRUED—120-10-10, CRS '53 as amended (1960 Perm. Supp.)

Chapter 34, S. L. 1963.

### SCHOOLS — COUNTY COMMISSIONERS

Dr. Byron W. Hansford 63-3738  
Commissioner of Education

**August 23, 1963**

Under 123-11-14 and 15, CRS '53, the county commissioners are required to make one levy to provide funds for payment of principal and interest obligations of school bonds issued and sold in a single series.

If two levies are made to provide two separate funds for principal and interest payments on bonds issued and sold in a single series, the two funds may be consolidated into one fund to meet principal and interest payments due on the bonds.

STATUTES CONSTRUED—123-11-14 and 15, CRS '53.

**RACING COMMISSION**

Mr. Emmett J. Dignan, Chairman **63-3739**  
 Colorado Racing Commission  
**August 29, 1963**

Answering an abstract question without a statement of fact, the Commission, under the existing Colorado Pari-Mutuel Law, would have authority to make and enforce rules governing the supervision and care of racing animals when housed on private property, where such private property has no ownership connection with any Pari-Mutuel Race Track over which the Commission has licensing authority.

**MINES — FEDERAL**

Mr. G. A. Franz, Jr. **63-3740**  
 Deputy Commissioner of Mines  
**September 5, 1963**

The Bureau of Mines does not have legal authority to inspect and impose safety laws, rules and regulations on contractors working on federal government projects in the State of Colorado. Former opinions dated May 8, 1961 and December 1, 1962 not applicable.

STATUTES CONSTRUED—92-32-13, CRS '53.

**LEGISLATURE — SCHOOLS**

Mr. Lyle C. Kyle, Director **63-3741**  
 Legislative Council  
**September 11, 1963**

Under the constitution, the legislature cannot by law create a separate department of vocational education.

STATE CONSTITUTION—Article IX, Section 1.

**PUBLIC RECORDS — COUNTY CLERK AND RECORDER**

Hon. John G. Mackie **63-3742**  
 State Representative  
**September 16, 1963**

If the county clerks and recorders are authorized by the boards of county commissioners they may keep their records on microfilm in lieu of bound volumes if they so desire. 35-4-6 covers instruments which are kept on file in their original form and is not in conflict with 35-4-7, as amended by Chapter 90, S. L. 1963.



STATUTES CONSTRUED—35-4-7, as amended by Chap. 90, S. L. 1963.

35-4-6, CRS '53.

#### **APPROPRIATIONS — FORT LEWIS A & M COLLEGE**

Honorable John F. Reed, President **63-3743**  
Fort Lewis A & M College

**September 17, 1963**

The item of \$40,000 appearing in the long appropriation act for land acquisition to Fort Lewis Agricultural and Mechanical College as recommended by the State Division of Planning for land needed to serve the campus area, is not authorized if the purchase would result in acquiring only a portion of that recommended by the State Planning Division.

STATUTES CONSTRUED—3-3-3, CRS '53, as amended.

#### **FIRE PROTECTION DISTRICTS**

Hon. Homer F. Bedford **63-3744**  
State Treasurer

**September 19, 1963**

In the absence of a merger or consolidation, no statutory authority for two districts or a district and city to combine their assessed valuation as a basis for participation in state funds.

#### **INSTITUTIONS**

Mr. David A. Hamil, Director **63-3745**  
Department of Institutions

**September 24, 1963**

##### **Charges for patients**

Interpretation of 71-1-16, CRS '53, concerning the amount to be charged for the care of patients at the various state institutions, the use of average cost and the charging of responsible relatives; also definition of "legally responsible relatives" and concerning the authority to settle accounts due.

STATUTES CONSTRUED—71-1-16, CRS '53. (NOTE: Amended by Chap. 59, Art. 7, S. L. 1964).

#### **SCHOOLS**

Dr. Byron W. Hansford **63-3746**  
Commissioner of Education

**October 1, 1963**

**Legality of a teacher reading the Bible in a public school**

Under the recent decisions of the U. S. Supreme Court, Bible reading in the public schools as a devotional exercise is prohibited no matter who the sponsoring or supervising agent or agency. It makes no legal difference that Bible reading as a devotional exercise is "permitted" rather than "required."

#### **COLLECTION AGENCY**

Mr. M. Thomas Sullivan, Vice-Chairman **63-3747**  
Collection Agency Board

**October 2, 1963**

Whether a credit counseling, budgeting and prorating agency comes within the provisions of the Collection Agency Act (Chap. 28, CRS '53) depends upon whether its operations came within the provisions of 28-1-1 or 28-1-2, CRS '53.

STATUTES CONSTRUED—28-1-1 or 28-1-2, CRS '53.

#### **EMPLOYEES — STATE AUDITOR — DEPARTMENT OF EMPLOYMENT**

Mr. Bernard E. Teets, Executive Director **63-3748**  
Department of Employment

**October 9, 1963**

Persons employed by the State Auditor, who are named or otherwise indicated in the long appropriation bill of the General Assembly, are state employees, and as such they are entitled to examine and remove records of the department of employment and conduct investigations of the expenditure of public funds in connection therewith.

Reports made by the department of auditing and distributed in accordance with the duties of said department are not a violation of the requirement that certain records of the department of employment be kept confidential.

STATUTES CONSTRUED—3-8-2 and 4, CRS '53.

82-3-7, CRS '53.

#### **PUBLIC WELFARE**

State Board of Public Welfare **63-3749**

**October 10, 1963**

##### **Salary schedule-county welfare employes**

Reaffirming previous Opinion No. 62-3675, holding that the State Department of Public Welfare has the power to terminate the payment in the event a county welfare department fails to comply with the salary schedules adopted by it.

STATUTES CONSTRUED—119-1-5, CRS '53. Cases cited.

**EMPLOYEES — FEES — INDUSTRIAL COMMISSION**

Mr. E. G. Spurlin  
State Controller  
October 16, 1963

63-3750

**Payment of reporters' fees for transcripts**

Under the provisions of S. B. 252 (Chap. 185, S. L. 1963) the Industrial Commission is authorized to pay reporters in its regular employ for transcripts prepared upon the order of either the State Compensation Insurance Fund or the Industrial Commission where such transcripts are prepared outside regularly scheduled hours of work and where no payment is made for overtime.

STATUTES CONSTRUED — 81-14-6 (3), CRS '53 as amended by Chap. 185, S. L. 1963.

**EMPLOYMENT SECURITY**

Mr. Bernard E. Teets  
Executive Director  
Department of Employment  
October 16, 1963

63-3751

The Colorado Department of Employment is forbidden from releasing to private individuals or organizations the names of "employing units" who are subject to, or have elected to be subject to, the Colorado Employment Security Act without further qualifying circumstances.

In instances where a claim for unemployment benefits is pending, the Colorado Department of Employment may release to claimants or their union business representatives information relating to a "covered employing unit" provided he is a legal representative of the claimant and the information so requested is necessary for the proper presentation of a claim before the department.

STATUTES CONSTRUED—82-3-7, CRS '53.

**LIQUOR**

Hon. Byron A. Anderson  
Secretary of State  
October 16, 1963

63-3752

The rules and regulations of the State Liquor Licensing Authority as they relate to Colorado 3.2 Beer Act (75-1-1, et seq. 1953 CRS) and the Colorado Liquor Code of 1935 (75-2-1, et seq. 1953 CRS) were made, promulgated and in effect many years prior to the effective date of the Administrative Code

3-16-2 (10) 1953 CRS (1960 Perm. Supp.) and as such are still in effect and valid after the effective date of said portion of the Administrative Code.

STATUTES CONSTRUED—75-1-1 et seq. and 75-2-1 et seq. CRS '53. 3-16-2 (10) 1953 CRS (1960 Perm. Supp.)

### INSTITUTIONS — CITIES AND TOWNS

Mr. David A. Hamil, Director 63-3753  
Department of Institutions

**October 17, 1963**

#### **Lookout Mountain School Property — Sale of**

In the absence of specific authority from the General Assembly no clear cut authority exists for the granting of such rights of way by state institutions as are requested by the City of Golden.

STATUTES CONSTRUED—Chap. 262, S. L. 1963. 130-10-1, CRS '53.

### AERONAUTICS — TAXATION

Mr. Hugh H. C. Weed, Jr. 63-3754  
Director of Revenue

**October 21, 1963**

#### **Registration and taxation of aircraft.**

Chapter 44, S. L. 1963, repeals pre-existing provisions of 5-3-6 and 5-3-7, CRS '53, upon the date that said act was approved by the Governor, May 3, 1963.

By virtue of said repeal, there remains no basis upon which the annual specific ownership tax on aircraft can be computed or calculated for the balance of the year 1963, and for that reason the same cannot be levied initially upon aircraft during the period from May 3, 1963 to January 1, 1964.

STATUTES CONSTRUED—Chap. 44, S. L. 1963.  
5-3-6 and 7, CRS '53.

### TAXATION — HOSPITALS

Mr. Howard A. Latting, Chairman 63-3755  
Colorado Tax Commission

**October 30, 1963**

#### **Tax exempt status of Gates Rubber Company— Clinic-hospital and physical therapy building.**

Under the stated facts, the Colorado Tax Commission is

justified in concluding the Gates medical facility is exempt from general taxation. (Cases cited).

### **GAME, FISH AND PARKS — EMPLOYEES RETIREMENT**

Mr. Harry R. Woodward, Director **63-3756**  
 Department of Game, Fish and Parks  
**November 4, 1963**

#### **Employees retirement.**

Applicability of retirement benefits to employees of the department of game, fish and parks under the provisions of 111-1-28 (1), CRS '53, as amended by Chap. 211, S. L. 1963, and also under 62-2-11, CRS '53.

STATUTES CONSTRUED—111-1-28 (1), CRS '53, as amended by Chap. 211, S. L. 1963; 62-2-11, CRS '53.

### **COLLEGES AND UNIVERSITIES**

Hon. Don W. Sears, Acting Dean **63-3757**  
 School of Law  
 University of Colorado  
**November 13, 1963**

#### **Supplementing present annuities of senior faculty members.**

Questionable whether the Regents of the University could request additional moneys in its budget to increase present annuities, as such additional funds would be clearly within the meaning of 124-17-4 (2) (1960 Perm. Supp.) and consequently deductible from the payments now authorized. The authorization for additional benefits should be by additional or amendatory legislation.

STATUTES CONSTRUED—124-17-4 (2) 1960 Perm. Supp.

### **PHARMACY**

Reid T. Harley, Executive Secretary **63-3758**  
 State Board of Pharmacy  
**November 19, 1963**

A person applying for registration by reciprocity must, among other requirements, submit satisfactory evidence to the board that he has the required professional education demanded of other applicants for registration as pharmacists under the provisions of Chapter 48, Article 1, CRS '53. Exception.

STATUTES CONSTRUED—48-1-10 (1) (e) (f), CRS '53. (1960 Perm. Supp.)

**COURTS — LEGISLATION — CONSTITUTION**

Senator Carl Fulghum, Chairman 63-3759  
 Legislative Council Committee on Amendment No. 1  
 December 5, 1963

**Courts under newly enacted Art. VI, State Constitution.**

Articles 1, 2, 4 and 10, Chapter 37, CRS '53 (Courts of Record) need not be re-enacted or revived under the newly enacted Art. VI, as said articles remain in full force and effect in the absence of such re-enactment or revival.

STATUTES CONSTRUED—Chap. 37, CRS '53.

CONSTITUTION CONSTRUED—Art. VI.

**FIREMEN'S PENSION**

William O. DeSouchet, Jr. 63-3760  
 City Attorney, Alamosa  
 December 6, 1963

A member of a fire department who does not receive a regular salary but is compensated at an amount fixed for each call to which he responds may not receive a firemen's pension under 139-50-7 (1), CRS '53, as amended by Chapter 267, S. L. 1961, but he may receive a pension as provided in 139-50-16 (1) or (5), CRS '53, as amended by Chapter 267, S. L. 1961.

STATUTES CONSTRUED—139-50-7 (1), 16 (1) (5), CRS '53, as amended by Chapter 267, S. L. 1961.

**TAXATION**

Mr. Howard A. Latting, Chairman 63-3761  
 Colorado Tax Commission  
 December 3, 1963

**Tax exempt status of Congregation Beth Shalom**

Property used solely and exclusively for religious worship although owned by a business corporation is exempt from taxation.

STATUTES CONSTRUED—137-12-3 (6) CRS (1960 Perm. Supp.)

**INHERITANCE TAX**

Hon. Donald E. Kelley 63-3762  
 State Senator  
 December 9, 1963

Status of stepchild who is adopted after the age of 21 for inheritance tax purposes.

STATUTES CONSTRUED—138-4-14, CRS '53, as amended by Chapter 280, S. L. 1963.

### COSMETOLOGY

Miss Beryl W. Maus 63-3763  
 Executive Secretary  
 Department of Cosmetology  
**December 12, 1963**

A beauty school which complies with the refixed minimum price fixed by the board for similar work performed in beauty shops and proposes to offer the same service "free" to a second person accompanying the first person is not in violation of the minimum price order issued by the board.

STATUTES CONSTRUED—32-2-9 (4), CRS '53.

### POLITICAL PARTIES

Mr. Robert Maytag, Chairman 64-3764  
 Democratic State Central Committee  
**January 8, 1964**

A party vacancy committee cannot appoint someone to fill a vacancy on an election ticket who has not been a member of that particular political party for one year. See Opinion No. 60-3442.

STATUTES CONSTRUED—Chap. 118, S. L. 1963.

### LEGISLATION

Mr. William M. Griffith 64-3765  
 House of Representatives  
**January 14, 1964**

#### Revenue raising measure

Whether proposed legislation increasing the mill levy for expenses of oil and gas conservation administration would be construed as a revenue raising measure within the meaning of Article V, Section 31, State Constitution.

CONSTITUTION CONSTRUED—Article V, Secs. 7 and 31.

### CHILDREN — SCHOOLS

Dr. Byron W. Hansford 64-3766  
 Commissioner of Education  
**January 13, 1964**

Enrollment of children who are in the custody of migrant agricultural workers in summer school programs.

Under the applicable statutes, it would appear that the children and workers are not qualified as they do not constitute migrant children or workers as defined therein.

STATUTES CONSTRUED—123-30-6 (1) and (2), CRS '53.  
123-30-2 (c) and (d), CRS '53.

### LEGISLATION — INCOME TAX

Hon. William M. Griffith 64-3767  
House of Representatives  
**January 24, 1964**

Proposed legislation relating to gross income tax on oil and gas.

Under Art. X, Sec. 17, State Constitution, it would appear that the proceeds from the production of oil or gas from oil shale deposits could be exempted from the provisions of 138-1-7, CRS '53, which provides for a separate income tax upon oil and gas producers in addition to the income tax provided in 138-1-2 to 138-1-5. Oil shale deposits could not be exempted from ad valorem taxes under Art. X, Secs. 3, 4, 5 and 6 of the Constitution.

STATUTES CONSTRUED—138-1-7 and 138-1-2 to 138-1-5, CRS '53.

CONSTITUTION CONSTRUED—Art. X, Sec. 17 and Art. X, Secs. 3, 4, 5 and 6.

### LEGISLATURE

Mr. Lyle C. Kyle, Director 64-3768  
Colorado Legislative Council  
**January 24, 1964**

#### **Reapportionment.**

Provisions of Amendment No. 7, adopted by the people of Colorado in November 1963, concerning reapportionment of the General Assembly defined.

CONSTITUTION CONSTRUED—Art. V, Secs. 45 and 46.  
Cases cited.

### LEGISLATION — SCHOOLS

Hon. Ruth B. Clark 64-3769  
State Representative  
**January 29, 1964**

No constitutional objection to proposed legislation giving the State Department of Education authority to provide "consultative services" when requested, providing such services



are directly related to and are necessary for the purpose of appraisal for accreditation of non-public schools.

STATUTES CONSTRUED—Chapter 243, S. L. 1963, Sec. 5 (2) (b).

### INSURANCE

Mr. Sam N. Beery 64-3770  
Commissioner of Insurance

**February 5, 1964**

#### Bail Bondsmen

The proposed rule to exempt certain transactions from the prohibitions of the statutes re revocation of licenses constitutes a modification of the statutes and therefore is beyond the authority of the insurance commissioner to adopt.

STATUTES CONSTRUED—72-22-6 (g) and 72-22-9 (b), CRS '53, as amended by Chapter 163, S. L. 1963.

### SCHOOLS

Honorable John Kane 64-3771  
State Representative

**February 7, 1964**

Method of payment for transporting children to and from schools.

STATUTES CONSTRUED — 123-10-58 (1) and 123-10-67, CRS '53 (1960 Perm. Supp.)

### LEGISLATURE — COUNTIES

Mr. A. Woody Hewett 64-3772  
State Senator

**February 10, 1964**

#### Reapportionment.

If the boundary lines of a county are changed, the physical boundaries of senatorial districts are based upon the county or group of counties as an entity.

CONSTITUTION CONSTRUED— Art. V, Sec. 47.

### HIGHWAYS — GAME AND FISH

John J. Lefferdink 64-3773  
Deputy District Attorney  
Eads, Colorado

**February 18, 1964**

Proceedings to establish highways pursuant to Sections

5833-5853, of Revised 1908 are valid where there has been substantial compliance with the statute.

Where the proceedings to establish a road are valid, the fact that the road was never opened is not deemed to be an abandonment thereof nor is the fact that the road was not opened to the full width of its dedication deemed to be an abandonment of those portions not opened, as the question of abandonment is one of fact.

A lessee is an owner or a person in charge of property as to require his permission to hunt and fish on the premises.

STATUTES CONSTRUED—62-1-4, CRS '53, as amended.

### PROFESSIONAL ENGINEERS

State Board of Registration 64-3774  
for Professional Engineers

**March 2, 1964**

The Board should accept a "State High School Equivalency" Certificate issued by the Department of Education, in lieu of graduation, from high school as satisfying the minimum qualifications required of an applicant for registration as a land surveyor.

STATUTES CONSTRUED—51-2-4 (1), CRS '53.

### LAND BOARD PUBLIC FUNDS

Hon. John P. Proctor 64-3775  
State Auditor

**March 4, 1964**

#### Investment of public school funds by Land Board.

Concerning the methods of accounting used by State Board of Land Commissioners and construing the term "interest" as used in Art. IX, Sec. 3, Colorado Constitution.

### HIGHWAYS — CITIES AND TOWNS

Neil C. King, Esq. 64-3776  
City Attorney  
Boulder, Colorado

**March 10, 1964**

#### Denver-Boulder Turnpike

The Department of Highways, State of Colorado, can, as a matter of law, modify the South Boulder Road entrance and exit providing such modifications were designed exclusively for the convenient movement of north-south inter-city traffic,

and provided further that such modifications did not destroy the express characteristics of the facilities (Denver-Boulder Turnpike), or impair or diminish the revenue currently being received and anticipated. Any modification, however, would require the review, comments and advice of the department's advisory engineer pursuant to the resolution and bonds of the Denver-Boulder Turnpike.

#### SAVINGS AND LOAN ASSOCIATION

Mr. Guy L. Reed, Commissioner 64-3777  
Savings and Loan Department  
March 12, 1964

A savings and loan association which is chartered under the Colorado laws and operates under a limited provision in its by-laws relating to proxies cannot take and use permanent proxies obtained from its members under said provision.

STATUTES CONSTRUED—31-30-15 and 31-30-16, CRS '53.

#### NURSING

Mrs. Jean B. Beran, Executive Secretary 64-3778  
Board of Licensed Practical Nurse Examiners  
March 17, 1964

The Board of Licensed Practical Nurse Examiners may not issue a license by endorsement, without examination, to a person who is licensed in another state, but who is a graduate of a school whose program is of less than twelve months' duration.

STATUTES CONSTRUED—97-3-12, 13 and 16, CRS '53.

#### LAND BOARD — PUBLIC UTILITIES

State Board of Land Commissioners 64-3779  
March 18, 1964

**Mountain States Telephone and Telegraph Co. — right-of-way.**

The granting of a right of way across state-owned school lands to the above company for the purpose of constructing and maintaining a microwave repeater station is for the State Board of Land Commissioners to determine.

Said board may grant a right of way across state-owned land for the purpose of constructing and maintaining an access road to such a microwave repeater station, provided such access road is a public highway.

STATUTES CONSTRUED—112-3-37, CRS '53.

**MOTOR VEHICLES — HIGHWAYS**

G. R. Carrel, Chief  
Colorado State Patrol  
**March 19, 1964**

64-3780

The fertilizer spreaders as specifically posed in your inquiry do not qualify as implements of husbandry and are not exempt from the provisions of 13-4-86 thru 119, and 13-5, CRS '53, as amended.

STATUTES CONSTRUED—13-4-86 thru 119, and 13-5, CRS '53, as amended.

**LEGISLATURE — ELECTIONS**

Mr. John E. Hill, Commissioner  
Board of County Commissioners, Pueblo  
**March 20, 1964**

64-3781

**Reapportionment.** Change in boundaries of election precincts.

When any precinct, as it existed on January 11, 1963, subsequently exceeds one thousand registered electors, the precinct may be divided into two or more precincts or two precincts may be reorganized into three or more precincts according to the registered elector limits specified in the election code, but in no case shall any precinct cross any state representative or senatorial district boundary line.

STATUTES CONSTRUED—63-1-7, CRS '53, as amended by Sec. 7, Chap. 143, S. L. 1963.

**ELECTIONS — JUDICIAL DISTRICTS**

Mr. Robert Dunlap  
Attorney at Law  
Colorado Springs, Colo.  
**March 20, 1964**

64-3782

**Fourth Judicial District elections in 1964**

The district attorney and two district judges for the Fourth Judicial District should be elected at the general election in 1964 by the qualified electors of El Paso, Kit Carson, Lincoln and Teller counties. Elbert county has been removed from said district.

Electors of Douglas and Elbert counties will vote in the Eighteenth Judicial District.

STATUTES CONSTRUED—37-12-1, et seq. CRS '53, as amended by Chapter 42, S. L. 1964.

**LAND BOARD — HIGHWAYS**

Mr. Wesley E. Woodward, Engineer  
Board of Land Commissioners

**64-3783****April 2, 1964****Rights of way.**

The Land Board has the right to grant rights of way to private companies or individuals for ditches, reservoirs, railroads, public highway, telegraph, telephone or pipe lines.

The Land Board cannot grant rights of way to private companies or individuals for purposes other than those specifically set forth in the statute, namely, for ditches, reservoirs, railroads, public highways, telegraph or telephone or pipe lines.

STATUTES CONSTRUED—112-3-37, CRS '53.

**POLICEMEN'S PENSIONS**

Blakemore McCarty  
City Attorney, Colo. Springs

**64-3784****April 13, 1964**

If a policeman qualifies for a pension in more than one police department he would be entitled to a pension from each department.

STATUTES CONSTRUED—139-49-23 as amended in 1957, CRS '53, (1960 Perm. Supp.)

**CITIES AND TOWNS — HIGHWAYS**

Mr. George E. Dilts  
City Attorney  
Cortez, Colorado

**64-3785****April 23, 1964****Jurisdiction over certain traffic regulations over streets.**

A left turn vehicular movement across a double yellow line on a state highway within a city is a matter of local concern and can be regulated by ordinance. The approval of the Department of Highways is not required unless it is of state-wide concern.

STATUTES CONSTRUED—120-13-35, CRS '53, Subsection 7.

**COURTS — DOCKET FEES**

Mrs. Bernice Ward 64-3786  
 Clerk, Brighton County Court  
**April 30, 1964**

No docket fees, filing fees, or jury fees or other costs should be charged against anyone filing proceedings respecting dependent and neglected children.

STATUTES CONSTRUED—22-1-4, CRS '53.

**COURTS — ELECTIONS**

Mr. Eugene D. Lorig 64-3787  
 County Attorney, Eagle  
**May 3, 1964**

Residence of Assistant County Judge

The term "official residence" with reference to an assistant county judge means the place where the judge shall dwell during his term of office. He could retain his legal residence or domicile outside a town, but he should dwell or live within the incorporated area of said town.

STATUTES CONSTRUED—Chapter 45, Section 16 (3), S. L. 1964.

**PUBLIC WELFARE**

Mr. Guy R. Justis, Director 64-3788  
 State Department of Public Welfare  
**May 7, 1964**

**Medical Assistance for the Aged Program, Chap. 67, S. L. 1964**

Interpretation of said law affecting

- (1) Establishing "Price Schedules" and
- (2) Determination of proper schedules-relation to O.A.P. and use of percentage formulas.

STATUTES CONSTRUED—Chap. 67, S. L. 1964.

**BOARDS AND COMMISSIONS — PAROLE DEPARTMENT**

Honorable John A. Love 64-3789  
 Governor of Colorado  
**May 8, 1964**

**Reapportionment** — Persons now serving on state boards and commissions remain unchanged under the new congressional realignment; however, new appointments or reappointments should be made accordingly.

Status of assistant directors of parole remain unchanged.  
**STATUTES CONSTRUED** — Statutes affecting various boards and commissions defined.

### ELECTIONS — POLITICAL PARTIES

Mrs. Marjorie Page, Secretary-Treasurer **64-3790**  
 State Association of County Clerks

**May 8, 1964**

Manner of appointing precinct registration committee members where two or more election precincts have been combined for precinct registration.

Right of a person to destroy a withdrawn challenge.

**STATUTES CONSTRUED**—Secs. 24 (1) (c) and 25, Election Code 1963.

### ELECTIONS

Mr. Max Snyder **64-3791**  
 Fort Morgan, Colorado

**May 8, 1964**

If precinct registration is conducted in any county of less than three hundred thousand population, precinct registration must be conducted in each precinct wholly or partially within municipal boundaries of the county seat and precincts therein cannot be combined for the purposes of such registration.

**STATUTES CONSTRUED**—Sec. 24, Chap. 118, S. L. 1963.

### JURIES

Hon. Robert G. Porter **64-3792**  
 Judge of the County Court, Gunnison

**May 12, 1964**

In view of apparent conflict in provisions of 78-2-10 and 78-2-11, it would be safer to follow the provisions of 78-2-11, in summoning a jury in the county court, and said service may be made by certified mail, return receipt requested, rather than by registered mail.

Under 135-1-2 (1960 Perm. Supp.), the words "registered mail" shall be construed to include "certified mail."

**STATUTES CONSTRUED**—78-2-10, 11, CRS '53. 135-1-2 (1960 Perm. Supp.)

**SCHOOLS — ANTI-DISCRIMINATION COMMISSION**

Dr. Byron W. Hansford  
Commissioner of Education

64-3793

**May 14, 1964**

The ruling of the Anti-Discrimination Commission that a school district may not require a photograph be attached to an application for employment form depends upon the facts and circumstances of each case, and particularly the necessity of requiring in advance that the personal appearance of the applicant is a factor to be considered in connection with employment.

The Commission may make reasonable requests to employers, including school districts, to submit copies of application for employment forms to it for inspection.

STATUTES CONSTRUED—80-24-6 (5) CRS (1960 Perm. Supp.)

80-24-5 (5) CRS (1960 Perm. Supp.)

**POLICEMEN'S PENSIONS**

David L. Roberts  
City Attorney, Fort Morgan

64-3794

**May 14, 1964**

A member of a police department in a municipality with a population under fifty thousand who becomes physically disabled, which renders his retirement necessary, is eligible to pension payments regardless of whether or not it was a service connected disability.

STATUTES CONSTRUED—139-49-22 (3), CRS '53 (1960 Perm. Supp.)

**SCHOOL OF MINES**

Mr. W. M. Williams, Director  
State Planning Division

64-3795

**April 21, 1964**

The Board of Trustees of the Colorado School of Mines does not have the authority to lease state land under its supervision to a fraternity or similar private group, for the erection of a fraternity house on such land.

CONSTITUTION CONSTRUED—Art. VIII, Sec. 5.

STATUTES CONSTRUED—Pertinent statutes cited.



**ELECTIONS — DISTRICT JUDGES**

Mr. H. Jackson Clark, Chairman 64-3796  
 La Plata County Republican Central Committee  
 May 20, 1964

A candidate running for district judge in the present 6th Judicial District to fill the existing vacancy must run in all five counties, and if elected would serve during the unexpired term, which in this case would be the second Tuesday of January 1967. If a candidate should be elected from Montezuma County it would be necessary for him to move to either Archuleta, La Plata or San Juan County before the 2nd Tuesday in January 1967 in order to serve as District Judge for the new 6th Judicial District after such date.

STATUTES CONSTRUED—Chap. 42, S. L. 1964.

**MOTOR VEHICLES — STATE PATROL**

Gilbert R. Carrel, Chief 64-3797  
 Colorado State Patrol  
 May 26, 1964

Until 120-10-15, CRS '53, is declared unconstitutional by the courts, it is our opinion the State Patrol has the authority to set up road blocks for the purpose of conducting safety inspection checks and examination of operator's licenses and registration cards.

STATUTES CONSTRUED—120-10-15, CRS '53.

**ELECTIONS**

Mr. Robert Maytag, Chairman 64-3798  
 Democratic State Central Committee  
 May 29, 1964

**New residents' registration.**

Registration of residents of the state for six months, under the provisions of Chap. 117, Sec. 2 (1), S. L. 1963, is limited to registration by the county clerk or election commission and not by a registration committee at precinct registration.

STATUTES CONSTRUED—Chapters 117 and 118, S. L. 1963.

**COURTS — ELECTIONS — JUDICIAL DISTRICTS**

Mr. Adolph Turkowski, Chairman 64-3799  
 Adams County Democratic Central Committee  
 June 3, 1964

The qualifications for district judges, as specified in Section 11 of the new Article VI of the Constitution, also applies

to candidates for district attorney in the 1964 general elections.  
 STATUTES CONSTRUED—Chapter 42, S. L. 1964.  
 CONSTITUTION CONSTRUED—New Article VI, State  
 Constitution.

### ELECTIONS

Mr. Max W. Speckmann 64-3800  
 County Clerk and Recorder  
**June 11, 1964**

**Vacancy in position of judge of election.**

If a vacancy shall occur following the initial appointment by the county clerk of the judges of election, the county clerk shall notify the party county chairman pursuant to Section 90 (1), Chapter 118, S. L. 1963, and obtain his recommendation of another person to serve as judge of election.

STATUTES CONSTRUED—Chapter 118, Secs. 87 (1) and 90 (1). S. L. 1963.

### FUNERAL DIRECTORS AND EMBALMERS

Lyle C. Kyle, Director 64-3801  
 Legislative Council  
**June 18, 1964**

The State Board of Funeral Directors and Embalmers (1) may require that all applicants for licenses must be legal residents of Colorado; (2) may not require a reinstatement fee of \$50 for the holder of a license by reciprocity; (3) may require an applicant for a license by reciprocity to justify his request and be a legal resident; and (4) has investigative powers.

STATUTES CONSTRUED—61-3-8, 16, 31, CRS '53 (1960 Perm. Supp.)

### STATE HOSPITAL

Charles E. Meredith, M. D. 64-3802  
 Superintendent, Colorado State Hospital  
**May 27, 1964**

The Superintendent of the State Hospital cannot allow patient privileges with or without the oral or written consent of the committing court. The procedure for a discharge or probationary release must be followed as specified by law. Superintendent cannot confine and care for the criminal insane in any wards with other voluntary or civilly committed patients.

STATUTES CONSTRUED—39-8-4 (2), (3), (4), CRS '53 (1960 Perm. Supp.)

**STATE HOSPITAL**

Charles E. Meredith, M. D. 64-3803  
 Superintendent, Colorado State Hospital  
**June 2, 1964**

Procedure for adjudication of competency.  
 STATUTES CONSTRUED—71-1-26 and 27, CRS '53.

**INSTITUTIONS — MEDICAL BOARD**

Charles E. Meredith, M. D. 64-3804  
 Superintendent, Colorado State Hospital  
**June 12, 1964**

In case of denial of license for Colorado State Hospital physicians who are foreign graduates, Attorney General would represent State Board of Medical Examiners in the courts, if challenged.

STATUTES CONSTRUED—3-11-2 (b) CRS '53, as amended by Chap. 39, S. L. 1963.

**NURSING**

Madolin M. Dickinson, R. N. 64-3805  
 Director, State Board of Nursing  
**June 18, 1964**

A professional nurse who, for compensation, performs independent functions of nursing for the benefit and under the direction of a person practicing chiropractic medicine does not violate the Professional Nursing Practice Act of Colorado.

STATUTES CONSTRUED—97-2-2 (1), CRS '53 (1960 Supp.) Chap. 23, CRS '53 (1960 Perm. Supp.)

**EMPLOYEES RETIREMENT**

Mr. Raymond J. Heath, Secretary 64-3806  
 Public Employes Retirement Association  
**June 23, 1964**

**Notice of Levy, District Director of Internal Revenue.**

Under the stated facts, the exemptions provided in the state statute do not apply to the federal law, and said notice of levy should be complied with.

STATUTES CONSTRUED—111-2-19, CRS '53.

**ACCOUNTANTS**

State Board of Accountancy 64-3807  
**June 30, 1964**

From the list of firms submitted, it appears that the non-

certified individuals who are usually referred to as "principals" or "participating principals" are not engaged in partnership with certified public accountants and said arrangements do not constitute a violation of the statute.

STATUTES CONSTRUED—2-2-14 (1) (d), CRS '53.

#### STATE HOSPITAL

Charles E. Meredith, M. D. 64-3808  
Superintendent, State Hospital

June 29, 1964

##### Short Term Involuntary Hospitalization.

Procedure for the release or discharge of said persons.

STATUTES CONSTRUED—71-1-4 (1) CRS '53 (1960 Perm. Supp.) as amended by Chapter 65, S. L. 1962.

#### STATE HOSPITAL — PUBLIC INSTITUTIONS

Mr. Fred Runyon 64-3809  
Colorado State Hospital

June 30, 1964

The State and not relatives are responsible for the care, support, maintenance and psychiatric services for sex offenders committed directly to the hospital or transferred by the State Board of Parole.

STATUTES CONSTRUED—39-19-9 and 10, CRS '53 (1960 Perm. Supp.) Chap. 59, S. L. 1964.

#### FIRE PROTECTION DISTRICTS

Honorable John A. Love 64-3810  
Governor of Colorado

July 9, 1964

Authority of Fire Protection Districts to promulgate control regulations and enforcement thereof under the provisions of 89-6-35 to 41, CRS '53, as amended by Chapter 197, S. L. 1963.

STATUTES CONSTRUED—Chap. 197, S. L. 1963.

#### PUBLIC WELFARE

Mr. John Dunn, Acting Director 64-3811  
State Department of Public Welfare

July 10, 1964

Physicians' Home and Office Visits under MAA.

The Medical Assistance for the Aged Law (MAA) (Chap-

ter 67, S. L. 1964) includes licensed physicians' services in home and office calls, as well as licensed physicians' services in hospitals and nursing homes. Certain medical services named in Section 8 (4) of said act are within the discretion of the State Board of Public Welfare to make available.

STATUTES CONSTRUED—Chapter 67, S. L. 1964.

#### APPORTIONMENT — LEGISLATURE

Representative Lowell B. Compton 64-3812  
La Junta, Colorado

**July 13, 1964**

##### **Congressional Apportionment.**

Designation of candidates for nomination for member of 45th General Assembly under Chapter 1, Second Extraordinary Session Laws of 1964.

STATUTES CONSTRUED — Chapter 1, Second Extraordinary Session Laws 1964.

#### POLITICAL PARTIES — ELECTIONS

Mrs. Sylvia L. Gaylord 64-3813  
County Clerk and Recorder, San Juan County

**July 15, 1964.**

Unless a prospective candidate has been affiliated with one political party **within this state** for at least twelve months, and has otherwise complied with the provisions of residence, transfer of party affiliation within the state, and designation or vacancy appointment, he shall be ineligible for nomination for the office of county judge by a political party in the primary election. Party affiliation cannot be transferred into this state from another state.

CONSTITUTION CONSTRUED—Article VI, Sec. 16, State Constitution.

STATUTES CONSTRUED—Chapter 118, S. L. 1963.

#### EMPLOYEES RETIREMENT

Board of Managers 64-3814  
Public Employees Retirement Association

**July 15, 1964.**

##### **Pension status of William E. Goosman**

After considering all the facts involved, the services of the above-named prior to January 1947 cannot be considered in determining the time of his eligibility for pension or the amount thereof.

STATUTES CONSTRUED—111-1-10, 13, CRS '53.

**INSURANCE — ACTIONS — ADAMS STATE COLLEGE**

Mr. Leonard G. McLean  
Adams State College

64-3815

**July 16, 1964**

**Liability insurance on employees.**

The procuring of liability insurance on self-liquidating properties of the college to cover injuries occurring in student rental and dining facilities and injuries which might arise at athletic functions would in some measure protect the State, since the payment of the insurance company of a claim against an employee directly responsible for the damage would prevent the assertion of a claim for the same damage against the State, or its institutions.

STATUTES CONSTRUED—Chapter 67, S. L. 1962.

**TAXATION — COUNTY TREASURER**

Mr. John B. Smith  
District Attorney

64-3816

**July 20, 1964**

**Tax sale certificates, redemption of**

The redemption provisions of 137-12-3 (3) (5), CRS '53, as amended by Chapter 94, S. L. 1964, do not require the redeemor to repay the cash excess as required in Section 4 thereof.

STATUTES CONSTRUED—137-12-3 (3) (5) and 4, CRS '53, as amended by Chapter 94, S. L. 1964. 137-11-15, as amended by Chapter 94, S. L. 1964.

**ELECTIONS**

Mr. Harlan Johnson  
County Attorney of Prowers County

64-3817

**July 23, 1964**

Section 119 (2) of Chapter 118, S. L. 1963, does not require an elector to personally sign his registration sheet at, or before, the time of casting an absent voter's ballot. Section 144 (1) requires the acknowledged signature of the voter on the affidavit printed on the return envelope.

STATUTES CONSTRUED—119 (2) and 144 (1), Chapter 118, S. L. 1963.

**ELECTIONS — COUNTY CLERKS**

Mrs. Marjorie Page, Sec.-Treas. 64-3818  
State Association of County Clerks  
**July 23, 1964**

Section 141 (1), Chapter 118, S. L. 1963, does not require county clerks to personally deliver absent voters' ballots to persons making application therefor. No provision in 1963 election code authorizing "branch registration."

STATUTES CONSTRUED—Sec. 141 (1), Chap. 118, S. L. 1963.

**COUNTY JUDGES**

Hon. Addison M. Gooding 64-3819  
District Judge, Steamboat Springs  
**July 24, 1964**

Under Section 10 (3), Chapter 45, S. L. 1964, it appears the General Assembly intended that county judges should be required to serve as referees in the district court in juvenile and mental health matters for which no additional compensation is provided.

Rule 53, Colorado Rules of Civil Procedure, provides for the appointment, compensation and procedures of masters or referees in general and applies only to the "other matters" and not to juvenile and mental health cases.

STATUTES CONSTRUED—Section 10 (3), Chapter 45, S. L. 1964. Rule 53, CRCP.

**APPORTIONMENT — GENERAL ASSEMBLY**

Mr. Vincent F. Ryan, Chairman 64-3820  
Denver County Democratic Central Committee  
**July 30, 1964**

Under Section 4, Article V, State Constitution, a candidate for the General Assembly must reside within the territorial limits of the county in which he shall be chosen, for twelve months prior to his election.

The Supreme Court in the case of **White v. Anderson** stayed districting within a county insofar as the 1964 elections are concerned.

CONSTITUTION CONSTRUED—Sec. 4, Art. V, State Constitution.

**ELECTIONS**

Mr. Clarence J. Weber, Chairman **64-3821**  
 Kiowa County Democratic Central Committee  
**August 10, 1964**

The person involved herein may register after the primary election in 1964, if he will be eligible to vote at the next ensuing election; said person, however, will not be eligible to be appointed by a vacancy committee in 1964.

Only the date on which the absent voter's ballot is delivered or mailed out by the county clerk is recorded on the registration sheet.

A person may register prior to his residing in the state for one year if he will become eligible to vote prior to the next ensuing election.

STATUTES CONSTRUED—Secs. 17, 38, 80, 142, Chapter 118, S. L. 1963.

**ELECTIONS**

Senator Earl A. Wolvington **64-3822**  
 Sterling, Colorado  
**August 11, 1964**

The vacancy committee of the senatorial district from which the senator was elected in the general election of 1962, should be the vacancy committee to fill the vacancy created by the resignation of such senator.

STATUTES CONSTRUED — Chapter 2, Second Extra, Session, 1964.

**COAL MINES**

Mr. Donald Haske **64-3823**  
 Chief Inspector of Coal Mines  
**August 17, 1964**

The State Coal Mine Inspection Department has jurisdiction over the preparatory work involved in uncovering the coal strata in an open-pit mine prior to the actual commencement of mining operations. See Opinion 1198-48, dated January 22, 1948.

STATUTES CONSTRUED—92-1-2, CRS '53.

**NURSING**

Jean B. Beran, R. N. **64-3824**  
 Board of Licensed Practical Nurse Examiners  
**August 19, 1964**

A licensed practical nurse is not in violation of the Prac-



tical Nursing Practice Act if she performs certain duties under the direction of a licensed chiropractor.

STATUTES CONSTRUED—97-3-3, CRS '53 (1960 Perm. Supp.)

### LEGISLATION

Mr. Dwight E. Neill, Director 64-3825  
 Division of Commerce and Development  
**August 31, 1964**

Proposed legislation concerning public and quasi-public financing of industry in Colorado would be unconstitutional.

CONSTITUTION CONSTRUED—Art. XI, Sec. 1, State Constitution.

### COURTS — CHILDREN

Honorable Dale E. Shannon 64-3826  
 Judge of the District Court  
 Fort Collins, Colorado  
**September 11, 1964**

New judicial amendment construed as follows:

A judge may release for good cause the names of juveniles involved in juvenile proceedings.

A court would not be prevented from holding juvenile proceedings in open court.

The Constitution does not apply to whether trials must be held publicly or may be held privately.

STATUTES CONSTRUED — 22-10-1, 22-8-1 (4), 22-1-5 (5), CRS '53.

CONSTITUTION CONSTRUED—Art. II, Sec. 6.

### PUBLIC WELFARE — CHILDREN

Mr. Thomas G. Bell, Director 64-3827  
 State Department of Public Welfare  
**September 18, 1964**

A stepfather is not responsible for the support of a step-child, either partially or wholly, and has no legal obligation to assume a parental role in ADC cases.

STATUTES CONSTRUED—Chap. 22, Art. 2, CRS '53, as amended. (Aid to Dependent Children Law)

**JUNIOR COLLEGE DISTRICTS**

Dr. Bryon W. Hansford  
Commissioner of Education

64-3828

**October 2, 1964**

Junior college districts may build dormitories through a general obligation bonded indebtedness, provided such indebtedness is authorized by vote of the taxpaying electors. See also Opinion 56-2934.

**REAL ESTATE BROKERS —  
SAVINGS AND LOAN ASSOCIATIONS**

Mr. Keith T. Koske, Executive Secretary  
Colorado Real Estate Commission

64-3829

**October 19, 1964**

Real estate broker receiving deposit money under an executory contract for sale of land cannot deposit such funds in (1) a savings and loan association and (2) time savings account in a chartered commercial bank.

Under the stated factual situations, transferring possession of deposit money by the broker to other parties will not relieve broker of his responsibilities under the statute, exception.

STATUTES CONSTRUED—117-1-12 (1) (g), CRS '53, as amended.

**ATHLETIC COMMISSION**

Mr. Eddie Bohn, Chairman  
State Athletic Commission

64-3830

**October 19, 1964**

The State Athletic Commission cannot impose the tax authorized by 129-1-13, CRS '53, on the proceeds of tickets sold for viewing so-called "piped in" televised boxing contests held outside of the State of Colorado.

STATUTES CONSTRUED—129-1-13, CRS '53.

**PHARMACY**

Mr. D. L. Simmons, Executive Secretary  
State Board of Pharmacy

64-3831

**October 22, 1964**

Under 48-1-22 (11), CRS '53, the fee for transferring a pharmacy license to a new owner is \$5.00, and the fee for transferring a manager's name is \$1.00, under 48-1-22 (12), CRS '53.

STATUTES CONSTRUED—48-1-22 (11) (12), CRS '53.

**INSURANCE — CORPORATIONS**

Mr. J. Richard Barnes **64-3832**  
Commissioner of Insurance

**November 9, 1964**

The proper fee for filing an amendment to articles of incorporation of a foreign insurance company is \$5.00.

STATUTES CONSTRUED—72-1-34 and 72-1-12 (1) (g), CRS '53.

**SCHOOLS — COUNTY TREASURER**

Dr. Byron W. Hansford **64-3833**  
Commissioner of Education

**November 17, 1964**

The county treasurer is not entitled to collect 1 percent fee on moneys received by virtue of a tax levied pursuant to 123-11-19 (4) or to collect 1 percent fee on taxes collected to pay principal and interest on bonds.

STATUTES CONSTRUED—123-11-19 (4) CRS '53 (Chap. 70, S. L. 1964).

**RACING COMMISSION**

Colorado Racing Commission **64-3834**

**November 20, 1964**

Procedure covering the method of handling under and over-payments which occur on a charity racing day.

STATUTES CONSTRUED—129-2-10 (1) (b) and 129-2-11 (1), CRS '53.

**CHILDREN — COURTS**

Bert M. Keating, Esq. **64-3835**  
District Attorney, Denver

**November 23, 1964**

Venue for trial of juveniles under 18 years of age when charged with crime committed in a county other than their county of residence.

STATUTES CONSTRUED—40-1-3 and 4, CRS '53. 22-8-7, CRS '53.

**POLICEMEN'S PENSION**

Rexford L. Mitchell, Esq.  
City Attorney, Rocky Ford

64-3836

**December 1, 1964**

In the absence of statutory authority, no provision for re-funding contributions in the event a police officer is either discharged or voluntarily quits prior to his eligibility for pension.

STATUTES CONSTRUED—139-49-14 and 24, CRS '53.

**POLITICAL PARTIES — ELECTIONS**

Mr. Adolph Turkowski, Chairman  
Adams County Democratic Central Committee

64-3837

**December 1, 1964**

Under the election laws, no statutory authority for a county central committee of either party to remove an office-holder elected at a primary election for violations of party rules.

STATUTES CONSTRUED—49-6-6 and 49-5-8, CRS '53.

**PROFESSIONAL ENGINEERS**

Col. Henry J. Ochs, Jr.  
Board of Registration for  
Professional Engineers

64-3838

**December 2, 1964**

A Colorado registered Professional Engineer is not entitled to practice Land Surveying in Colorado by virtue of his registration as a Professional Engineer. Must also be registered as a Land Surveyor in order to practice land surveying in Colorado.

STATUTES CONSTRUED—51-1-2 (3) (a), CRS '53. Cases cited.

**SCHOOL DISTRICTS**

Mr. C. C. Steward  
Superintendent of Schools  
District RE 1J

64-3839

**December 11, 1964**

Where two districts have only the corners joining, the districts are two adjoining districts within the meaning of 123-25-45, CRS '63.

STATUTES CONSTRUED—123-25-45, CRS '63.

**LEGISLATURE**

Hon. John P. Orcutt 64-3840  
State Representative

**December 16, 1964**

A person elected as state representative who refuses or fails to qualify and take the oath of office of state representative within the time prescribed by law, thereby creates a vacancy therein which may be filled by appointment pursuant to law. In this particular case, said person may become eligible for appointment to the senate to fill a vacancy existing therein.

CONSTITUTION CONSTRUED—Sec. 10, Article XII, State Constitution.

**CHILDREN — SCHOOLS**

Dr. Byron W. Hansford 64-3841  
Commissioner of Education

**December 16, 1964**

**Education of handicapped children.**

If a child between the ages of six and twenty-one years is mentally retarded but can benefit from an educational program which can be provided by the public schools, then the schools are obligated to provide such a program.

No statutory provision authorizing a school district to expend public moneys to assist community center boards for the training of noneducable children.

Attendance of such children cannot be counted for obtaining state and county aid under the Public School Foundation Act and Transportation Act.

STATUTES CONSTRUED—123-22-2, CRS '63; Chap. 243, Sec. 7, S. L. 1963.

CONSTITUTION CONSTRUED—Art. IX, Sec. 2, State Constitution.

**ABSTRACTERS**

Mr. James O. Hickman, Secretary 64-3842  
Abstracters' Board of Examiners

**December 17, 1964**

Only licensed abstracters may engage in the business of making, compiling or selling foreclosure certificates.

STATUTES CONSTRUED—1-1-1, CRS '63.

**INSURANCE — REAL ESTATE**

Mr. J. Richard Barnes  
Commissioner of Insurance

**64-3843****December 21, 1964**

Real estate in order to qualify under 72-1-38 (a) and (b) and 72-2-7 (3), CRS '63 must be improved real estate. Undeveloped real estate without existing improvements, whether plans for improvements then exist or not, do not qualify. First liens must be secured by real estate with existing improvements.

STATUTES CONSTRUED—72-1-38 (1) (a) and (b) and 72-2-7 (3), CRS '63.

**PHARMACY**

Mr. D. L. Simmons, Executive Secretary  
State Board of Pharmacy

**64-3844****December 29, 1964**

The State Board of Pharmacy has authority to inspect hospitals, and nursing homes wherein drugs, medicines and poisons are compounded or dispensed, whether such establishments are licensed by the board. Places where drugs, medicines, and poisons are merely stored, or doctors' offices are not subject to inspection by the board.

STATUTES CONSTRUED—48-1-2 (1) (g), CRS '63.

**Part II**  
**CASES PENDING AND DISPOSED OF IN**  
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**1963-1964**





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- 371 *J. D. Sterling vs. People of the State of Colorado*. No. 1129. Certiorari. Case closed.
- 383 *James H. Jobe vs. People of the State of Colorado*. No. 1106 Misc. Certiorari. Case closed.
- 384 *Willie James Lawery, Jr. vs. People of the State of Colorado*. No. 1159 Misc. Certiorari. Case closed.
- 387 *Vernon Sides vs. People of the State of Colorado*. No. 1213 Misc. Oct. Term 1962. Certiorari. Case closed.
- 411 *Ernest Joseph Mills vs. Harry C. Tinsley, Warden State Penitentiary*. No. 1334 Misc. Certiorari. Case closed.
- 443 *Fred Guadalupe Trujillo vs. People of the State of Colorado*. No. 1368 Misc. Oct. Term 1962. Certiorari. Case closed.

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- 131 *Joe Dean Quintana vs. People of the State of Colorado*. No. 355 Misc. Oct. Term 1963. Certiorari. Case closed.
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- 257 *Robert Wilcox vs. People of the State of Colorado.* No. 219 Misc. Oct. Term 1963. Certiorari. Case closed.
- 327 *Vernon Johnson vs. People of the State of Colorado.* No. 820 Misc. Oct. Term 1963. Certiorari. Case closed.
- 355 *Gilbert Aragon vs. People of the State of Colorado.* No. 795 Misc. Oct. Term 1963. Certiorari. Case closed.

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- 63 *Theodore C. Ruark vs. People of the State of Colorado.* No. 1173 Misc. Oct. Term 1963. Certiorari. Case closed.
- 64 *Joseph Corbett, Jr. vs. People of the State of Colorado.* No. 1223 Misc. Oct. Term 1963. Certiorari. Case closed.
- 123 *Alfred Ortega Medina vs. People of the State of Colorado.* No. 1257 Misc. Oct. Term 1963. Certiorari. Case closed.
- 373 *James Albert Gonzales vs. People of the State of Colorado.* No. 109 Misc. Oct. Term 1964. Case closed.

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- 15 *Rex Edwin Keller, Jr., vs. Harry C. Tinsley, Warden State Penitentiary.* No. 454 Misc. Oct. Term 1964. Certiorari. Case closed.
- 27 *Samuel Arthur vs. People of the State of Colorado.* No. 486 Misc. Oct. Term 1964. Certiorari. Case closed.
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- 86 *Murray Kirk vs. Honorable Henry E. Santo, Judge of the District Court, et al.* No. 591 Misc. Oct. Term 1964. Certiorari. Case closed.
- 93 *Arthur J. Watson vs. People of the State of Colorado.* No. 632 Misc. Oct. Term 1964. Certiorari. Case closed.

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- 386 *Gordon Benjamin Brown vs. People of the State of Colorado.* No. 7914. Habeas Corpus. Case closed.

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- 62 *Harry Reach vs. Harry C. Tinsley, Warden State Penitentiary.* No. 8030. Habeas Corpus. Case closed.
- 70 *Roscoe P. Sexton vs. Harry C. Tinsley, Warden State Penitentiary.* No. 8041. Habeas Corpus. Case closed.
- 75 *Albert J. Kostal vs. Harry C. Tinsley, Warden State Penitentiary.* No. 8057. Habeas Corpus. Case closed.
- 97 *Edward James Krantz vs. Harry C. Tinsley, Warden State Penitentiary.* No. 8081. Habeas Corpus.
- 132 *Earl L. Hollon, Jr., vs. Harry C. Tinsley, Warden State Penitentiary.* No. 8098. Habeas Corpus. Case closed.

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- 444 *George I. Norman, Jr., et al. vs. Duke W. Dunbar, Attorney General.* City and County of Denver No. B61568. Charter of City of Central and gambling license.
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- 449 *Board of County Commissioners of Jefferson County, et al. Northwestern Engineering Co., et al.* Jefferson County. Condemnation. Case pending.
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- 348 *Denver-Laramie-Walden Truck Line, Inc. vs. Denver-Ft. Collins Freight Service, et al.* City and County of Denver No. B61006. PUC matter. Case closed.
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- 449 *Board of County Commissioners of Adams County, et al. vs. Elvie H. Jensen, et al.* Adams County. Condemnation. Case pending.
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- 2 *Board of County Commissioners of Mesa County, et al. vs. LeRoy S. White, et al.* Mesa County. Condemnation. Case pending.
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- 23 *Board of County Commissioners of Summit County, et al. vs. Department of Highways.* Summit County No. 2179. Breach of contract. Case pending.
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- 33 *Board of County Commissioners of La Plata County, et al. vs. Joseph J. F. Merrick, et al.* La Plata County. Condemnation. Case pending.
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- 36 *Board of County Commissioners of Archuleta County, et al. vs. Ruth Adams, et al.* Archuleta County. Condemnation. Case pending.
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- 48 *C. J. Herbertson vs. Commissioner of Insurance.* City and County of Denver No. B70090. Bail bond license.
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- 67 *Colorado State Board of Medical Examiners vs. St. Francis Hospital.* City and County of Denver No. B70516. To submit records of certain hospital patients. Case pending.
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- 92 *Mesa Federal Savings and Loan Association of Grand Junction vs. Alfred Nestler, et al.* Mesa County No. 13697. Foreclosure.
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- 104 *Valley Federal Savings and Loan Association of Grand Junction vs. Quentin K. Craft, et al.* Mesa County No. 13911. Foreclosure.
- 105 *Virgil D. Weidemann vs. Industrial Commission, et al.* City and County of Denver No. B70091. Unemployment Compensation.
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- 7 *Majestic Savings and Loan Association vs. National Growth Corporation, et al.* Jefferson County No. 21582. Foreclosure. Case pending.
- 8 *Carl Poindexter vs. Robert D. Monroe, et al.* Gunnison County No. 5834. Foreclosure. Case pending.
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- 20 *Board of County Commissioners of Jefferson County, et al. vs. Stanley Harbus, et al.* Jefferson County. Condemnation. Case pending.
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- 45 *Board of County Commissioners of Larimer County, et al. vs. Maxwell Abell, Deceased, et al.* Larimer County. Condemnation. Case pending.
- 46 *Board of County Commissioners of Douglas County, et al. vs. John E. Lowell, et al.* Douglas County No. 3333. Condemnation. Case pending.
- 47 *Board of County Commissioners of Douglas County, et al. vs. Max O. Binford.* Douglas County No. 3334. Condemnation. Case pending.
- 48 *Board of County Commissioners of Jefferson County, et al. vs. Ferd Wolf, et al.* Jefferson County. Condemnation. Case pending.

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- 49 *Board of County Commissioners of Larimer County, et al. vs. John P. Bee, et al.* Larimer County. Condemnation. Case pending.
- 50 *Board of County Commissioners of Elbert County, et al. vs. Gus Vassios, et al.* Elbert County. Condemnation. Case pending.
- 51 *Janet R. Meneley vs. City of Golden, et al.* Boulder County No. 18072. Tort. Case pending.
- 52 *Ann Chamberlain vs. American Bus Lines, Inc. et al.* Jefferson County. Wrongful death. Case pending.
- 55 *Stanley R. Hays, Commissioner of Securities vs. Security Reserve Life Insurance Company, et al.* City and County of Denver No. B76448. Receivership. Case pending.
- 64 *The Stuyvesant Insurance Company vs. J. Richard Barnes, Commissioner of Insurance.* City and County of Denver No. B75888. Withdrawal of securities. Case closed.
- 65 *Stuyvesant Life Insurance Company vs. J. Richard Barnes, Commissioner of Insurance.* City and County of Denver No. B75889. Withdrawal of securities. Case closed.
- 72 *Board of County Commissioners of Garfield County, et al. vs. Torval P. Johnson, et al.* Garfield County. Condemnation. Case pending.
- 73 *Board of County Commissioners of Garfield County, et al. vs. James B. Samuelson, et al.* Garfield County. Condemnation. Case pending.
- 74 *Board of County Commissioners of Mesa County, et al. vs. Wilford M. Kerr, Jr., et al.* Mesa County. Condemnation. Case pending.
- 75 *Board of County Commissioners of Bent County, et al. vs. School District No. 1, et al.* Bent County. Condemnation. Case pending .
- 76 *Board of County Commissioners of Mesa County, et al. vs. William McKay, et al.* Mesa County. Condemnation. Case pending.

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- 77 *Board of County Commissioners of Jefferson County, et al. vs. Panoramic Vista, Inc., et al.* Jefferson County. Condemnation. Case pending.
- 78 *Board of County Commissioners of Mesa County, et al. vs. G. W. Epeneter, et al.* Mesa County. Condemnation. Case pending.
- 80 *Arnold Durfee, et al. vs. Dennis L. Majors, Inc., et al.* Mesa County No. 14453. Condemnation. Case pending.
- 81 *Hallam & Boggs Truck & Implement Co. vs. Colorado Ready Mix & Company, Inc., et al.* Mesa County. Condemnation. Case pending.
- 87 *Southeast Colorado Power Assn., vs. Western Power and Gas Company, et al.* City and County of Denver No. B75861. PUC matter. Case pending.
- 88 *Northwest Utilities Company vs. Public Utilities Commission.* City and County of Denver No. B76567. PUC matter. Case pending.
- 96 *Board of County Commissioners of Larimer County, et al. vs. Robert S. McCartt, et al.* Larimer County. Condemnation. Case pending.
- 97 *Board of County Commissioners of Larimer County, et al. vs. Poudre School District R-1.* Larimer County. Condemnation. Case pending.
- 98 *Richard A. Carter vs. State Treasurer of Colorado, et al.* Mesa County No. 14467. Withhold pay of Judge. Case closed.
- 100 *C. A. Erixon, et al. vs. Star Sales and Service, Inc., et al.* Gunnison County No. 5887. Foreclosure. Case pending.
- 101 *Sumner C. Hockett, et al. vs. Frank Goldy, Commissioner of Banking, et al.* Routt County No. 3725. Denial of bank charter. Case pending.
- 102 *Kenneth C. Borchers vs. Hugh H. C. Weed, Director of Revenue, et al.* City and County of Denver No. B77338. Suspension of driver's license. Case closed.

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- 104 *Western Colorado Power Company vs. Public Utilities Commission, et al.* City and County of Denver No. B77272. PUC matter. Case closed.
- 107 *Leo Lentsch vs. Department of Highways.* Arapahoe County No. 21255. Erecting signs. Case pending.
- 108 *Department of Highways vs. Katie G. Ahrens, et al.* City and County of Denver. Condemnation. Case pending.
- 109 *Board of County Commissioners of Jefferson County, et al. vs. P. D. S. Investment Co. et al.* Jefferson County. Condemnation. Case pending.
- 110 *Board of County Commissioners of Pueblo County, et al. vs. Dora D. Courtney Fox, et al.* Pueblo County. Condemnation. Case pending.
- 111 *Board of County Commissioners of Jefferson County, et al. vs. Kilgroe Construction Company, et al.* Jefferson County. Condemnation. Case pending.
- 112 *Board of County Commissioners of Adams County, et al. vs. Arthur B. Edwards, et al.* Adams County. Condemnation. Case pending.
- 115 *George C. Stevens vs. State Civil Service Commission, et al.* City and County of Denver No. B77829. Suspension from position. Case pending.
- 118 *George J. Dwire, et al. vs. Elizabeth Mann Purcell, et al.* El Paso County No. 47076. Transfer of Cragmor Foundation property to University of Colorado. Case pending.
- 123 *Arnold C. Balk, et al. vs. Paul J. Lattner, et al.* Arapahoe County No. 21367. Foreclosure. Case pending.
- 125 *Colorado State Board of Land Commissioners vs. Dorothy Hugins, et al.* Jefferson County. Condemnation. Case pending.
- 126 *Board of County Commissioners of Adams County, et al. vs. Philip M. Daily, et al.* Adams County. Condemnation. Case pending.



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127	<i>Board of County Commissioners of Garfield County, et al. vs. Carter T. Jackson, et al.</i> Garfield County. Condemnation. Case pending.
128	<i>Board of County Commissioners of Arapahoe County, et al. vs. Otho L. Golden, et al.</i> Arapahoe County. Condemnation. Case pending.
129	<i>Board of County Commissioners of Arapahoe County, et al. vs. Van S. Peck, et al.</i> Arapahoe County. Condemnation. Case pending.
130	<i>Board of County Commissioners of Arapahoe County, et al. vs. Katherine Silvrants, et al.</i> Arapahoe County. Condemnation. Case pending.
131	<i>Board of County Commissioners of Jefferson County, et al. vs. Earl Wolf, et al.</i> Jefferson County. Condemnation. Case pending.
132	<i>Board of County Commissioners of Jefferson County, et al. vs. Ernest H. Kruse, et al.</i> Jefferson County. Condemnation. Case pending.
133	<i>Department of Highways vs. William B. Fleming, et al.</i> Jefferson County. Condemnation. Case pending.
135	<i>Department of Highways vs. Lynn C. Nasse, et al.</i> Arapahoe County. Condemnation. Case pending.
136	<i>Department of Highways vs. Earl C. Kemper, et al.</i> Arapahoe County. Condemnation. Case pending.
137	<i>Department of Highways vs. Ida P. Savage, et al.</i> Arapahoe County. Condemnation. Case pending.
138	<i>Department of Highways vs. Village Land Co., et al.</i> Arapahoe County. Condemnation. Case pending.
139	<i>Department of Highways vs. Elizabeth Jean Smith, et al.</i> Arapahoe County. Condemnation. Case pending.
140	<i>Department of Highways vs. Richard G. Summers, et al.</i> Arapahoe County. Condemnation. Case pending.

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- 141 *Department of Highways vs. Harry A. Bryan, et al.* Arapahoe County. Condemnation. Case pending.
- 142 *Department of Highways vs. Wilma G. Turner, et al.* Arapahoe County. Condemnation. Case pending.
- 144 *Westland Industrial Bank vs. Frank E. Goldy, Commissioner of Banking, et al.* Jefferson County No. 22359. Branch banking by Industrial Banks. Case pending.
- 148 *Harry L. Schroeder, D. D. S. vs. State Board of Dental Examiners, et al.* City and County of Denver. License to practice dentistry. Case pending.
- 153 *Department of Highways vs. Raymond Rasmussen, et al.* Arapahoe County. Condemnation. Case pending.
- 154 *Department of Highways vs. Cherryvale Co., et al.* Arapahoe County. Condemnation. Case pending.
- 155 *Department of Highways vs. Longmont Co., et al.* Arapahoe County. Condemnation. Case pending.
- 156 *Department of Highways vs. George T. Boltz, et al.* Arapahoe County. Condemnation. Case pending.
- 157 *Department of Highways vs. Clyde L. Mitchell, et al.* Arapahoe County. Condemnation. Case pending.
- 158 *Board of County Commissioners of Adams County, et al. vs. Harold Lammers, et al.* Adams County. Condemnation. Case pending.
- 159 *Department of Highways vs. Harvey J. Jackson, et al.* Arapahoe County. Condemnation. Case pending.
- 160 *Clifford Aspgren, et al. vs. Cy Burress, Jr. et al.* City and County of Denver No. B78445. Superior Court employees — to classify under State Civil Service. Case closed.
- 164 *Wilma Markwood Shea, et al. vs. Marvin L. Franklin, et al.* Elbert County No. 1742. Foreclosure of lien on state lands. Case pending.
- 165 *Centennial Turf Club, Inc. vs. Colorado Racing Commission.* City and County of Denver No. B78268. Denial of two racing dates for 1965. Case closed.

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- 366 *In the Matter of the Estate of May Bonfils Stanton.* Jefferson County No. 7351. Claim of University of Colorado. Case closed.
- 431 *In the Matter of the Estate of A. T. McDannald.* City and County of Denver No. P30229. Probate of foreign will.

**Docket No. 20**

- 57 *In the Matter of the Estate of William Smart.* Arapahoe County No. P-6447. Escheat funds held by State Treasurer. Case closed.
- 172 *Arthur W. Tubbs, et al. vs. Lester R. Richardson, et al.* El Paso County No. 44689. Quiet title — Foreclosure. Case closed.
- 270 *Ben H. Tyler vs. Mountain States Mixed Feed Company, et al.* Adams County No. 6171. Personal property taxes due and unpaid — escheat fund. Case closed.
- 296 *Frank William Sandner, et el. vs. Alvonso Kenneth Hecht.* Jefferson County. Damages — Highway Department. Case pending.
- 316 *Estate of Holger Figge vs. State of Colorado, et al.* City and County of Denver No. P-29307. Objection to inheritance tax assessment. Case closed.

**Docket No. 21**

- 11 *Estate of Oscar L. Hollingsworth.* No. P-31488. City and County of Denver. Protest of inheritance tax assessment. Case pending.
- 109 *Petition of Ronald Leslie Smith, by Kenneth P. Joos, Director of State Children's Home.* City and County of Denver No. C11955. Change of name. Case closed.

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- 110 *Petition of Lawrence Hiakaka, by Kenneth P. Joos, Director of State Children's Home. City and County of Denver No. C11956. Change of name. Case closed.*
- 172 *Charles Willard Ferguson vs. Don D. Bowman, et al. Habeas Corpus. Case pending.*
- 213 *In the Matter of the Estate of Judson T. Barr. City and County of Denver No. P32678. Income taxes due.*
- 217 *George Quintana vs. Harry C. Tinsley. Fremont County. No. 12678. Money Demand. Case pending.*
- 290 *In the Matter of the Estate of Earl Gordon Gotthelf. City and County of Denver No. P24993. Objection to inheritance tax assessment.*
- 308 *George Lester Johnson, Jr., vs. Hugh H. C. Weed, Jr., Director of Revenue, et al. Jefferson County. Suspension of driver's license. Case pending.*

**Docket No. 22**

- 53 *Dennis C. Rhyne vs. Dennis L. Majors, Inc., et al. Mesa County No. 17524. Highway Department contract. Case pending.*
- 79 *Fidel Colmenero vs. Leon K. Suhm, Inc., et al. Mesa County. Condemnation. Case pending.*
- 99 *State Farm Fire and Casualty Company vs. Colorado School of Mines. Jefferson County No. X16403. Damages — gas explosion. Case closed.*

**BEFORE THE PUBLIC UTILITIES COMMISSION  
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- 351 *State Highway Department, City and County of Denver. Grade Crossing.*
- 446 *State Highway Department, Baca County. Flashing light signals.*

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33	<i>State Highway Department, Mesa County. Flashing light signals.</i>
113	<i>State Highway Department, Otero County. Flashing light signals.</i>
140	<i>State Highway Department, Routt County. Automatic flashing lights.</i>
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198	<i>State Highway Department, El Paso County. Grade crossing.</i>
234	<i>State Highway Department, Arapahoe County. Railroad crossing.</i>
235	<i>State Highway Department, Mesa County. Viaduct improvement.</i>
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335	<i>State Highway Department, Kiowa County. Grade crossing and automatic flashing light signals.</i>

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24	<i>State Highway Department, Weld County. Grade crossing.</i>
39	<i>State Highway Department, City and County of Denver. Railroad overpass.</i>
40	<i>State Highway Department, Adams County. Railroad overpass.</i>
53	<i>State Highway Department, Eagle County. Grade crossing.</i>
54	<i>State Highway Department, City and County of Denver and Adams County. Grade separation.</i>

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- 114 *State Highway Department, City and County of Denver.* Railroad overpass bridges.
- 115 *State Highway Department, Boulder County.* Railroad grade crossing.
- 116 *State Highway Department, Douglas County.* Automatic flashing light signals.
- 117 *State Highway Department, Boulder County.* Automatic flashing light signals.

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- 134 *State Highway Department, Otero County.* Automatic flashing lights.

**APPEALS FROM AWARDS OF THE INDUSTRIAL  
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1963-1964  
IN THE SUPREME COURT OF COLORADO**

No.	Title	Sup. Ct. No.	Disposition
1271	<i>Baca County School District No. RE6, et al. v. Industrial Commission, et al.</i>	21291	Pending
1211	<i>John Wesley Bowlus v. Industrial Commission, et al.</i>	20633	Award Affirmed
1275	<i>Capital Chevrolet Co. et al. v. Industrial Commission, et al.</i>	21600	Pending
1232	<i>Robert E. Classen v. Industrial Commission, et al.</i>	20761	Award Affirmed
1274	<i>Charles Clodfelter v. Industrial Commission, et al.</i>	21520	Pending
1226	<i>Colorado Fuel and Iron Corp. v. Industrial Commission, et al.</i>	20620	Award Reversed
1198	<i>Colorado Fuel and Iron Corp. v. Industrial Commission, et al.</i>	20433	Award Affirmed
1231	<i>Colorado Fuel and Iron Corp. v. Industrial Commission, et al.</i>	20767	Award Affirmed
1197	<i>Eby Construction Co. et al. v. Industrial Commission, et al.</i>	20306	Award Affirmed
1228	<i>Electric Mutual Liability Insurance Co. et al. v. Industrial Commission, et al.</i>	20616	Award Affirmed
1264	<i>Gardner Motor Co., et al. v. Industrial Commission, et al.</i>	21612	Pending
1191	<i>Hawkeye Security Insurance Company, et al. v. Industrial Commission, et al.</i>	20201	Award Reversed
1209	<i>John B. Hood v. Industrial Commission, et al.</i>	20580	Award Affirmed
1257	<i>Willie M. Hoover v. Industrial Commission, et al.</i>	21105	Award Affirmed

No.	Title	Sup. Ct. No.	Disposition
1258	<i>Ray Hosey, d/b/a/ Hosey Grocery v. Industrial Commission, et al.</i>	21179	Award Remanded
1233	<i>Industrial Commission, et al. v. Wayne W. Small</i>	20707	Award Affirmed
1219	<i>Industrial Commission, et al. v. Aetna Casualty and Surety Company, et al.</i>	20632	Award Reversed
1301	<i>Industrial Commission, et al. v. Louis R. Milka</i>	21614	Pending
1188	<i>Industrial Commission, et al. v. State Compensation Insurance Fund</i>	20717	Award Reversed
1206	<i>Industrial Commission, et al. v. Randy LeVerne Spoo, et al</i>	20382	Award Reversed
1169	<i>Industrial Commission, et al. v. Ralph E. McLain</i>	20275	Award Reversed
1199	<i>Industrial Commission, et al. v. Harry J. Wolfer</i>	20447	Award Affirmed
1243	<i>Industrial Commission, et al. v. State Compensation Insurance Fund</i>	21236	Pending
1157	<i>Industrial Commission, et al. v. Marian Edman Johnston, et al.</i>	19989	Award Affirmed
1256	<i>Industrial Commission, et al. v. Guiliano and Sons, et al.</i>	21284	Pending
1288	<i>Industrial Commission, et al. v. George Alfonso</i>	21538	Pending
1307	<i>Industrial Commission, et al. v. State Compensation Insurance Fund, et al.</i>	21596	Pending
1305	<i>Insurance Company of North America, et al. v. Industrial Commission, et al.</i>	21553	Pending



No.	Title	Sup. Ct. No.	Disposition
1252	<i>Martin Marietta Corp., et al. v. Industrial Commission, et al.</i>	21147	Pending
1283	<i>Martin Marietta Corp., et al. v. Industrial Commission, et al.</i>	21464	Pending
1174	<i>Maryland Casualty Company, et al. v. Industrial Commission, et al.</i>	20126	Award Reversed
1234	<i>Maurice F. Murphy, et al. v. Industrial Commission, et al.</i>	20848	Award Reversed
1141	<i>Leo Parrish, et al. v. Industrial Commission, et al.</i>	20127	Award Affirmed
1170	<i>Pioneer Construction Co., et al. v. Industrial Commission, et al.</i>	20009	Award Reversed
1250	<i>Pittman Motors, Inc. et al. v. Industrial Commission, et al.</i>	21025	Pending
1223	<i>Thomas L. Powers v. Industrial Commission, et al.</i>	20643	Award Reversed
1229	<i>Rogers, Inc., et al. v. Industrial Commission, et al.</i>	20619	Award Affirmed
1214	<i>Frank Salvador, Jr. v. Industrial Commission, et al.</i>	20481	Writ of Error Dismissed
1235	<i>Security Insurance Company of New Haven, et al. v. Industrial Commission, et al.</i>	20722	Writ of Error Dismissed
1249	<i>Sharmar Nursing Home v. Industrial Commission, et al.</i>	21233	Pending
1227	<i>Simpson and Company, et al. v. Industrial Commission, et al.</i>	20650	Award Affirmed
1208	<i>Maxine G. Skinner, et al. v. Industrial Commission, et al.</i>	20325	Award Affirmed
1167	<i>Stanley Hotel, et al. v. Industrial Commission, et al.</i>	20596	Award Reversed
1213	<i>State Compensation Insurance Fund v. Industrial Commission, et al.</i>	20805	Award Affirmed

No.	Title	Sup. Ct. No.	Disposition
1245	<i>State Compensation Insurance Fund v. Industrial Commission, et al.</i>	21006	Award Reversed in part
1072	<i>State Compensation Insurance Fund v. Industrial Commission, et al.</i>	20302	Award Reversed
1238	<i>State Compensation Insurance Fund v. Industrial Commission, et al.</i>	20685	Award Affirmed
1269	<i>State Compensation Insurance Fund v. Industrial Commission, et al.</i>	21340	Pending
1159	<i>Tri State Insurance Company, et al. v. Industrial Commission, et al.</i>	19987	Award Affirmed
1218	<i>Varsity Amusement Company, et al. v. Industrial Commission, et al.</i>	20649	Award Affirmed
1302	<i>Emma O. Vigil v. Industrial Commission, et al.</i>	21612	Pending

**IN THE DISTRICT COURT OF COLORADO**  
**Arapahoe County**

No.	Title	Dist. Ct. No.	Disposition
1207	<i>Clifford Oliver v. Industrial Commission, et al.</i>	17242	Dismissed pursuant to Rule 13

**City and County of Denver**

1306	<i>Allied Van Lines, et al. v. Industrial Commission, et al.</i>	B-72295	Award Affirmed
1240	<i>Joseph D. Aragon v. Industrial Commission, et al.</i>	B-58998	Pending
1308	<i>Berkeley Construction, et al. v Industrial Commission, et al.</i>	B-72266	Pending
1345	<i>Mary E. Borquez, et al. v. Industrial Commission, et al.</i>	B-76851	Pending
1330	<i>Peter Breit v. Industrial Commission, et al.</i>	B-74276	Pending
1310	<i>Warren H. Burnam v. Industrial Commission, et al.</i>	B-72822	Pending
1218	<i>Kent Deb Butters, et al. v. Industrial Commission, et al.</i>	B-53837	Award Affirmed
1336	<i>William A. Bynon v. Industrial Commission, et al.</i>	B-73880	Pending
1275	<i>Capital Chevrolet, et al. v. Industrial Commission, et al.</i>	B-67160	Award Affirmed
1340	<i>J. C. Carlile Corp., et al. v. Industrial Commission, et al.</i>	B-75659	Pending
1347	<i>City and County of Denver, et al. v. Industrial Commission, et al.</i>	B-75545	Pending
1276	<i>City and County of Denver Police Department, et al. v. Industrial Commission, et al.</i>	B-67062	Pending
1311	<i>City and County of Denver Police Department, et al. v. Industrial Commission, et al.</i>	B-72799	Pending

No.	Title	Dist. Ct. No.	Disposition
1232	<i>Robert E. Classen v. Industrial Commission, et al.</i>	B-57708	Award Affirmed
1274	<i>Charles Clodfelter v. Industrial Commission, et al.</i>	B-66835	Award Affirmed
1316	<i>Colorado Auto Body, Inc., et al. v. Industrial Commission, et al.</i>	B-73457	Pending
1175	<i>Colorado Fuel and Iron Corp. v. Industrial Commission, et al.</i>	B-46104	Pending
1231	<i>Colorado Fuel and Iron Corp. v. Industrial Commission, et al.</i>	B-57558	Award Affirmed
1281	<i>Robert Combs, et al. v. Industrial Commission, et al.</i>	B-65667	Pending
1237	<i>Continental Casualty Co. v. Industrial Commission, et al.</i>	B-58414	Award Affirmed
1266	<i>Continental Restaurant, et al. v. Industrial Commission, et al.</i>	B-65759	Award Reversed
1037	<i>Cosmopolitan Realty Company v. Industrial Commission, et al.</i>	B-20827	Pending
1246	<i>Leo S. Cottingham v. Industrial Commission, et al.</i>	B-53479	Pending
1338	<i>Cowan Concrete Products, Inc. et al. v. Industrial Commission, et al.</i>	B-72593	Pending
1265	<i>Cudahy Packing Co. v. Industrial Commission, et al.</i>	B-65584	Award Affirmed
1326	<i>Deane Buick Company, et al. v. Industrial Commission, et al.</i>	B-74352	Pending
1341	<i>Delores Mae Hemiller Davis, et al. v. Industrial Commission, et al.</i>	B-73507	Pending
1321	<i>Gilbert Davis v. Industrial Commission, et al.</i>	B-73962	Pending

No.	Title	Dist. Ct. No.	Disposition
1299	<i>Frank DeHerrera v. Industrial Commission, et al.</i>	B-71375	Pending
1314	<i>Denver Decorating Co., et al. v. Industrial Commission, et al.</i>	B-72937	Award Affirmed
1317	<i>Denver Dry Goods, et al. v. Industrial Commission, et al.</i>	B-73685	Pending
1339	<i>The Denver Post, et al. v. Industrial Commission, et al.</i>	B-75221	Pending
1050	<i>Charles W. Dillon v. Industrial Commission, et al.</i>	B-23938	Pending
1253	<i>Eleanor Dolphin v. Industrial Commission, et al.</i>	B-61467	Award Affirmed
1262	<i>Glenn R. Dunavan v. Industrial Commission, et al.</i>	B-64609	Pending
1242	<i>Electric Mutual Liability Insurance Company, et al. v. Industrial Commission, et al.</i>	B-55664	Dismissed per Stipulation
1106	<i>Employers Casualty Company, et al. v. Industrial Commission, et al.</i>	B-37805	Pending
1277	<i>Manuel Escobedo v. Industrial Commission, et al.</i>	B-67035	Pending
1334	<i>Harry E. Ewing v. Industrial Commission, et al.</i>	B-76204	Pending
1264	<i>Gardner Motor Co., et al. v. Industrial Commission, et al.</i>	B-63939	Award Affirmed
1224	<i>The Gates Rubber Company v. Industrial Commission, et al.</i>	B-55622	Award Affirmed
1247	<i>The Gates Rubber Company v. Industrial Commission, et al.</i>	B-59298	Award Affirmed
1256	<i>Guiliano &amp; Sons v. Industrial Commission, et al.</i>	B-61502	Award Reversed
1200	<i>Ethel Lesta Hale v. Industrial Commission, et al.</i>	B-51001	Pending

No.	Title	Dist. Ct. No.	Disposition
1290	<i>Hardware Mutual Casualty Co., et al. v. Industrial Commission, et al.</i>	B-68712	Pending
1044	<i>Minnie Mildred Havens v. Industrial Commission, et al.</i>	B-20761	Pending
1289	<i>Emmett Hoblely v. Industrial Commission, et al.</i>	B-67388	Award Affirmed
1257	<i>Willie M. Hoover v. Industrial Commission, et al.</i>	B-63430	Award Affirmed
1258	<i>Ray Hosey v. Industrial Commission, et al.</i>	B-60832	Award Affirmed
1305	<i>Insurance Company of North America v. Industrial Commission, et al.</i>	B-72527	Award Affirmed
1323	<i>Carl Johnson v. Industrial Commission, et al.</i>	B-73963	Pending
1295	<i>James V. Joy v. Industrial Commission, et al.</i>	B-70471	Pending
1273	<i>Donald L. Kent v. Industrial Commission, et al.</i>	B-67493	Award Affirmed
1332	<i>Joyce L. Kilmer v. Industrial Commission, et al.</i>	B-74634	Pending
1272	<i>Rose Kindig v. Industrial Commission, et al.</i>	B-66365	Pending
1185	<i>Rita H. Kishiyama v. Industrial Commission, et al.</i>	B-48606	Dismissed Rule 18
1284	<i>Leadville Area Labor Assn., et al. v. Industrial Commission, et al.</i>	B-67574	Award Affirmed
1128	<i>Arlene Leaf v. Industrial Commission, et al.</i>	B-40495	Pending
1320	<i>Lembke Construction Co., et al. v. Industrial Commission, et al.</i>	B-73920	Pending

No.	Title	Dist. Ct. No.	Disposition
1278	<i>Claimants in the Matter of Death of Bruce M. Lewis v. Industrial Commission, et al.</i>	B-67036	Pending
1260	<i>Liberty Mutual Insurance, et al. v. Industrial Commission, et al.</i>	B-63829	Pending
1153	<i>Clyde E. Loper v. Industrial Commission, et al.</i>	B-43186	Award Affirmed
1244	<i>Loveland Roofing v. Industrial Commission, et al.</i>	B-59321	Dismissed per Stipulation
1348	<i>Herbert R. Markheim v. Industrial Commission, et al.</i>	B-76521	Pending
1283	<i>Martin Marietta Corp, et al. v. Industrial Commission, et al.</i>	B-67584	Award Affirmed
1252	<i>Martin Marietta Corp., et al. v. Industrial Commission, et al.</i>	B-61014	Award Affirmed
1324	<i>Maryland Casualty Co., et al. v. Industrial Commission, et al.</i>	B-73386	Pending
1342	<i>Maryland Casualty Co., et al. v. Industrial Commission, et al.</i>	B-75773	Pending
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1294	<i>Esther E. McChesney, et al. v. Industrial Commission, et al.</i>	B-70318	Pending
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**Part III**  
**SUBJECT INDEX TO OFFICIAL OPINIONS**  
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