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0092 Simplification of State Government Organization, Part IV

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SIMPLIFICATION OF STATE GOVERNMENT ORGANIZATION

PART IV

Legislative Council
Report To The
Colorado General Assembly

Research Publication No. 92
November, 1964

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COLORADO GENERAL ASSEMBLY



LEGISLATIVE COUNCIL

ROOM 341, STATE CAPITOL
DENVER 2, COLORADO
222-9911—EXTENSION 2285

MEMBERS

Lt. Gov. Robert L. Knous
Sen. William E. Bledsoe
Sen. Edward J. Byrne
Sen. Frank L. Gill
Sen. Floyd Oliver

Speaker John D. Vanderhoof
Rep. Joseph V. Calabrese
Rep. John L. Kane
Rep. William O. Lennox
Rep. John W. Nichols
Rep. Clarence H. Quinlan

November 24, 1964

To Members of the Forty-fifth Colorado General Assembly:

In accordance with the provisions of House Joint Resolution No. 25, 1963 regular session, and House Joint Resolution No. 1030, 1964 regular session, the Legislative Council submits the accompanying report and recommendations relating to the organization of state government and the establishment of a procedure to handle claims against the state.

The report and recommendations of the committee appointed to carry out these assignments were approved by the Council at its meeting on November 23, 1964, for transmission to the members of the Forty-fifth General Assembly.

Respectfully submitted,

C. P. (Doc) Lamb,
Chairman

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Rep. John W. Nichols
Rep. Clarence H. Quinlan

November 9, 1964

Representative C. P. Lamb, Chairman
Colorado Legislative Council
Room 341, State Capitol
Denver, Colorado

Dear Mr. Chairman:

Your committee appointed to carry out the studies requested by House Joint Resolution No. 25, 1963 regular session, and House Joint Resolution No. 1030, 1964 regular session, relating to the administrative organization of state government and procedures in hearing, granting and paying for claims against the state, submits herewith its final report and recommendations for 1964.

The committee has concluded its consideration of the proposed departments of finance and administrative services and the proposed legislative audit committee as to general principles and objectives. However, the committee's conclusions will not be prepared in bill form for several weeks yet. Consequently, in order to have these proposals available in bill form, the returning members of the committee plan to meet early in the 1965 session to review tentative bill drafts thereon.

Respectfully submitted,

Floyd Oliver, Chairman
Committee on Administrative
Organization of State Government

FO/mp

FOREWORD

A study of the administrative organization of Colorado state government has been conducted by the Legislative Council for the past four years at the direction of the General Assembly. The members of the committee appointed to conduct this general study in 1963 and 1964, and the study relating to claims against the state which was assigned the committee by House Joint Resolution No. 1030, 1964 regular session, include: Senator Floyd Oliver, chairman; Speaker of the House John D. Vanderhoof, vice chairman; Senators A. Woody Hewett, Carl Magnuson, L. T. Skiffington, and Sam Taylor, and Representatives William Armstrong, James Braden, Forrest Burns, Allen Dines, Bill Gossard, C. P. Lamb, and John Nichols.

During 1964, the committee members devoted much of their efforts towards revising proposals to create departments of finance and administrative services in order to provide the Governor with greater policy-making authority and more direct control over the operations of Colorado state government. A substantial amount of their time was also given to procedures for handling claims against the state and a proposed law enforcement training academy to assist local units of government in this state. Following the adoption of Amendment No. 1 on November 3, 1964, the committee drew up general recommendations to implement the legislative auditor program.

Miss Clair T. Sippel, secretary of the Legislative Reference Office, worked closely with the committee in preparing drafts of its legislative recommendations. Mr. Phillip E. Jones, senior research analyst, had primary responsibility for preparing the research material, with the assistance of Mr. Roger M. Weber, research assistant.

November 9, 1964

Lyle C. Kyle
Director

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SIMPLIFICATION OF STATE GOVERNMENT ORGANIZATION -- PART IV

Since 1961, the Legislative Council annually has appointed a committee to study the organization of state government in Colorado at the direction of the General Assembly. The work of these committees has resulted in many statutory and administrative changes, as well as one constitutional amendment adopted on November 3rd, 1964.

The committee continued to review various aspects of the organization of Colorado state government in 1964. In addition, under the provisions of House Joint Resolution No. 1030, 1964 regular session, the General Assembly instructed the committee "to study state procedures in hearing, granting and paying for claims against the state with a view towards simplifying these procedures."

The following findings and recommendations of the committee include those subjects upon which final committee action was taken for legislative consideration in the 1965 session -- executive department reorganization, claims against the state, a law enforcement training academy, and a legislative audit committee. The committee also is recommending again the creation of an employee suggestion award system, which was not proposed for consideration in the 1964 session, and it is suggesting that executive action be taken in regard to administrative rules and regulations, with future committee study being warranted on this subject. Because there are areas where further interim legislative consideration should be given, the committee has concluded that the General Assembly should direct the Legislative Council to appoint a similar committee to continue this work in the 1965-66 biennium.

COMMITTEE FINDINGS AND RECOMMENDATIONS

Departments of Finance and Administrative Service

In a supplemental report to the 1963 report of this committee, the creation of a department of finance and a department of administrative services was recommended. Subsequently, House Bills No. 1080 and 1081 were introduced in the 1964 session to consolidate a number of related but presently separate activities in various agencies within the executive department of state government.

The major objective of these two bills was to provide the Governor with greater policy-making authority and more direct control over the operations of Colorado state government. The committee stated its belief that this proposed reorganization could be effected with little or no increase in cost to the state and that it would ultimately result in economies to the state. Furthermore, "this proposal will provide the Governor -- the person who bears the ultimate responsibility for the executive budget -- with more direct control over its preparation, as well as expanded information upon which the budget is based."

However, opposition to the two bills in the 1964 session resulted in their defeat. Consequently, the committee has re-examined the two

bills and after considerable revision once again recommends the creation of the proposed departments of finance and of administrative services.

Under the provisions of the revised bill drafts, the department of finance would consist of the following divisions: accounts and control, budget, management analysis, and public works. The department of administrative services would consist of the divisions of purchasing, data processing, general services, archives and public records, and buildings and grounds. Each department would be headed by an executive director appointed by the Governor, subject to approval by the Senate. Positions of the director of revenue and state purchasing agent, now filled by appointment by the Governor, would become civil service positions.

In order to clarify the purposes for which the two executive director positions are created, each bill contains the statement that "it is hereby declared to be the legislative intent that the specific areas of activity to be undertaken by the divisions within the department are not to be transferred to the office of the executive director." This provision is designed to limit the office of each executive director to the purpose for which created, i.e., an administrative representative of the Governor who will execute the policies of the Governor and who will provide liason between the programs within each department and the Governor.

The provisions relating to the activities within the proposed department of finance are substantially based on present law, with one major exception. This exception involves capital construction procedures where the provisions have been changed in accordance with the Governor's Executive Order of June 2nd, 1964, so that the responsibility of each institution and the Division of Planning (proposed division of public works) in these procedures is clarified.

Similarly, the provisions relating to the activities within the proposed department of administrative services are also based on present law for the most part. However, the committee has added a new program to control state data processing programs in order to achieve their orderly development and use, with accompanying savings in expenses. The powers and duties of this division would be:

- (1) To supervise the programing and operation of data processing equipment by state departments, institutions, or agencies.
- (2) To achieve the most effective coordinated use of data processing equipment by state departments, institutions, or agencies.
- (3) To approve the acquisition of data processing equipment by state departments, institutions, or agencies, which will be the most efficient, economical and technically feasible to meet the data processing operations of state departments, institutions, or agencies.
- (4) To continually study and assess the data processing operations and needs of state departments, institutions, and agencies.

Claims Against the State

At the present time, persons desiring to pursue their claims against the state must go directly to the Colorado General Assembly, either to receive authorization to sue the state or to receive an appropriation as payment for their claims. Further, if authorization to sue the state is granted and the claim is upheld by a court, the claimant must again return to the General Assembly for the passage of a bill appropriating funds to pay his claim.

In either event, a rather heavy burden is placed on claimants as well as on the members of the General Assembly to consider the merits of any such claim during an already heavily-burdened legislative session. The purpose of the committee's study was to determine whether a different procedure for handling claims against the state could and should be adopted in Colorado.

The committee's study indicates at least 17 states which have established administrative tribunals to review claims filed against the state. Usually these tribunals are called claims commissions or boards of claims, and their membership consists of elected or appointed state officials. Two of the tribunals, however, are composed of general electors of the state appointed by the Governor, and two are composed of the members of another administrative board such as a workmen's compensation board. Four states -- Minnesota, Ohio, Rhode Island, and Wisconsin -- have created commissions on which members of the state's legislature serve.

In addition to differences in commission membership, the committee also noted differences in the duties and authority of these boards or commissions. Some have the authority to grant awards directly to claimants, either from funds appropriated to the board or commission for that purpose or from funds appropriated to the state agency responsible for the claim being made. Others act in an advisory capacity only by submitting their recommendations to the legislature, based on their findings, and the final decision as to any action rests with the legislature. A few such boards may grant direct awards not exceeding a specified maximum figure, with other awards considered justified but exceeding this maximum figure being recommended to the legislature for payment.

The committee reviewed various proposals in connection with establishing a commission to consider claims against the state in Colorado. On the basis of previous Colorado State Supreme Court decisions, the General Assembly may not establish a legislative commission to consider and pay awards for claims against the state since this would be a violation of the separation of powers provision in the Colorado Constitution. On the other hand, it would be constitutional if the General Assembly were to create a legislative commission to review claims against the state and to report its findings and recommendations to the General Assembly for legislative action.

As a result of its review of present claims procedures in Colorado and similar procedures in other states, the committee recommends that a Colorado claims commission be created to establish an orderly and expeditious procedure to aid the General Assembly in the consideration of tort claims against the state, some of which the state should

in equity and good conscience assume and pay. Appendix A contains a draft of a bill prepared by the committee to carry out this recommendation.

Under the provisions of this bill, the Colorado claims commission would consist of the State Auditor as chairman and the State Controller and the State Budget Director as the other two members. All claims filed within its jurisdiction would be considered by the commission and, based on its findings, would submit its recommendations to the Committee on Appropriations in the House of Representatives and to the Committee on Finance in the Senate for such legislative action as might care to be taken. This bill would not prevent the introduction of bills for claims or for permission to sue the state as is done at the present time. It would, however, provide the members of the General Assembly with a means to investigate the merits of any such proposals far better and more extensive than it now has.

The effect of this proposed bill on the sovereign immunity doctrine of the state was discussed by the committee and will undoubtedly be a matter of major concern to the members of the General Assembly. No one can be certain at this time exactly what effect this bill might have on the state's doctrine of sovereign immunity. Conflicting opinions on this point were presented to the committee.

It was pointed out that the last Colorado Supreme Court ruling involving the doctrine of sovereign immunity resulted in a four-to-three decision and a change of mind on the part of one member of the court could change the status of this doctrine. On the other hand, it was also suggested that the proposed bill would delay the time when the sovereign immunity doctrine would be negated by the court.

Law Enforcement Training Academy

The need for a law enforcement training academy in Colorado has been the subject of study for a number of years in this state. The most recent legislative study -- in 1961 -- resulted in the conclusion that there were several important questions which needed to be answered before an informed decision could be made by the General Assembly on the best method of establishing and operating a law enforcement training program. Since this time, a Governor's Advisory Committee to study a Proposed Law Enforcement Training Academy was created to pursue the answers to these questions.

The committee conferred with representatives of the Governor's Advisory Committee on the answers to the questions raised in 1961 and with Mr. Ronald L. LaCouture, superintendent of the Police Cadet Academy at Trinidad State Junior College. (Appendix B contains the text of the reply from the chairman of the Governor's Advisory Committee on these questions.) This conference may be summarized as follows:

1. Many of the law enforcement personnel hired in Colorado are inexperienced and receive no training after they are hired -- they are given a gun and a badge and told to go out and enforce the law. These officers at the very least should be provided with the essential fundamentals of law enforcement.

2. Denver, Colorado Springs, and Pueblo provide police training for their law enforcement personnel. The Boulder Police Department and County Sheriff's Office sponsors a five-day crime school once a year, with instructors being provided without charge by police departments and by the Federal Bureau of Investigation. However, officers in the smaller communities in the state receive little if any professional training.

3. It is most important to distinguish between the two types of police training programs -- pre-service and in-service. Pre-service means the broad, general education of young persons between the ages of 18 and 21 who are in preparation for a career in police service. In-service means the technical training an officer receives after entering law enforcement service, ranging from recruit to executive development training.

4. The state cannot afford not to provide an in-service training program for law enforcement officers. The cost of a policeman's mistake is too expensive -- for example, taking a citizen's freedom away from him. This proposal will cost money but it is one matter which should have priority. When dealing with human safety and rights, the cost in dollars does not seem too great.

5. The law enforcement training program should be governed by a board of directors composed of the Attorney General as chairman, three chiefs of police, three county sheriffs, and the administrative head of the Colorado State Patrol.

6. The site of the law enforcement training facility should be located at Camp George West where it could be combined with the new National Guard Armory. By so doing, it is estimated that at least \$200,000 could be saved in capital construction costs over building such a facility separately. The cost of construction for a facility at Camp George West, as well as equipment to house a total of 72 people, is estimated to be \$313,000.

7. With the State Patrol using this training facility jointly with the local law enforcement training program, the net annual operating expenses to the state are estimated to total around \$50,000. Local governments would pay the costs of their participants' room and board.

8. The facility would have a capacity for 72 men and it is estimated about 35 men would be in each class. The curriculum would provide classes in five general areas of training: recruit, continuation, specialized, supervisory, and command. Recruit classes would be scheduled to last for 30 days while refresher courses would run for 14 days. Different classes would be operating at the same time, and the total number of students who might participate in any given year would therefore depend on the types of classes given.

9. As a voluntary in-service program, the training program would have to prove its value if county or city commissioners are to pay money to send their law enforcement personnel to participate in the program. It is hoped that the facility eventually would grow, if it were successful, but its growth would be in the number of participants, not in the nature or program offered at the facility.

The committee recommends the establishment of a state law enforcement training program under the State Patrol and State Patrol Board pursuant to the provisions of Section 120-10-14(3), 1963 Colorado Revised Statutes. A statutory advisory board to assist in setting the program's curriculum and training procedures should be created, with the following composition appointed by the Governor for two-year terms: not less than five nor more than nine members representative of local law enforcement units and other qualified persons. The actual expenses for board and room of the participants should be a responsibility of the local units of government, while the state should pay the operating expenses for this program from the general revenue fund.

Administrative Rules and Regulations

On June 22, 1964, the Legislative Council authorized Mr. Donald H. Henderson, chief clerk of the House of Representatives, to study the rules and regulations adopted by boards and commissions in Colorado, to review practices and procedures in other states in this respect, and to submit a report to the Legislative Council's Committee on Organization of State Government. A summary of the chief clerk's report and recommendations follows:

Five states have permanent legislative committees to review agency rules, with the legislature having the power to annul or disapprove an adopted agency rule. It is questionable whether Colorado could adopt such a program because of the strict separation of powers doctrine in this state. Other states that have a legislative review of agency rules have committees functioning only in an advisory capacity which nonetheless has proven effective.

In analysing administrative rules in Colorado, the rules of nine of the 23 licensing agencies have been studied. Seven of these nine agencies were found to have part or all of their rules invalid because of non-conformance with the requirement of notice in the administrative code as set out in Section 3-16-1 et seq. The reason for the invalid rules appears to be due to lack of knowledge of the provisions in the 1959 administrative code amendment. Many rules adopted merely duplicate sections of the statutes governing the licensing agency and are superfluous.

As a result of his study, Mr. Henderson recommended that an administrative code joint subcommittee be created to establish a uniform format for the publication of agency rules and regulations; to approve all agency rules and regulations as to form; to make recommendations to the General Assembly as to necessary statutory changes in the law to improve the administrative code; and to make recommendations as to statutory changes when needless duplication is found in the functions of state agencies.

The administrative code should be amended to require agencies to follow the rule publication format as established by the joint subcommittee. This recommendation could require that each agency rule should follow the appropriate section in the law relating to the rule adopted, thereby minimizing needless duplication of the law by the rules. Also, it would be readily noticeable if the rule exceeded the power granted by the law.

Each agency should type the statutory and rule provisions on 8½ by 11 inch sheets of paper. By a photo-offset process, this size could be reduced to a 6 by 9 inch sheet for distribution to the public for placement in a looseleaf binder. Temporary or emergency rules should be published on pink paper with the date of adoption included and the statutory three-month or less date of termination of the rule also reported. Proposed rules should be published on white paper, with the date the rule was proposed and the time and place for the hearing on the proposed rule being noted. Permanent rules should be published on white paper, including the date the rule was adopted.

Interested legislators, state departments, lawyers, libraries and other interested persons could then have a complete or partial set of all agency rules in a 6 by 9 inch looseleaf binder, and they could maintain and keep their rule copies current by inserting the changes in their looseleaf binders. Each agency would mail copies of their rules along the lines set out above to persons requesting them. Printing costs over the years would be reduced because of the use of replacement pages instead of the reprinting of a complete pamphlet as is now the practice. The reduction in printing should compensate for the increase in the size of the mailing lists.

As related recommendations resulting from his study, Mr. Henderson suggested that consideration be given to abolishment of the Board of Basic Science Examiners, to combining professional and practical nurses under one board, and to enforcing the provisions of Section 3-10-2(7), 1963 C.R.S., that require all examining boards to be furnished with offices in the Capitol Building Group, if available, and if space is not available, then in some suitable office building located in Denver. The chief clerk noted that three boards have their offices outside of Denver and four boards do not have their offices in "suitable Denver office buildings." One solution might be to encourage the combination of staffs and inspectors so that the number of separate offices needed would be reduced.

The committee believes that many of the recommendations submitted by the chief clerk are meritorious and corrective action is warranted. The committee further believes that a number of these recommendations should be considered by the executive department and are not necessarily matters where legislative action is called for. In other respects, however, the questions and recommendations presented by the chief clerk deserve further interim legislative consideration, and this study of administrative boards and agencies should therefore be continued.

Legislative Audit Committee

With the adoption of Amendment No. 1 by the voters of Colorado on November 3rd, 1964, the responsibility for conducting the post-audit program of the state was assigned to the General Assembly. In the brief time available since this constitutional amendment was approved, the committee has given consideration to legislation needed to implement this change. On the basis of a conference with the State Auditor and a review of legislative audit laws of other states, the committee recommends:

1. The creation of an eight-member Legislative Audit Committee in the 1965 session to be composed of two members from the majority and minority parties in each house of the General Assembly. This committee should begin operating following adjournment of the 1965 session and its primary duties at this stage would be to act as a screening group for applicants to the position of State Auditor elected by the General Assembly in order to recommend one or more persons for election in the 1966 session, and to work closely with the present State Auditor to assist him with his auditing program and to become familiar with this program.

2. The adoption of legislation in the 1965 session to set forth the qualifications of and procedures for electing the State Auditor; to define the duties and staff of the State Auditor, including provisions for the transfer of the civil service personnel located in the office of the present State Auditor; to define the powers and duties of the Legislative Audit Committee; and to make such amendments to existing laws relating to the State Auditor as may be deemed necessary.

Employee Suggestion Award System

The committee recommended that Colorado undertake a suggestion award program for state employees along the lines outlined in its report and the draft of a bill included in its report for the 1964 regular session (Colorado Legislative Council Research Publication No. 80, December 1963). Since this matter was not a subject presented by the Governor for action in the 1964 session, the committee is recommending favorable consideration of this proposal in the 1965 session.

Livestock Sanitary Division

In its report to the 1964 session, the committee suggested that the two groups most directly concerned with livestock disease control -- the livestock growers and the veterinarians -- work together in an attempt to reach a mutually-acceptable solution with respect to this program. Following this suggestion, the State Agricultural Commission has appointed a committee composed of representatives from each of these interested groups to review the state's program of livestock disease control. The report of this committee will not be submitted until December 1st, 1964, and consequently the committee cannot comment on the results of this undertaking. The committee is gratified, however, by the efforts demonstrated by these two groups to work out their disagreements, and it is hoped that some agreement will be reached and submitted to the General Assembly for consideration in the 1965 session.

Study Continuation

The committee believes that a number of significant improvements have resulted from its work and the work of the two previous committees in 1961 and 1962. The area of state government organization is so broad, however, the committee recommends that the General Assembly consider directing the Legislative Council to appoint a similar

committee to continue this work in the 1965-66 biennium. As possible subjects for study, the committee suggests administrative rules and regulations, revision of the Administrative Code of 1941, standardized terminology in describing units of state government, and statutory impositions on the Governor's time.

APPENDIX A

A BILL FOR AN ACT

CONCERNING CLAIMS AGAINST THE STATE AND ESTABLISHING THE COLORADO
CLAIMS COMMISSION.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. This act shall not be construed as a waiver or repudiation of the doctrine of sovereign immunity, firmly established in the law of this jurisdiction, by the state of Colorado, or any state agency, or any of its political subdivisions, but is enacted to establish an orderly and expeditious procedure to aid the general assembly in the consideration and evaluation of tort claims against the state, some of which the state should in equity and good conscience assume and pay. No liability for any claim shall be imposed upon the state or any state agency by a determination of the Colorado claims commission under the provisions of this act unless the general assembly shall have enacted legislation making a specific appropriation for the payment of such claim.

SECTION 2. Definitions. As used in this act:

(1) "Commission" means the Colorado claims commission created by section 3 of this act.

(2) "Person" means any individual, firm, partnership, or corporation.

(3) "State agency" includes any department, division, section, board, office, commission, bureau, agency, or institution of the state government.

(4) "State employee" includes every person elected or appointed to or employed in any office, position, or post in the state government and for which he receives compensation.

SECTION 3. Commission created - chairman - meetings - quorum.

There is hereby created the Colorado claims commission, which shall be composed of the state auditor, the controller, and the state budget director. The state auditor shall be chairman and presiding officer of the commission, and its chief administrative officer. The commission shall have power to make and alter rules governing its procedure. It shall meet at such time and place as may be designated by the chairman, but shall meet at least once in every three months. A majority of the members of the commission shall constitute a quorum and the concurrence of two members shall be necessary for the allowance or disallowance of any claim.

SECTION 4. Jurisdiction of commission. (1) The jurisdiction of the commission under the provisions of this act, except for claims excluded in subsection (2) of this section, shall extend to claims for injury to persons or property or loss of life caused by the negligent or wrongful act or omission of a state agency, or of a state employee while acting within the scope of his office or employment.

(2) The jurisdiction of the commission shall not extend to claims:

(a) Based upon an act or omission of a state employee exercising reasonable care in the execution of a statute or regulation, whether or not such statute or regulation be valid; or based upon the exercise or performance or failure to exercise or perform a discretionary function or duty on the part of a state employee or state agency, whether or not the discretion involved be abused.

(b) Based upon an act or omission of a state employee for which insurance coverage is provided under the provisions of chapter 67, Session Laws of Colorado 1962, or under any other statutory provision.

(c) For injury to or death of an inmate of a state penal institution.

(d) Arising out of the care or treatment of a person in a state institution.

(e) For damages caused by the imposition of a quarantine by the state.

(f) Arising out of alleged assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, fraud, interference with contractual rights, or invasion of the right to privacy.

(g) For which a remedy is provided or which is governed specifically by other statutory enactment, or for which an administrative hearing procedure is otherwise established by law.

SECTION 5. Petition for claim. (1) Any person wishing to present a claim against the state shall file such claim with the chairman of the commission in the form of a petition, in triplicate, containing the following information:

(a) The name and address of the claimant; the name and address of his principal, if the claimant is acting in a representative capacity; and the name and address of his attorney, if the claimant is so represented.

(b) A concise statement of the basis of the claim, including the date, time, place, and circumstances of the act or event complained of.

(c) A detailed statement itemizing the damages claimed.

(d) Any other pertinent information requested by the commission.

(2) All claims filed with the chairman of the commission shall be designated by number and short title.

SECTION 6. Limitation on presentation of claim. (1) No claim shall be presented under this act except within two years after it accrues. Claims for injury to person or damage to property shall be deemed to accrue on the date when the damage or injury is sustained or discovered or, in the exercise of reasonable care, should have been discovered; provided, that no claim shall be presented more than three years from the date of the act or event complained of.

(2) No claim against the state shall be presented to the commission except under the provisions of this act, unless otherwise authorized by the general assembly.

SECTION 7. Commission action on claims - hearings. (1) Each claim shall be considered by the commission as soon as practicable after it is filed. If the commission deems a hearing to be necessary or advisable on any claim, it shall give the claimant and the state agency involved, if any, at least fifteen days notice by certified mail of the time and place of the hearing. Hearings may be held at the office of the chairman of the commission, at any available hearing facility in the state capitol, or at any suitable place in the state that the commission finds is convenient and just to the claimant and to the state.

(2) The commission, in connection with any of its investigations or hearings on any claim, shall have power and authority to summon witnesses, to take testimony under oath, to be administered by the chairman or any member, and to assemble such records and documents as may in its judgment be deemed necessary, with the same power and authority as courts of record in hearing causes.

(3) The commission shall not be bound by the strict rules of evidence, except as it may be provided by its rules, but shall conduct

all hearings publicly and in a fair and impartial manner, giving the parties full opportunity for presentation of evidence, cross examination of witnesses, and argument.

(4) The attorney general shall be legal advisor to the commission and he shall represent the state on all claims filed with the commission.

(5) No member of the commission shall participate in an investigation of or hearing on any claim in which he or the state agency where employed is interested or in respect of which he is biased or prejudiced. Upon the disqualification of a member, the chairman shall apply to the governor for the appointment of a temporary member, who shall participate only in proceedings on the claim in respect to which the disqualification occurred.

SECTION 8. Decision - findings of fact - report to general assembly. The commission shall make findings of fact for each claim considered by it, including but not limited to the extent and type of damages sustained, if any, and the legal liability, if any, of the state, its agencies or employees, and shall file such findings with its recommendation disposing of the claim. Within five days after the convening of the regular session of the general assembly next succeeding the disposition of a claim, the commission shall make its report on all claims so disposed of by filing its records and findings on all such claims with the committee on appropriations of the House of Representatives and the committee on finances of the Senate. All records of the commission on any claim filed shall be available to any member of the general assembly. Except as provided in section 10 of this act, the general assembly may authorize, by appropriate legislation, a suit to be brought against the state on any claim for more

than ten thousand dollars, whether or not such claim was filed with and allowed or disallowed by the commission.

SECTION 9. Expenses of the commission. Members of the commission shall receive no compensation for service on the commission other than actual and necessary travelling expenses incurred in the performance of their duties. Administrative expenses incurred by the commission shall be requested in the annual budget of the state auditor. A transcript of any hearing conducted in the investigation of any claim, if deemed necessary by the commission or requested by the claimant, shall be paid by the claimant.

SECTION 10. Release. The acceptance by the claimant of any award, compromise, or settlement on any claim under the provisions of this act shall be final and conclusive on the claimant and constitute a complete release of any claim against the state of Colorado or against the state employee whose alleged negligence or wrongful act gave rise to the claim, and a complete bar of any action against the state or against the state employee by reason of the same subject matter by the claimant.

SECTION 11. Repeal. 130-2-1 through 130-2-4, Colorado Revised Statutes 1963, are hereby repealed.

SECTION 12. Effective date. This act shall take effect July 1, 1965, and shall apply only to claims accruing after said date.

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

C O P Y

April 28, 1964

Mr. Lyle C. Kyle
Director, Legislative Council
Room 341, State Capitol
Denver 2, Colorado

Dear Mr. Kyle:

Reference is made to your letter of April 17, 1964, requesting information concerning our study relative to the proposed Law Enforcement Training Academy for the State of Colorado. You particularly requested answers to questions contained on pages xvi-xvii of the Legislative Council's Report as contained in Research Publication No. 54, dated December, 1961. Pursuant to your request, the following information is submitted for the committee's consideration.

Formation and Appointment of Governor's Committee

In the Spring of 1962, the then-Governor of the State of Colorado requested me to meet with him, and during the course of our meeting he furnished me with your Research Publication No. 54. He also furnished me with certain recommendations that had been submitted to him by the director of the Planning Division. The Director of Planning recommended to Governor McNichols that an "expert" be hired to survey the situation in an effort to determine the answer to the same questions as are printed on pages xvi-xvii of your publication.

I recommended to Governor McNichols that rather than hire an outside expert to survey the state, he consider appointing a committee composed of law enforcement administrators within the State of Colorado to assist him in determining the desires of the various law enforcement agencies within the state. At this time he asked me to act as chairman of such a committee. As a result of our conference, the Governor appointed the following law enforcement administrators to a Study Committee:

Chief of Police Karl M. Johnson, Grand Junction Police Department
Chief of Police Roy Harper, Pueblo Police Department
Chief of Police Myron Teegarden, Boulder Police Department
Chief of Police James M. Slavin, Denver Police Department
Sheriff Guy F. Van Cleave, Jr., Adams County Sheriff's Office
Sheriff Jerry Stroh, Morgan County Sheriff's Office
Col. Gilbert Carrel, Colorado State Highway Patrol

Our first committee meeting was held in July of 1962 in the Governor's Office. Copies of your Research Publication No. 54 were furnished to each committee member. We reviewed same in its entirety. Each member was familiar with all of the bills that had previously been submitted to the State Legislature. Therefore, in an effort to answer the questions as contained in pages xvi-xvii of your report, it was

decided that we hold area meetings throughout the state of Colorado to determine two things: (a) Just which type of institution the law enforcement agencies desired, and (b) which type of institution, if created, would they support.

The committee took the position that during these area meetings we would not endeavor to "sell" any type of institution, i.e., State Crime Bureau, Central Records Bureau, State Identification Bureau, etc. Further, that we would not inject our own personal thoughts in any effort to sway or influence any area group. We therefore divided the State of Colorado into eight separate areas. We solicited either a sheriff or a chief of police in each area to sponsor a meeting of law enforcement administrators, city managers, mayors, county commissioners, judges and the citizenry of the area.

Eight area meetings were held. Generally speaking, the attendance was good. We tape-recorded each meeting and have the tapes available. We also typed each tape and have them in a separate report. From these area meetings, I believe we can now answer the questions that appear on pages xvi-xvii of your publication and the information you desired in your letter.

WHO SHOULD BE RESPONSIBLE?

First of all, during these area meetings a vast majority of Colorado's law enforcement administrators, as well as other officials, do not believe that a crime bureau is necessary at this time. All stated that the training academy was necessary, it would benefit all law enforcement agencies, and would create no problem of support. Frankly, as stated in another section of your publication, the old problem of creation of some type of investigative agency raises suspicions within the State. They definitely do not at this time favor any other type of institution other than a training academy. Therefore, in answer to your questions, we will refrain from discussion of any other program.

As a result of our studies and deliberations, this committee has recommended to the Governor that appropriate legislation be considered to create a Colorado law enforcement training academy, said academy to be for the benefit and training of municipal, county and state law enforcement agencies. That if created by legislation, it should be governed by a board of directors composed of the following personnel:

(a) The Attorney General as the chief law enforcement official of the State be appointed active chairman of this board. It is our understanding that the Governor of the State is ex-officio chairman of any committee or board created by the State Legislature.

(b) This board of directors, with the Attorney General as chairman, to consist of three duly-appointed chief's of police within the State of Colorado; and

(c) Three duly-elected and active sheriff's within the State of Colorado; and

(d) The administrative head of the Colorado State Highway Patrol.

The board of directors acting through already-existing state agencies such as budget, purchasing, etc., to completely control matters concerning budget, curricula, selection of instructors, rules of conduct, rules of admission, and all other administrative matters affecting the academy. The selection of the board of directors should be vested with the Attorney General and the tenure of the board members should be staggered so that replacement will not suffer because of deaths or retirements.

WHAT SHOULD BE THE RELATIONSHIP BETWEEN THE
CRIME BUREAU AND THE TRAINING PROGRAM?

From information gathered at the eight area meetings held throughout the state, law enforcement administrators, city and county officials, and others have little indication that they either wanted or would support a crime bureau at this time. They expressed their desires and support in terms of necessity, urgency, state-wide benefit, and harmony. In some areas, opposition was expressed by the officials attending that they did not desire any type of agency created wherein the agency had any "investigative" jurisdiction. They would not support or work for the creation of this type of agency. This committee, in reviewing your publication prior to these area meetings, was aware of statements of the same effect appearing in your report.

During these meetings, many officials did not actively oppose the idea of a crime bureau, central records bureau, etc., but did state that in their opinion the training academy was more urgently needed than a crime bureau. They stated that the academy, if created, would train officers to learn the use and the benefits of a state crime bureau or a state crime laboratory. At the present time, the State of Colorado could build a fine laboratory that would cost a large sum and with no training or knowledge of how to use the laboratory, it would not be effective. Most of the expressions heard during the survey by this committee were to the effect that all segments of law enforcement would support the training academy and they were of the opinion that the State Legislature would not support a "package" situation, namely, both a training academy and a crime bureau.

WHERE SHOULD THE CRIME BUREAU AND THE POLICE ACADEMY
BE LOCATED AND HOW LARGE A FACILITY IS NEEDED?

Your Research Publication No. 54 contains a suggestion submitted by Governor McNichols in 1961 that the situs of any structure be at Buckley Air Force Base. That at that time he was considering selling Camp George West and use a portion of the funds realized in this sale to construct either the academy or the crime bureau at Buckley. Shortly after this committee was formed, we were told by Governor McNichols that after consulting with Major-General Joe Moffitt, Adjutant General of the State of Colorado, Buckley Air Force Base was no longer available. Further, that General Moffitt would not sell any of the land at Camp George West. At this time, this committee met with General Moffitt. He advised us that he would offer to this committee certain buildings at Camp George West for our exclusive use if the training academy were created. Needless to say, General Moffitt is in complete accord

with the creation of this academy. He suggested, and this committee agrees and has recommended, that the site of the academy be located at Camp George West for the following reasons:

1. The land for the academy is already available and owned by the State of Colorado with no legal title problems existing.
2. All utility services such as water, sewer, light, power are now in existence.
3. The Adjutant General has offered to donate to this academy for our exclusive use the following buildings with no cost:
 - (a) A large quonset hut for student auto-storage that also could be utilized for indoor crime scene searches, etc.
 - (b) A large rock foundation house that can be utilized for practical raid problems or arrest problems, etc.
 - (c) An olympic-sized outdoor swimming pool that can be used for under water recovery of weapons, evidence, first-aid swimming, and lifesaving instructions.
4. By combining the law enforcement training academy with the new National Guard complex at Camp George West, the academy would have in common usage with the Armory such items as a central heating and ventilating system, storage areas, gymnasium, pistol range, one classroom, toilet and showers, and a boiler room.

General Moffitt and the Committee are in accord that by combining the structure, there will be no conflict of programs. In fact there are most common and compatible goals. General Moffitt is interested in teaching the young men of the Colorado National Guard in the realm of military tactics and science; we in law enforcement are interested in teaching the men of this profession techniques and practical applications of law enforcement. Scheduling of programs has been worked out where no serious conflict should occur. Also by combining the two programs at Camp George West, we can save on estimates at least \$200,000 from estimates submitted in 1958 for the erection of an academy proposed by the Colorado State Highway Patrol. Our academy, if created, will house the State Patrol and they will move their training facilities into this academy. At the present time the patrol spends approximately \$13,000 per annum for what must of necessity be temporary training facilities.

WHAT SHOULD BE THE SCOPE OF THE POLICE TRAINING PROGRAM AND WHERE SHOULD PRIMARY EMPHASIS BE PLACED?

From expressions gathered at the area meeting of law enforcement administrators, the scope of training must be for the benefit of all law enforcement within the State. Local officials stated that it must contain the following types of training:

- (a) Basic or what is commonly called "rookie" training.
- (b) In-service training for those officers who need advanced training.
- (c) Administrative training for promotions and standardizing law enforcement administration throughout the state of Colorado.
- (d) Specialized training in the fields of investigative and legal procedures.

These administrators stressed to us that special emphasis should be placed on the basic training for smaller departments within the state, where at present they have no opportunity for training of any type. That basic training be held for 30 days of resident training, five days per week, and classes to run from 7:00 a.m. until 9:00 p.m., with reasonable breaks for lunch and dinner to be scheduled.

In-service training courses to be scheduled for 14 days of resident training. Such training should be offered to municipal, county and state law enforcement agencies except those engaged in purely custodial fields. This type of training as previously stated would tend to standardize and assist in creating a professional status.

Administrative training is not available for the employed officer anywhere in the state. Colleges do offer courses in police administration but, the working officer cannot take advantage of this. This academy, if created, expects to operate at least 48 weeks per year on a continuous basis.

As previously stated, the Colorado State Highway Patrol will move its training equipment and efforts into this academy and will assist in all traffic instruction and share usage. This feature will give the academy an experienced staff of instructors in the traffic field and other related matters.

This committee does not recommend pre-employment training for this academy. First of all, there are colleges in the state that offer this type of training. The principal reasons for not recommending this type of training for this academy are:

- (a) There is no guarantee that the student will enter the law enforcement profession.
- (b) There is in the opinion of administrators little or not proper screening of the students to determine if the techniques and mechanics learned might in the future be used to the detriment of law enforcement.

This committee recommends that while a large bulk of the training program is purely vocational in nature, certain well-qualified instructors from the colleges and universities will be requested to assist on a guest lecturer and consultant basis. Particularly their services would be practical and valuable to acquaint the officers with basic fundamentals in such fields as sociology, human relations, psychology and preparation of curricula, etc.

TO WHAT EXTENT WOULD LAW ENFORCEMENT OFFICIALS
USE THE TRAINING ACADEMY?

As previously stated, in the eight area meetings all law enforcement administrators, city and county officials, particularly in the smaller communities, expressed support for this academy. There was no opposition expressed to the academy. Some city managers stated they would oppose the academy if attendance were declared by the state to be mandatory. They stated this would be repressive and not in keeping with the home rule theory of government. They also stated that such a mandatory rule would be impossible to enforce.

Our survey reflects that there are approximately 1,790 municipal law enforcement officers in the State of Colorado. This figure is valuable for estimating the number of prospective attendants to in-service, administrative and specialized schools.

We were unable to obtain an accurate figure of "turn over" in municipal law enforcement agencies. Heads of smaller departments stated, however, that the figure fluctuates from year to year. In their opinion, if men had better training they might be able to hold their services longer.

Colonel Carrel of the Colorado State Highway Patrol states that if the academy comes into reality, he will increase his in-service training program in keeping with programs now operating in other states.

There are 63 county sheriff's offices and a survey reflects in the rural areas the office may only have one or two deputy sheriffs, all without sufficient opportunity for any type of training except the Boulder Crime School and periodic short-term seminars taught by special agents of the FBI.

The committee is of the opinion that if the law enforcement officials of the state hold to their words of support, the problem of scheduling classes will be of major concern to the board of directors.

HOW SHOULD OPERATION OF THE TRAINING
PROGRAM BE FINANCED?

During the period of this study, members of the committee personally visited two established law enforcement training academies, namely, Pennsylvania State Police Academy, Hershey, Pennsylvania, and the California State Police Training Academy at Sacramento, California. We also received written material from the States of Kentucky, Missouri, Florida, and Oregon.

The financing of other law enforcement training academies now in existence are all similar. The state owns the land, erects the structures, furnishes the equipment, instructors, administrative staff and custodians, meals and rooms being the only expense to be borne by the department sending men to the academy for training. Pennsylvania, the only state required by statute to train municipal police officers, charges the very low figure of \$1.00 per day per student. In all states, no tuition fee is charged as such but the maintenance cost of bedding, etc., is figured and added to the daily cost of attendance. The

municipalities and counties sending men for training pay the cost. Coin-operated laundry machines have been installed in some academys to allow attendees to do personal laundry. In some states the student also purchases his own note-book for the reason he takes same back to his department upon graduation.

During our area meetings, this question of financing arose and the smaller departments, such as two-men departments who really need and desire training, stated that town and city budgets were such that any charges other than actual room and board might prevent them from attending. Therefore, this committee has recommended that departments participating in the training be charged for actual costs of room and board, the exact figure to be determined by study by the board of directors.

During our study we were permitted to consult with the architect who will supervise the construction of the new National Guard building at Camp George West. He has submitted a Pre-Preliminary Planning Brochure to the Governor. The cost of construction of the academy, as well as equipment to house a total of 72 people, is stated to be \$313,000. As previously stated, this is approximately \$200,000 cheaper than an estimate made in 1958 for the Colorado State Patrol. At that time they requested a dormitory for 35 men. As previously mentioned, if this academy is now established, the State Patrol will utilize this facility for all of their training programs.

This committee is definitely of the opinion that the Training Academy for Law Enforcement Officers is urgently needed. Never in the history of law enforcement in the United States has the profession been subject to such drastic changes in techniques and public acclaim for improvement. Law enforcement is a profession and one way of reaching professional standards for the law enforcement officers of the state is to create this law enforcement training academy.

I trust that this letter contains the information that you and your committee desires. If at any time you deem it necessary, we will be most happy to meet with you in an effort to clarify any additional questions that you want answered.

Very truly yours,

A. S. Reeder, Chairman
Governor's Advisory
Committee to Study a Proposed
Law Enforcement Training Academy