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0207-1 Recommendations for 1975, Committees On: Health, Environment, Welfare, and Institutions; Administration of Justice; Education; Banking; Water

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Report to the Colorado General Assembly:

RECOMMENDATIONS FOR 1975, RECEIVED

COMMITTEES ON:

**Health, Environment, Welfare,
and Institutions**

Administration of Justice

Education

Banking

Water

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VOLUME I

COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 207

DECEMBER 1974

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* * * * *

The Legislative Council, which is composed of six Senators, six Representatives, plus the Speaker of the House and the Majority Leader of the Senate, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

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COLORADO LEGISLATIVE COUNCIL
RECOMMENDATIONS FOR 1975

(Volume I)

Committees on:

Health, Environment, Welfare,
and Institutions

Administration of Justice

Education

Banking

Water

Colorado, Legislative Council
" "
Report To The
Colorado General Assembly

Research Publication No. 207
" December, 1974

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December 11, 1974

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To Members of the Fiftieth Colorado General Assembly:

Submitted herewith are the final reports of the Legislative Council committees for the 1973-74 biennium. This year's report has consolidated the individual reports of ten committees in the first two volumes, with the report of the State and Local Finance Committee contained in Volume III of this publication.

The study directives for some committees were adopted in 1973 by the Legislative Council and additional topics were assigned pursuant to action of the 1974 General Assembly.

In addition to the above reports, included is a recommendation by the Legislative Council for a bill concerning the order in which referred and initiated constitutional amendments and laws are to appear on the ballot. The bill and a summary are included at the end of Volume II.

Respectfully submitted,

/s/ Senator Fred Anderson
Chairman
Colorado Legislative Council

FOREWORD

The report of the Colorado Legislative Council again assumes the format initiated last year in which all Legislative Council committee reports are printed in consolidated form. This year the reports are contained in three volumes.

With the exception of one long bill, all committee reports and recommended bills, constitutional amendments, and resolutions are included in this three-volume document of "Recommendations for 1975." The exception is the proposed 365-page recodification of the municipal laws submitted by the Committee on Local Government.

Volume I contains the reports and recommendations of the Committees on Health, Environment, Welfare, and Institutions; Administration of Justice; Education; Banking; and Water. The reports in Volume II are from the Committees on Legislative Procedures; Federal and State Lands; Local Government; Energy; and Criminal Justice. The Committee on State and Local Finance has reported separately in Volume III.

Also included at the end of Volume II is a bill which is recommended to the General Assembly by the Legislative Council. This bill, noted as Bill 41, concerns the order in which proposed constitutional amendments and laws are to appear on the official ballot.

The committees and staff of the Legislative Council were assisted by the Legislative Drafting Office in the preparation of bills and resolutions. James C. Wilson, Jr., Director, assisted the Committee on Legislative Procedures; Douglas C. Brown, the Committees on Energy and Local Government; Vincent C. Hogan, the Committees on Administration of Justice and Water; Michael T. Risner, the Committees on Criminal Justice, State and Local Finance, and Health, Environment, Welfare, and Institutions; and Terry D. Walker, the Committees on Banking, Education, and Federal and State Lands.

December 11, 1974

Lyle C. Kyle
Director

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AND INSTITUTIONS

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COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS

The Committee on Health, Environment, Welfare, and Institutions was charged by the Legislative Council to study the various programs for the mentally retarded and to consider the need for the development of standards and alternative treatment approaches, and the coordination of treatment and habilitative programs, with the ultimate goal of improving services for the retarded.

First year of interim study. The recommendations submitted by the committee are the result of two years of interim study. In its first year (1973 interim), the committee discovered that the provision of services to the mentally retarded had become the responsibility of five different executive departments. While the need for the program in each department continued, the committee concluded that one agency should have ultimate responsibility for providing a continuum of services for the mentally retarded individual.

The question of which department should be the mental retardation authority for the state became one of resolving whether to use the agency regarded as possessing expertise in the field of mental retardation, the Department of Institutions, or the agency which administers federal funds through the Social Security Act, the Department of Social Services. The committee determined that, given the existing administrative framework, the Department of Institutions was best qualified to act as the single state agency to provide these services.

It was recommended that the department be designated in the statutes as the single state agency for the provision of services to the developmentally disabled. Legislation was not adopted in 1974, but the department was reorganized by executive order to establish a Division of Developmental Disabilities.

Second year of interim study. During the course of the second interim study period, a series of newspaper articles appeared describing alleged staff shortages at the State Home and Training School at Ridge and the potential loss of \$5 million of federal funding to the state's institutional program. 1/ Subsequent articles discussed the shigellosis

1/ Denver Post, July 7, 1974, at 1; July 11, 1974, at 1; July 12, 1974, at 1.

epidemic at Ridge and staffing shortages at the State Home and Training School at Grand Junction. 2/

At the request of several groups, the Joint Budget Committee scheduled a hearing with the superintendents of the schools at Ridge and Grand Junction, as well as the chief of the Division of Developmental Disabilities, to discuss problems which had arisen at the institutions and which could be partially solved through the appropriations process. 3/ During the hearing, it was suggested that the state's program was in need of change, and that the General Assembly should contract with the executive board of the Developmental Disabilities Council to develop standards for the state's mental retardation program which would include cost-effectiveness figures. It was also suggested that the JBC consider visiting institutions of excellence throughout the country to provide a basis for comparison of Colorado's programs to those of other states.

At a subsequent hearing, the JBC committed \$3,000, to be matched by \$9,000 from the council, for a contractual agreement for a study to develop program standards. The study was to be completed within 90 days.

The JBC also announced its intention to tour four institutions in other states which were selected from lists submitted by various individuals in Colorado considered to be professionals in the field of mental retardation. Institutions selected for the tour were:

- (1) Mansfield Training School, Mansfield Depot, Connecticut;
- (2) Central Colony, Madison, Wisconsin;
- (3) Utah State Training School, American Forks, Utah; and
- (4) Arizona Training Program, Tucson, Arizona.

2/ Denver Post, July 23, 1974, at 1; July 24, 1974, at 3; July 25, 1974, at 3.

3/ For an account of the hearing, see: Denver Post, July 26, 1974, at 3.

Accompanying members of the JBC and their staff were a subcommittee of the interim Committee on Health, Environment, Welfare, and Institutions, a representative of the Ridge Parent's Association, a representative of the Colorado Association for Retarded Children, a director of a community center program, and a member of the press.

An outline of the group's findings at these institutions follows. Further information concerning these institutions is available in the Legislative Council office.

I. Institutions of Other States

Connecticut

Central authority. Connecticut statutes provide for a strong central authority to administer the state's mental retardation program. The head of the Office of Mental Retardation is responsible

...for planning and developing a complete comprehensive and integrated statewide program for the mentally retarded; for the implementation of said program; and for the coordination of the efforts of the office of mental retardation with those of other state departments and agencies, municipal governments and private agencies concerned with and providing services for the mentally retarded.

To assist in achieving the integrated statewide program, Connecticut has established a regionalized system of services. The state is divided into twelve regions, two of which are served directly by the two state training schools, Mansfield and Southbury, with the remainder being served by individual state-operated regional centers. Most regional centers provide an array of services, including case services, diagnosis, evaluation, functional education, respite care, short-term and long-term residential care, vocational training, and sheltered workshops. Under these regional centers are the community-based programs provided by the private sector. These include preschool activity programs, day care, vocational and sheltered workshop programs, social recreational programs, and diagnostic services.

Connecticut credits its regional program as being the greatest deterrent to institutionalization through the process of providing the supportive and program services neces-

sary to sustain most mentally retarded persons within their home communities. Individuals who are unable to successfully adjust to a total community setting, or whose communities do not have the services required by the individual, may utilize the regional center for whatever combination of services, including residential services, are necessary. If the local private agencies or the regional center are unable to meet the individual's needs, the training school is utilized. Connecticut attempts to make its system movement-oriented at all times.

Unique programs. Connecticut has instituted a unique computer program, Project Place, in which key elements of client information, program information, and resource information have been placed into a computer system. Utilizing 13 computer input and output terminals located at the training schools, regional centers, and the central state office, Connecticut has the capability of having comprehensive visibility on many program and client elements that are essential to planning, developing, and supporting a system of services designed to keep individuals from having to enter institutions and to enable persons presently residing in institutions to return to the community.

When Project Place is completed it will provide the following:

- (1) A client-data bank involving over 90 characteristics on each of approximately 10,000 developmentally disabled persons;
- (2) A program-data bank involving over 60 characteristics on approximately 500 public and private programs; and
- (3) An information-data bank on special human resources as to personal areas of expertise and programs for the developmentally disabled.

Another unique program in Connecticut is the implementation of a contract for service on all admissions to the training schools and to the regional centers. The contract for service, which is negotiated with the client and the family or his guardian, requires that specific program objectives be outlined and that a program plan be developed to meet these objectives within a designated period of time, generally six months to a year. An attempt is made to provide for active involvement of the family or guardian, but it appears that the obligation is primarily upon the state. The object of the system is to eliminate a majority of the

long-term admissions and substitute residential care plans for shorter periods of time with the focus on returning the individual to the community as soon as feasible. Contracts are renegotiated on their termination date, reassuring parents of continued care with specific program goals.

Of particular interest to the subcommittee was Mansfield's utilization of undergraduate students from the University of Connecticut. Students in various disciplines such as engineering, interior decorating, special education, speech therapy, and physical therapy earn college credits while enriching the training school's programs. Some students work at Mansfield on an internship program for an entire semester, while others are involved with the training school only until the completion of a specific project. For example, interior decorating students were assigned the task of renovating the inside of old dormitory halls so that they would appear more homelike; and engineering students designed special apparatus to aid handicapped retarded individuals in becoming more mobile.

The committee observes that such a program would be of great benefit to the training schools at Ridge, Grand Junction and Pueblo, and is pleased that the Colorado Higher Education Consortium, a federation of 24 colleges and universities across the state, has begun implementing a similar program.

Wisconsin

Program responsibility. Wisconsin places the primary responsibility for providing care for the mentally retarded on the local county developmental disabilities board. These boards coordinate services of sheltered workshops, nursing homes, day care centers, and group homes. Any recommendation for admission to a state training school must first be approved by the local board.

Education of all handicapped persons between the ages of three and 21 is the responsibility of the local school district. The school district is not required to operate the programs, but may place a child in an appropriate day care center or residential care facility operated by the local county developmental disabilities board.

Medically oriented. The subcommittee found that the program at Central Colony is based primarily upon a medically-oriented philosophy. Admissions are limited to individuals six years of age or under who are severely or profoundly retarded and who have a severe accompanying phys-

ical handicap. Because of the admissions policy, only 36 clients were admitted out of 140 requests. Of the 36 admissions, some were only "paper commitments", with children being placed directly into a foster home rather than the training school.

Other indications of the orientation of the facility were the maintenance of a hospital on the grounds of the training school, and the requirement that all professional staff be involved in research in addition to their regular duties. Central Colony also maintains a separate research staff in cooperation with the University of Wisconsin at Madison.

Internal management system. Central Colony divides its direct resident care staff into unit levels with two to four wards in each unit. The unit staff consists of registered nurses, licensed practical nurses, and institutional aides. Clients are assigned to units on the basis of the client's needs. Each unit is required to develop a formal written program for each client, which is placed on the client's bed and at the nursing station.

Each unit has its own budget for operating expenses, but receives services such as food, laundry, and housekeeping from the general staff. Budgets are developed by the entire unit staff, based upon the programs and needs of the unit's clients. The subcommittee found this method of developing a budget of great interest, and recommends that the state homes and training schools investigate the possibility of adopting a similar procedure.

Staff turnover. The employee turnover rate at Central Colony is between four and five percent per year. The superintendent estimates that 75 percent of the training school's 1,201.8 FTE employees have been employed at the Colony for at least five years. The subcommittee credits much of the low turnover rate to the fact that there are 14 unions representing the Colony's employees which results in starting wages for an institutional aide (hall technician) of \$648 per month, much above the local market for similar positions.

Utah

Program responsibility. Utah statutes provide that the local school district is responsible for the education and training of all handicapped children from the district between the ages of five and 21 years, regardless of where they may be temporarily domiciled. If a school-age child

enters the Utah State Training School, the child's local school district is still responsible for providing for the child's education.

Most other state services fall within the jurisdiction of the Utah State Training School which is the only institution for the retarded in Utah. Because Utah statutes do not provide for community-centered programs, the training school operates group homes, sheltered workshops, and recreation activity centers.

The superintendent noted that operation of community programs by the training school resulted in quality programs being provided in the community which could utilize all the resources of the "mother ship" institution. However, it appeared that a majority of the community programs operated by the training school were in the immediate vicinity of the training school, resulting in services being provided only to those living near the institution. After some discussion with the superintendent and a representative of the local school district, the subcommittee concluded that adequate plans had not been made prior to the implementation of Utah's handicapped children's act. Many school districts were not equipped to provide programs for retarded children. Consequently, retarded children in most areas of the state are not receiving services.

Educational funding. As noted earlier, local school districts are responsible for providing for the education of children domiciled at the Utah State Training School. This has resulted in an increase of \$801,300 in the training school's budget over the previous fiscal year, or an addition of 30 teachers and 40 teacher-aides to the educational program. The expanded educational program has just begun and is not yet fully developed. However, it is suggested that the General Assembly consider a program similar to the Utah program.

Arizona

Accreditation. The Arizona Training Program at Tucson was first funded in fiscal year 1969-1970. It began operations in fiscal year 1970-1971 with a clientele of 51 and a staff of 93. In its first five years of operation, Tucson's staff has exceeded the number of 24-hour care residents. The facility has always served a day care population, increasing from 76 in fiscal year 1970-1971 to 242 in fiscal year 1974-1975.

Tucson's program was accredited by the Joint Commission on Accreditation of Hospitals (JCAH) in July, 1972. When discussing accreditation, the superintendent noted that it has both advantages and disadvantages. On the positive side is the visibility given the training school's programs. On the negative side is the requirement that the training school maintain staffing ratios that may not be applicable to a facility that emphasizes movement into the community.

Program description. Tucson has a Family Education Clinic which maintains family contact. Before a child is admitted, specific goals are set with the parents and the child, including the long-range goal of his eventual return to community life. This process includes the utilization of a contract for service similar to Connecticut's. After a child is returned to the family, the clinic provides on-going consultation. The clinic, which meets once each week, is available for parents to learn methods of dealing with their child.

Perhaps the most important aspect of the Tucson program is the day programming, which includes preschool, school-age, and post-school programs for both 24-hour care residents and community residents. Specific training includes:

Fundamental Learning - Sensory stimulation, mobility, self-care skills, communication, physical development, and parental assistance. For young clients, profoundly retarded, multiply handicapped, living at home.

Preschool - Language and perceptual development, self-care, and behavior modification. For three to eight year olds, ambulatory, severe to moderately retarded, potential for public school enrollment.

Primary - Language development, socialization, and behavior modification. For eight to 16 year olds, ambulatory, possessing basic self-care skills, basic academic skills, and basic academic readiness.

Secondary - Same as Primary, except that students are older.

Adult and Adolescent Fundamental Training - Same as Fundamental Learning, except that clients are older.

Adult Day Activity - Socialization, task training, basic community living, occupational therapy as preparation for vocational training. For severe and profoundly retarded adults with no potential for public schooling, but trainable.

The subcommittee was particularly impressed with the method by which the Tucson program utilized its staff. During day programming, all cottages are closed and the residential staff accompanies the residents to their programs, increasing the program client-staff ratio. It would appear that a similar procedure could be implemented at Colorado facilities. The committee therefore recommends that the superintendents of the state homes and training schools objectively review their present staff utilization with the goal of increasing client-staff ratios during educational programming.

II. Committee Recommendations

Legislative Recommendations -- Bill 1

After completing the tour of these institutions, the delegation visited the state homes and training schools at Ridge, Grand Junction, and Pueblo. Areas of discussion included programming, staff utilization, and follow-up responsibility after community placement, with the intent of relating knowledge gained from the Connecticut, Wisconsin, Utah, and Arizona programs. (For a comparison of funding, population characteristics, staffing ratios, and available man-hours in Colorado to those in Connecticut, Wisconsin, Utah, and Arizona, see Table I, page 13.)

The committee concluded that one of the principal problems with Colorado's mental retardation program was the lack of statutory direction, the need for single agency responsibility, for lifetime follow-up services, and for specific program areas. As a result, the committee recommends a bill which would essentially reorganize Colorado statutes pertaining to the developmentally disabled citizen. The bill is divided into three parts. Part I describes the powers and duties of the Department of Institutions; Part II is concerned with the institutional aspect of the program for the developmentally disabled; and Part III describes four broad types of programs to be provided at the community level, utilizing the purchase of service from community center programs.

There are four primary differences between the provisions of this bill and the provisions of existing Colorado statute. The first difference is that the bill places programmatic responsibility on the executive director of the Department of Institutions, and requires that certain minimum types of services be provided by the department. Presently, the statutes are silent as to what types of services are to be provided the developmentally disabled.

The second difference is that the proposed bill requires the Department of Institutions to maintain a central registry of all developmentally disabled persons who are or have been recipients of state assistance. The registry will allow the department to monitor the progress of each individual so that no one will "fall through the cracks". Provisions are included to ensure the privacy of the individuals involved. The committee does not use the term "state assistance" in the narrow sense of categorical assistance under the provisions of the Social Security Act, but rather the term is used in the broader sense of any assistance provided a developmentally disabled person through any state program, including both direct provision of services and purchase of services.

The third difference is that the bill provides for a placement office to be located in each training school. As the bill is submitted, three alternatives for the office are presented. While the committee endorses Alternative 2, the committee suggests that the General Assembly consider all three alternatives. The placement office will assist in the placement of both individuals from the training school and individuals referred to the department from the community who are in need of placement, and will be responsible for providing lifetime follow-up services.

The final difference is that the bill requires the department to develop four types of community programs: Day care programs, day camp programs, recreational programs, and residential programs. Day care programs are essentially those being provided at this time by community centers, and would include self-care, activities of daily living, personal and social adjustment, work habits, and speech and language development. Day camp programs, which would function in the summer months, would provide supervised out-of-doors activities when many programs are not in operation. Recreational programs would provide continued supervised activities of a social, athletic, and purely diversionary nature. The residential program would be designed to provide family living experiences for those capable of living in the community.

TABLE I

Comparison of Colorado Residential Facilities for the Mentally Retarded
to Connecticut, Wisconsin, Utah and Arizona Facilities

	<u>Ridge</u>	<u>Pueblo</u>	<u>Grand Junction</u>	<u>Mansfield School Connecticut</u>	<u>Central Colony Wisconsin</u>	<u>Utah State Training School</u>	<u>Arizona Training Program at Tucson</u>
74-75 Appropriated Population - 24 Hr. Care	810	410	575	1,100	965	860	200
Current Population - 24 Hr. Care	808	397	569	1,226	907	878	242
Population Characteristics							
% Severe and Profound	73	50	53	72	95	67	59
% Nonambulatory	20	1	24	18	67	22	9
Average Age	16.5	29	18	29	13	22	23
74-75 Anticipated Placements	25	39	20	300	89	63	50
74-75 Appropriated State Funds Per Resident Percent	\$6,447 <u>1/</u> 65	\$4,508 <u>1/</u> 48	\$4,874 <u>1/</u> 53	N/A <u>3/</u>	\$ 2,031 14	\$4,593 59	N/A <u>4/</u>
74-75 Appropriated Federal Funds Per Resident Percent	\$3,400 35	\$4,930 52	\$4,273 47	N/A <u>3/</u>	\$11,967 86	\$3,192 41	N/A <u>4/</u>
74-75 Appropriated Funds Per Resident - 24 Hr. Care	\$9,847	\$9,438	\$9,147	\$8,303	\$13,998	\$7,785	\$9,118
Total Staff-Institution Services Only	715.8	279.3 <u>2/</u>	450.5	1,076	1,159.8	793.5	232.5
Current Resident to In- stitution Staff Ratio	1:.89	1:.70	1:.79	1:.88	1:1.28	1:.90	1:.96

TABLE I (continued)

Resident Direct Care/Project - Man Hour Analysis

	<u>Ridge</u>	<u>Pueblo</u>	<u>Grand Junction</u>	<u>Mansfield School Connecticut</u>	<u>Central Colony Wisconsin</u>	<u>Utah State Training School</u>	<u>Arizona Training Program at Tucson</u>
Staff Assigned	358	163	242	733	641.7	543.5	194.5
Available Annual Man-Hours Per Employee ^{5/}	1,776	1,776	1,776	1,554	1,760	1,880	1,663
Available Annual Man-Hours Per Current Resident	966	93	857	929	1,245	1,164	1,327

- 14-
- 1/ Funding includes proration of employee fringe benefits, applicable to the agency, but funded in the Division of Accounts and Control.
 - 2/ Pueblo FTE analysis does not include any positions covered by a purchase of service agreement with the Colorado State Hospital.
 - 3/ Mansfield does not know positions or dollars obtained from Federal Public Assistance Funds. Federal funds are administered by the Department of Finance and Control and reported back as state general funds.
 - 4/ The total Arizona Training Program uses no federal public assistance funds and a small amount of federal grant monies. With a total MR appropriation for 1974-1975 of \$14,334,700, Arizona will receive \$647,779 (4.5%) in federal grant monies. Tucson's total 1974-1975 appropriation is \$3,432,400 with \$82,149 (2.4%) from federal grants.
 - 5/ Available annual man-hours is the net working time after deductions for vacation, holidays, sick leave, and other lost time.

COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS

BILL 1

A BILL FOR AN ACT

1 CONCERNING SERVICES FOR THE DEVELOPMENTALLY DISABLED.

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

3 SECTION 1. Article 11 of title 27, Colorado Revised
4 Statutes 1973, as amended, is REPEALED AND REENACTED, WITH
5 AMENDMENTS, to read:

6 ARTICLE 11

7 Services for the Developmentally Disabled

8 PART 1

9 POWERS AND DUTIES

10 27-11-101. Definitions. As used in this article, unless
11 the context otherwise requires:

12 (1) "Department" means the department of institutions.

13 (2) "Developmentally disabled person" means a person with a
14 disability attributable to mental retardation, cerebral palsy,
15 epilepsy, or neurological impairment, which may originate during

1 the developmental period, which can be expected to continue
2 indefinitely, and which constitutes a substantial handicap.
3 Unless the context otherwise indicates a mentally ill person,
4 whenever the term "idiot", "feeble-minded person", "mental
5 incompetent", "mental defective", "weak-minded person", "mentally
6 deficient person", or "mentally retarded person" is used within
7 the laws of the state of Colorado, it shall be deemed to mean and
8 to be included within the term "developmentally disabled person".

9 (3) "Executive director" means the executive director of
10 the department of institutions.

11 27-11-102. Duties of executive director. The executive
12 director shall be responsible for planning, developing, and
13 implementing a complete, comprehensive, and integrated statewide
14 program for the developmentally disabled and for the coordination
15 of the efforts of the department with those of other state
16 departments and agencies, county and municipal governments, and
17 private agencies concerned with providing services for the
18 developmentally disabled. He shall be responsible for the
19 administration and operation of the state training schools and
20 all state-operated community residential facilities established
21 for the diagnosis, care, education, and training of the
22 developmentally disabled. He shall be responsible for
23 establishing standards, providing technical assistance, and
24 exercising the requisite supervision of all state-supported
25 community centers, diagnostic facilities, day care centers,
26 habilitation centers, sheltered workshops, boarding homes, and
27 other facilities for the developmentally disabled. He shall

1 stimulate research by public and private agencies, institutions
2 of higher education, and hospitals, in the interest of the
3 elimination and amelioration of developmental disabilities and
4 care of the developmentally disabled. He shall be responsible
5 for the development of criteria as to the programmatic
6 eligibility of any developmentally disabled person for
7 residential care in any public or state-supported private
8 institution and, after considering the recommendation of a
9 properly designated diagnostic agency, may assign such person to
10 a public or state-supported private institution.

11 27-11-103. Types of services. (1) The department shall
12 provide services for the developmentally disabled, including but
13 not limited to the following:

14 (a) Consultation and guidance for developmentally disabled
15 persons and their families;

16 (b) Residential services;

17 (c) Diagnostic and evaluation services;

18 (d) Preschool programs;

19 (e) Day care services for school-age persons not eligible
20 for public schools;

21 (f) Day care services for adults;

22 (g) Overnight or temporary residential privileges;

23 (h) Postschool vocational training and vocational
24 rehabilitation services;

25 (i) Consultation services to community operated programs;

26 (j) Recreational and leisure time activities.

27 (2) Services may be provided directly by the department or

1 through a purchase-of-services contract.

2 27-11-104. Central registry. (1) The department shall
3 maintain a central registry of each developmentally disabled
4 person who is a recipient or former recipient of state
5 assistance. The registry shall contain such information
6 pertaining to the individual's disability as may be prescribed by
7 the executive director.

8 (2) The executive director shall cause each person listed
9 on the central registry to be reevaluated at least once every
10 three months. It shall be the responsibility of each state
11 agency providing services to developmentally disabled persons to
12 assist the executive director in the compilation of data for the
13 central registry.

14 (3) The executive director shall ensure that access to
15 information contained in the central registry be limited to those
16 agencies and their authorized officers and employees who provide
17 services to the developmentally disabled. Information may be
18 made available to qualified persons for research related to
19 developmental disabilities under regulations issued by the
20 department pursuant to section 27-11-105. Such regulations shall
21 establish procedures to assure the privacy of individuals about
22 whom information is released.

23 27-11-105. Administration of article - rules and
24 regulations. The executive director has the power to adopt
25 reasonable rules and regulations to carry out the provisions of
26 this article. Such rules and regulations shall be adopted in
27 accordance with the provisions of section 24-4-103, C.R.S. 1973,

1 and may be amended or revoked from time to time. The executive
2 director is also authorized to promulgate standards for and
3 supervise programs supported under this article and to prescribe
4 the form of: Reports; budgets; the holding of meetings and
5 investigations; and evaluations necessarily incident to the
6 administration of this article.

7 27-11-106. Acceptance of federal grants. The executive
8 director is authorized to accept, on behalf of the state, any
9 grants of federal funds made available for any purposes
10 consistent with the provisions of this article. The executive
11 director, with the approval of the governor, has the power to
12 direct the disposition of any such grants so accepted in
13 conformity with the terms and conditions under which given.

14 27-11-107. State coordinating advisory board. There is
15 hereby created the state coordinating advisory board, referred to
16 in this article as the "board", to advise and consult with the
17 executive director in the administration of this article and to
18 coordinate all state services provided by various state
19 departments, in their respective fields, with local services.
20 The board shall consist of nine members to be appointed by the
21 governor for terms of three years; except that, of the members
22 first appointed, three shall be appointed for three years, three
23 for two years, and three for one year. Thereafter, members shall
24 be appointed for terms of three years except in the case of a
25 vacancy, which shall be filled for the remainder of the unexpired
26 term. The members of the board shall serve without compensation
27 but shall be entitled to reasonable expenses incurred in the

1 performance of their official duties. Such expenses shall be
2 paid as a part of the expenses of the department in the general
3 administration of this article. One member of the board shall
4 represent the department of institutions, one member the
5 department of health, one member the department of social
6 services, and one member the department of education. Five
7 members shall be persons other than personnel of said departments
8 who have demonstrated interest and leadership in the care and
9 treatment of the developmentally disabled. A majority of the
10 members of the board shall constitute a quorum and shall have
11 full and complete power to act upon and resolve any matter or
12 question referred to it by the department.

13 PART 2

14 STATE TRAINING SCHOOLS

15 27-11-201. State training schools established - names.

16 There are hereby established three state training schools for the
17 developmentally disabled. Said training schools shall be
18 designated and known as the state training school at Ridge, the
19 state training school at Grand Junction, and the state training
20 school at Pueblo.

21 27-11-202. Superintendents. The executive director shall

22 appoint, pursuant to section 13 of article XII of the state
23 constitution, a superintendent for each of the state training
24 schools. Persons appointed shall be skilled and trained
25 administrators with training and experience related to the
26 exceptional needs of these schools, shall have had experience in
27 a similar institution, and shall be competent to direct and

1 administer the medical, hygienic, educational, and industrial
2 interests of the schools. The superintendent of each school
3 shall appoint such other employees in accordance with section 13
4 of article XII of the state constitution as are necessary to
5 carry out the functions of the school.

6 27-11-203. Admissions. (1) Any developmentally disabled
7 person who is unable to care for himself or his property may be
8 admitted to any state training school if he or his legal guardian
9 is a bona fide resident of Colorado.

10 (2) Nonresident developmentally disabled persons may be
11 admitted or retained in any state training school if there is
12 room after all Colorado applicants are cared for. The entire
13 cost, as determined pursuant to section 27-12-102 (1), shall be
14 paid by such person, his children, his parents, or the state of
15 his legal residence. If it affirmatively appears that a patient
16 does not have legal residence in this state and the interstate
17 compact on mental health is not applicable, it is the duty of the
18 superintendent of any state training school to notify the
19 executive director, who shall make arrangements to return such
20 person to the state of his legal residence. All expenses
21 incurred in effecting the transportation of such person shall be
22 paid from funds appropriated for the care of the developmentally
23 disabled. The county department of social services of the county
24 alleged to be the residence of such person shall make an
25 investigation of such residence on request and report thereon to
26 said executive director. The department of social services shall
27 receive and forward such requests.

1 27-11-204. Superintendent to have custody and control of
2 residents. All persons admitted to a state training school or
3 other state-operated facility for the care, training, and
4 education of the developmentally disabled shall be under the
5 custody and control of the superintendent until discharged
6 therefrom. No developmentally disabled person committed by a
7 court of this state shall be discharged from such institution
8 until, in the judgment of the superintendent, the person's mental
9 and physical condition justifies such discharge.

10 27-11-205. Placement. (1) The superintendent of any state
11 training school may place any developmentally disabled resident
12 committed to such training school into a private facility,
13 including but not limited to a boarding home, nursing home, or
14 family care home, to be cared for in accordance with the
15 following conditions:

16 (a) Such person shall, despite such placement, remain
17 subject to the control of the superintendent of such training
18 school, and such superintendent may, at any time, order and
19 provide for the return of any such patient to such training
20 school, subject to any limitations of the term of commitment
21 contained in the order of commitment under which such patient was
22 committed.

23 (b) When the placement of any such person has been
24 authorized or when, having been placed in a private facility for
25 developmentally disabled persons, such person has been returned
26 to the training school, the superintendent of such training
27 school shall immediately so notify the executive director.

1 (c) Such private facilities shall be licensed under joint
2 regulations promulgated by the department of institutions and the
3 department of social services.

4 Alternative 1

5 (2) (a) To assist the superintendent in the selection of an
6 appropriate private facility for the placement of a
7 developmentally disabled person, the department of social
8 services shall maintain an office at each state training school.
9 Each office shall be staffed with a sufficient number of social
10 workers who are acquainted with available placement facilities
11 and with each resident to be placed. Upon the determination that
12 a resident is prepared for placement in a private facility, the
13 superintendent shall consult with the social service office
14 concerning an appropriate placement facility for the resident.

15 (b) The social service office shall provide follow-up
16 services for each resident placed from the state training school
17 into a private facility for one year after discharge from the
18 training school. After the resident has been discharged for one
19 year, follow-up services shall become the responsibility of the
20 county department of social services of the county of residence
21 of the developmentally disabled person.

22 Alternative 2

23 (2) (a) To assist the superintendent in the selection of an
24 appropriate private facility for the placement of a
25 developmentally disabled person, the department shall maintain a
26 placement office at each state training school. Each placement
27 office shall be staffed with a sufficient number of social

1 workers who are acquainted with available placement facilities
2 and with each resident to be placed. Upon a determination that
3 the resident is prepared for placement in a private facility, the
4 superintendent shall consult with the placement office concerning
5 an appropriate placement facility for the resident.

6 (b) The placement office shall be responsible for providing
7 follow-up services for said resident for the remainder of the
8 resident's life.

9 (c) The department shall determine geographical areas to be
10 served by each placement office. If a resident is placed into a
11 geographical area other than the geographical area served by the
12 institution from which he was placed, the placement office of the
13 geographical area in which he was placed shall provide follow-up
14 services.

15 Alternative 3

16 (2) (a) To assist the superintendent in the selection of an
17 appropriate private facility for the placement of a
18 developmentally disabled person, the department of social
19 services shall maintain a placement office at each state training
20 school. Each placement office shall be staffed with a sufficient
21 number of social workers who are acquainted with available
22 placement facilities and with each resident to be placed. Upon
23 the determination that a resident is prepared for placement in a
24 private facility, the superintendent shall consult with the
25 placement office concerning an appropriate placement facility for
26 the resident.

27 (b) The placement office shall provide follow-up services

1 for each resident placed from the state training school into a
2 private facility for the remainder of the resident's life.

3 (c) The department shall determine geographical areas to be
4 served by each placement office. If a resident is placed in a
5 geographical area other than the geographical area served by the
6 institution from which he was placed, the placement office of the
7 geographical area in which he was placed shall provide follow-up
8 services.

9 27-11-206. Types of services. In addition to the services
10 prescribed by the executive director, each state training school
11 may provide any of the services enumerated in section 27-11-103.

12 27-11-207. Annual reports - publications. The
13 superintendent of each state training school shall prepare
14 reports for the executive director at such times and on such
15 matters as the executive director may require. Publications of
16 each state training school circulated in quantity outside the
17 department shall be subject to the approval and control of the
18 executive director.

19 27-11-208. Endowment fund. There is hereby authorized the
20 state training school endowment fund. Any parent, person,
21 corporation, or institution may contribute to said endowment fund
22 an amount, or may provide an income, sufficient to perpetually
23 maintain a person in a state training school. The bylaws to be
24 provided by the department shall prescribe the different
25 endowments, but the investments from said endowment fund shall be
26 in state, county, or municipal bonds or in first mortgages on
27 improved realty for not more than forty percent of the actual

1 value of such realty.

2 27-11-209. Gifts - receipt and disposition. Each state
3 training school is hereby authorized to receive gifts, legacies,
4 devises, and conveyances of real or personal property that may be
5 made, given, or granted to or for such state training school. If
6 the gifts are not prescribed, the superintendent, with the
7 approval of the executive director, shall exercise such authority
8 and make such disposition of the gift property as may be for the
9 best interest of said state training school.

10 27-11-210. Expenditures. No moneys shall be paid by the
11 state treasurer out of any other appropriation for, or moneys
12 belonging to, a state training school, except upon warrants of
13 the controller upon vouchers in favor of the persons to whom the
14 state is indebted on account of said state training school and
15 certified by the superintendent of said state training school.

16 27-11-211. Buildings - Pueblo. The state training school
17 at Pueblo may occupy buildings designated by the executive
18 director on the grounds of the Colorado state hospital at Pueblo.
19 While such buildings are occupied by such school, they shall be
20 under the management and control of the superintendent of the
21 school except as to utilities and other services supplied by the
22 Colorado state hospital.

23 27-11-212. Lease of property at state training schools.
24 The executive director is authorized to lease cottage facilities
25 at each of the state training schools to nonprofit agencies upon
26 reasonable terms and conditions to be established by the
27 executive director.

1 PART 3

2 COMMUNITY SERVICES

3 27-11-301. Programs for developmentally disabled persons.

4 (1) The department shall develop day care programs, day camp
5 programs, recreational programs, and residential programs for
6 developmentally disabled persons in the community. A nonprofit
7 agency may apply through the department for funds to be used to
8 assist in establishing, maintaining, or expanding such programs.

9 (2) A day care program may provide:

10 (a) For the care and training of preschool age children or
11 of children judged inadmissible to the special classes in the
12 public schools established for the educable developmentally
13 disabled and shall be devoted primarily to the training of the
14 developmentally disabled in the regimen and procedures necessary
15 for their adjustment to such classes or shall be devoted to
16 enabling school-excluded children to achieve their maximum
17 social, physical, and emotional potential;

18 (b) Developmentally disabled adolescents and adults with an
19 activity program which includes training in one or more of the
20 following areas: Self-care, activities of daily living, personal
21 and social adjustment, work habits and skills, and speech and
22 language development.

23 (3) A day camp program may provide developmentally disabled
24 children or adults with a supervised program of out-of-doors
25 activities which may be conducted during all or part of the
26 months of June, July, August, and September.

27 (4) A recreational program may provide planned and

1 supervised recreational activities for developmentally disabled
2 children or adults, which activities may be of a social,
3 athletic, or purely diversionary nature and which programs shall
4 be considered separate and apart from the day camp program
5 described in subsection (3) of this section.

6 (5) A residential program may provide for a live-in
7 environment in which the developmentally disabled may experience
8 all aspects of family living.

9 27-11-302. Placement. The department shall be responsible
10 for the placement of developmentally disabled persons referred to
11 it by local school districts, nonprofit community incorporated
12 boards, or state agencies for placement into day care programs,
13 day camp programs, residential programs, or recreational programs
14 which are approved by the department. Individuals referred to
15 the department shall be placed through the appropriate office
16 established pursuant to section 27-11-205 (2) (a). Follow-up
17 services shall be provided pursuant to section 27-11-205 (2) (b).

18 27-11-303. Purchase of services. (1) The department is
19 authorized to purchase services for the developmentally disabled
20 through community incorporated boards or accredited nonprofit
21 sheltered workshops which have been approved by the department.
22 Such boards may purchase services from public or private
23 nonprofit sheltered workshops, day care centers, and other
24 private facilities and from universities, colleges, public
25 schools, boards of cooperative services, and preschool nurseries
26 having approved facilities and offering approved programs. In
27 case such approved facilities and services are not available in

1 the community, the community incorporated board may develop and
2 operate such services directly.

3 (2) In the purchase of services from community incorporated
4 boards or accredited nonprofit sheltered workshops which have
5 been approved by the department, the executive director shall
6 specify levels and types of services to be provided and shall
7 review expenditures in accord with these standards for programs
8 of such centers and other agencies that are supported with funds
9 provided by this article. Such standards shall be in writing and
10 shall be submitted annually in the department's budget to the
11 general assembly. In fulfilling its responsibility, the
12 department may withhold state funds when the executive director
13 determines that the programs of such centers and other agencies
14 are not in compliance with the standards.

15 27-11-304. Appropriation for community programs. (1) Each
16 year the general assembly shall appropriate funds to purchase
17 services for the developmentally disabled from community center
18 boards, corporations not for profit, or accredited nonprofit
19 sheltered workshops which have been approved by the department on
20 the basis of five percent local funding to be matched by
21 ninety-five percent state funding less any federal or cash funds
22 received for general operating expenses from any other state or
23 federal source and less the required local school district funds
24 as provided under subsection (2) of this section. The yearly
25 appropriation when combined with all other sources of funding,
26 including local, federal, other state, and school district funds,
27 shall in no case exceed one hundred percent of the approved

1 program costs as determined by the general assembly. Funds that
2 are received for capital construction, specific research, or
3 enrichment programs which do not create a requirement for future
4 state funding shall not be considered in the calculation for the
5 distribution of funds under the provisions of this section.
6 Boards of county commissioners may levy up to one-half mill for
7 the purpose of purchasing services for the developmentally
8 disabled from community center boards, corporations not for
9 profit, or accredited nonprofit sheltered workshops which have
10 been approved by the department.

11 (2) The department shall submit to the governor and the
12 joint budget committee of the general assembly an annual report
13 of the number of students served under the program, including, as
14 a minimum, the total number of students served, the number in
15 average daily membership by both school-age and nonschool-age
16 students served, and the number of full-time equivalent students
17 served of both school age and nonschool age. For purposes of
18 this subsection (2), "full-time equivalent" means a minimum of
19 five hours of program per day for one hundred eighty days per
20 year. In addition, the report on the services provided shall
21 include, as a minimum, both educational and other services
22 provided, the costs of the services whether state-funded or
23 federally, locally, or privately funded, and a measurable
24 qualitative evaluation of the services rendered.

25 (3) For purposes of allocating moneys under this article,
26 the community boards shall submit to the department a proposed
27 budget, which budget shall include proposed expenditures,

1 including services said community boards intend to purchase from
2 various local agencies or institutions that offer services for
3 developmentally disabled persons.

4 (4) (a) Governmental units, including but not limited to
5 counties, municipalities, school districts, hospital districts,
6 or state institutions of higher education, are authorized, at
7 their own expense, to purchase services or to furnish money,
8 materials, and services for developmentally disabled persons
9 through community incorporated boards; except that each school
10 district shall provide to the community incorporated board which
11 supports programs attended by any developmentally disabled person
12 domiciled in that district, as a minimum, for each such person
13 attending such programs who is less than twenty-one years of age
14 and is at least of such an age that, but for his developmental
15 disability, he would be enrolled in the regular school program in
16 the district, an amount equal to: The amount raised per pupil in
17 attendance entitlement in the district by the levy for the school
18 district's general fund.

19 (b) Developmentally disabled persons as provided for in
20 this article shall not be counted as regularly enrolled for
21 purposes of the "Public School Finance Act of 1973".

22 (5) For purposes of this section, "attendance entitlement"
23 shall have the meaning ascribed to such term in section
24 22-50-104, C.R.S. 1973.

25 27-11-305. Approval of community-centered programs. (1)

26 In approving or rejecting community-centered programs for the
27 purchase of services for developmentally disabled persons, the

1 executive director shall consider the following factors:

2 (a) The adequacy and utilization of existing approved
3 facilities and programs in the community, such as public and
4 private nonprofit sheltered workshops, public school programs,
5 preschool nurseries and day care centers, and universities and
6 colleges;

7 (b) The adequacy of participation by state services,
8 including but not limited to social services, public health,
9 rehabilitation, and education;

10 (c) General community interest and participation;

11 (d) The establishment of programs for the prevention of
12 institutionalization and for habilitation when they do not
13 already exist.

14 (2) The executive director shall require the following in
15 the community administration of this program:

16 (a) Each community-centered program shall be under the
17 control and direction of a board of directors or trustees of a
18 corporation not for profit.

19 (b) The members of the board of directors or trustees shall
20 be representative of, but not limited to, public, private, or
21 voluntary agencies, including political subdivisions of the
22 state, which participate in a program for developmentally
23 disabled persons in the community.

24 (c) The community incorporated board shall make application
25 annually to the department to participate in the state program
26 for developmentally disabled persons, and only programs which
27 meet the requirements set forth in subsection (1) of this section

1 shall be approved.

2 SECTION 2. 27-1-104 (1) (d), (1) (e), and (1) (m), Colorado
3 Revised Statutes 1973, are amended to read:

4 27-1-104. Institutions managed, supervised, and controlled.

5 (1) (d) State ~~home-and~~ training school at Ridge;

6 (e) State ~~home-and~~ training school at Grand Junction;

7 (m) State ~~home-and~~ training school at Pueblo;

8 SECTION 3. Repeal. Article 14 of title 27, Colorado
9 Revised Statutes 1973, is repealed.

10 SECTION 4. Appropriation. There is hereby appropriated out
11 of any moneys in the state treasury not otherwise appropriated,
12 to the department of institutions, for the fiscal year commencing
13 July 1, 1973, the sum of _____ dollars (\$), for the
14 implementation of this act.

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

**LEGISLATIVE COUNCIL COMMITTEE
ON ADMINISTRATION OF
JUSTICE**

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COMMITTEE ON ADMINISTRATION OF JUSTICE

The Committee on Administration of Justice focused its attention on the following major topics and recommends nine bills relating to these topics:

I. Courts

Performance of certain functions by clerks of county courts (Bill 2)

II. Procedures involving Law Enforcement Assistance Administration (LEAA) funds

Composition of state Council on Criminal Justice (Bill 3)

Legislative review of LEAA projects (Bill 4)

Requirements for use of state funds for partially-financed federal programs (Bill 5)

Change in name of Division of Criminal Justice (Bill 6)

III. Collection of debts due the state

Duties of executive director, state Department of Administration (Bill 7)

Duties of state controller (Bill 8)

Representation of indigent persons in criminal cases -- reimbursement to the state of legal fees (Bill 9)

IV. District Attorneys

Colorado District Attorneys Association -- social security coverage (Bill 10)

I. Courts

Authorizing the Performance of Certain Functions by Clerks of County Courts -- Bill 2

An expeditious and practical method for dispensing with some of the minor misdemeanor violations and routine matters which are presently being handled by county court judges would be provided through Bill 2. County judges are presently required to spend an unnecessary amount of time on functions which are solely routine and could be handled in a suitable manner by the clerk of the court whose salary would be much less than that of a judge. The routine matters which would be handled by clerks include advising defendants of their rights, setting of bail, issuance of certain warrants and writs, setting motions for hearing and cases for trial, and entering default and process on judgments.

Persons charged with a minor traffic violation or a violation involving game, fish and parks may not want a full court proceeding in order to plead guilty to the offense. A proceeding before a clerk would save time for the judge, for law enforcement officers, as well as for the alleged violator. This approach could be particularly convenient in counties in which the court judge is part-time or for some other reason is not available to conduct routine court proceedings.

In performing these functions, the clerk would be under direction of a judge. In addition, approval by the Chief Justice of the Supreme Court would be required before the clerk would be authorized to act under this statute. In effect, the Chief Justice would be able to select the county courts in which this procedure is most appropriate for implementation.

The bill provides that a clerk, if authorized, could accept guilty pleas and impose penalties up to \$250 for certain traffic offenses and specific wildlife, parks and outdoor recreation offenses. In no case could a clerk impose a jail sentence and a defendant would need to give express consent to a proceeding in which he would plead guilty before the clerk of the county court. If the clerk concluded that a fine of over \$250 or a jail sentence were warranted for the violation, the case would be certified to the judge of the county court for arraignment and trial de novo.

Classification of Motor Vehicle Offenses

To further expedite the disposition of traffic cases, the committee endorsed a concept concerning the classification

of offenses relating to motor vehicles. This concept would provide a system of four classes of offenses, with minimum and maximum sentences for each class, for violations of the state's motor vehicle laws governing the regulation of vehicles and traffic. A similar approach has been adopted in the Colorado criminal code, in which there are five classes of felony violations, three classes of misdemeanors, and two classes of petty offenses. In the approach suggested, there would be four classes of misdemeanor traffic offenses with the penalties ranging from one year imprisonment and \$1,000 fine, for the most serious offenses, to a minimum sentence of a \$10 fine. All traffic offenses in Article 4 of Title 42, C.R.S. 1973, which relate to vehicles and traffic would be listed under one of the four classes of misdemeanors.

The proposal was brought to the committee late in the interim and time did not permit detailed examination of the draft bill. However, the committee concluded that the concept was important and could be beneficial to the judicial system in handling traffic offenses.

II. Procedures Involving LEAA Funds

Two hearings were held with officials of the Division of Criminal Justice and members of the state council, which is the board which governs the disbursement of LEAA funds in Colorado. On the basis of its review of the Colorado LEAA structure, the committee recommends four bills.

Composition of the State Council -- Bill 3

Considerable attention was given to the membership of the State Council on Criminal Justice, particularly to the effects of having council membership dominated by recipients, or potential recipients, of LEAA funds. Many of the concerns of the committee are addressed in Bill 3, which revises the membership of the state council.

Ex officio state officials. The executive director of the Office of State Planning and Budgeting would replace the adjutant general and would provide expertise in the functions of budget analysis, planning, and evaluation of projects.

Increased number of members. One member would be appointed from each of the 13 planning and management regions to assure adequate geographic representation. Of these members, no less than seven would be county commissioners or members of governing bodies of municipalities to assure that local govern-

mental units, which frequently are asked to continue programs after LEAA funding is ended, have their concerns expressed in deliberations of the state council. Finally, the remaining members from planning and management regions, plus five members from the state at large, should provide the council with representation from persons with a broad variety of community backgrounds, including core city, other urban, and law enforcement backgrounds.

Eventual Cost of LEAA Projects -- Bill 4

The federal Law Enforcement Assistance Administration provides financial assistance to state and local units of government in the form of block grants. To qualify for these grants, the state and local units of government must provide funds to match the federal dollars.

In 1974, the General Assembly appropriated \$805,555 in the aggregate to the Division of Criminal Justice and the Department of Institutions to serve as the state's "match" for all regular LEAA programs for state and local governments for fiscal 1975.

The general rule adopted by the State Council on Criminal Justice is that there will be a three-year period of federal funding (90% federal and 10% state match) after which project continuation becomes a state or local responsibility.

The committee expressed concern that the General Assembly is not adequately apprised of state LEAA projects and may not be aware which specific projects may ultimately require full state funding. Bill 4 would require that new state programs, approved by the state council, must be approved by the General Assembly through legislation other than in a general appropriations bill. This procedure is designed to assure that the appropriate legislative committees would be informed of proposed state LEAA projects at the beginning of the projects and not only at the time when full state funding is requested.

An example of an LEAA project which could ultimately require state funding upon termination of federal funding is a closed adolescent treatment center established by the Department of Institutions. The original federal grant of \$263,000 provided for one year of operation of the center with a capacity population of approximately 18 students. The per capita cost was approximately \$14,000 per student for that year of operation. A question arises concerning at what point, in the absence of federal funds, would the cost to the state for continuation of this center become prohibitive.

As another example, the General Assembly in 1974 appropriated \$50,000 to serve as the local "match" for a forensic unit in El Paso County when the county did not appropriate the third year of matching funds. For 1975-76, the General Assembly will be asked to appropriate \$124,894 to continue the juvenile portion of the forensic unit and \$316,080 for the adult section of this LEAA-initiated project.

Colorado Commission on Criminal Justice Standards and Goals. Another topic reviewed by the committee was the Colorado Commission on Criminal Justice Standards and Goals. The principal concern of the committee was whether future LEAA grants would be contingent on the state's adoption of the standards and goals set by this commission. The question is whether the commission will be in the position of acting as a legislative body in developing policies which would make certain types of LEAA projects acceptable and other projects unacceptable, and whether national standards will be imposed in Colorado. At this point, at least, the commission's approach and conduct is such that legislative action is not warranted. However, appropriate legislative committees should continue to monitor the activities of the commission.

Legislative Review of All Federally-Funded State Programs --
Bill 5

For reasons similar to those discussed in conjunction with Bill 4, the committee recommends legislation which would require that the executive director of the Office of State Planning and Budgeting provide information to the General Assembly concerning all projects in the executive branch for which state funding is required for the receipt of federal funds. Approval of such projects by the General Assembly would be required prior to the expenditure of any state funds.

An appropriation of \$50,000 to the Office of State Planning and Budgeting and \$15,000 to the Department of Administration is provided to cover the administrative costs for implementation of the act. However, this appropriation is contingent upon the availability of federal funds in the amount of \$65,000 to reimburse the state for administrative overhead costs.

Change in Name of Division of Criminal Justice to Division of
Criminal Justice Planning -- Bill 6

To ensure that the state agency which is responsible for the development of a comprehensive plan to improve criminal justice in Colorado is not inaccurately interpreted as a

law enforcement agency and that the name of the agency adequately reflects its principal planning functions, the committee recommends Bill 6, which changes the name of the Division of Criminal Justice to the Division of Criminal Justice Planning.

III. Collection of Debts Due the State

Three bills are submitted which relate to administrative procedures involved in the collection of accounts receivable owed the state by individuals who have utilized state facilities or services for which fees are charged. These bills were originally considered as a result of the committee's review of the procedures used for collection of fees from persons who use the services of the public defender's office; however, these bills would establish uniform collection procedures and extend them to other agencies as well as the Office of the Public Defender.

Duties of Executive Director, Department of Administration -- Bill 7

The committee found that collection of debts due the state through all state agencies is not presently performed on a coordinated basis with responsibility centralized with one state official or in one state agency. The state controller reported that there is approximately \$31 million in accounts receivable due the state for services performed at state institutions or by state agencies, an amount accumulated over a period of approximately three years. Departments with the largest delinquent accounts which could be collected are the Department of Higher Education (student fees) -- \$3.4 million; the University of Colorado Medical Center -- \$8.5 million; and the Department of Institutions -- \$3.45 million.

A number of economies of administration could be obtained through the centralization of the collection responsibility in one administrative department. Bill 7 would provide that the Department of Administration would review the debts owed the state and would be responsible for assisting state agencies in their efforts to recover debts owed the state and for promulgating rules and regulations relating to collection procedures.

Under the recommended bill, each agency would first utilize its own resources for the collection of delinquent accounts, after which the accounts would be referred to the state controller for further collection procedures. Referral of accounts would occur after certain time periods have elapsed or

if other defined conditions of the account were found to exist.

The rules and regulations promulgated by the department would be as uniform as possible for all agencies and would include a classification system which would indicate the types of debts, the amounts due, the time periods of delinquency, the circumstances of the debtor, and at what state of delinquency a debt should be turned over to the state controller for further collection efforts.

Duties of State Controller -- Bill 8

As a companion bill to Bill 7, Bill 8 would designate the state controller as the person responsible for assisting state agencies in their collection procedures. Beginning January 1, 1976, all state agencies would be required to turn over to the controller those debts which they are unable to collect. The conditions of the accounts which would determine the point at which the accounts would be considered "referrable to the controller" for further collection. Procedures would be described in the rules and regulations issued by the executive director of the Department of Administration.

The controller would utilize the services of assistant state solicitors assigned to assist in collection efforts. Private attorneys or private collection agencies could be employed in those cases where it was not feasible or possible for the controller, within the limitations of his office, to follow up on a case, e.g., cases in which the debtor is living out of the state.

The controller could compromise debts when authorized under state statute permitting the writing-off of bad debts (as authorized by Amendment 6, adopted by the electorate in the November 1974 general election) or under the department's rules and regulations. The controller could apply to the court to obtain a judgment against persons who have been ordered to reimburse the state for the services of the public defender but who are in defiance of the court order.

An appropriation is included in the bill for \$100,000 to the Department of Administration and \$20,000 to the Department of Law. It is anticipated that the assignment of one assistant state solicitor would be required to carry out the requirements of this bill.

Fees for Representation of Indigent Persons in Criminal Cases

-- Bill 9

Many of the aspects of the operation of the public defender's office were reviewed in detail by the committee. Two problems involving reimbursement to the state of legal fees for representation of indigent defendants are addressed in Bill 9. First, the current statutes are not specific concerning the type of information a defendant is to provide to the public defender and to the court in order for a judge to determine the defendant's indigency and his qualifications for assignment to a public defender or court-appointed counsel.

A second, closely-related issue concerns the need to improve the procedures for collection of fees charged to persons who use court-appointed counsel or the public defender system and who may be able to pay some costs of their defense in criminal cases. There are other persons who are indigent under guidelines established by the Colorado Supreme Court at the time of arrest, but who may have the potential to earn reasonably high salaries at some future time. College students, for example, may have little or no income but could probably repay costs after graduation. Recovered fees presently represent less than one-tenth of one percent of the total operating budget of the public defender's office.

Bill 9 provides the specific types of information which a defendant must submit to the court for determination of his degree of indigency and eligibility for the services of a public defender or court-appointed counsel. Current statutes contain no guidelines for the determination of indigency, but state that the determination of indigency is to be made by the state public defender, subject to review by the court (Title 21-1-103, C.R.S. 1973). The Supreme Court has issued guidelines for determination of indigency and a schedule of fees, which is based on the hours of work for each case.

By providing that an inquiry be made into a person's financial condition and requiring a financial statement and other information under oath, including information on family resources, the committee believes that this procedure would deter abuses of services of the Office of the Public Defender. The public defender would continue the practice of making the initial determination of a defendant's ability or inability to obtain private counsel and would continue to provide legal assistance after arrest and prior to arraignment for persons who are believed to be indigent. However, the official assignment of the public defender would occur only after the judge had reviewed the defendant's financial information.

To assure that judges would not overlook the public defender's recommendation regarding appointment of public counsel, the bill would require that the public defender report to the State Court Administrator all cases in which a public defender is appointed to represent a defendant over the recommendation of the public defender.

At the time the court assigned a public defender or private counsel to represent a defendant, regardless of the defendant's condition of indigency, the court would also order payment of a "reasonable fee" to reimburse the state for a portion or all of the costs of the public defender's office which could be attributed to the person's defense. The court order would specify the period of time in which the defendant is to reimburse the state.

To further ensure that the state would be repaid and the court order enforced, the court could order the assignment of a person's earnings or require some other form of security from the defendant. If he failed to comply with the order, the state, through the controller's office, could apply to the court to have the order reduced to judgment for the amount which remained unpaid. If the person against whom an order has been entered were a minor, his family would be financially responsible for reimbursing the state for the cost of legal defense provided by the state under the provisions of this bill.

Office of the Public Defender. The committee considered whether the Office of the Public Defender is appropriately located as a part of the judicial branch or whether it should be placed in the executive branch in order to be absolutely certain that the public defender can function in a manner independent from the court system.

The committee expressed reservations on retaining the office in the judicial branch since neither the functions of prosecution or defense are properly a part of this branch. Difficulties arise, however, in placing the public defender in the Office of Attorney General, which frequently is involved in a prosecutorial role, or in some other department of the executive branch under which the public defenders would be protected by civil service. The committee concluded that service to the public is of paramount importance and employees of the office should be subject to immediate removal if they do not perform in a proper manner.

IV. District Attorneys

Colorado District Attorneys Association. House Joint Resolution 1047, adopted by the General Assembly in 1974, expanded the committee's study directive to include "a study of the office of district attorney, with respect to the possible need for state assistance in areas of technical research services, standardized briefs, and similar aids to the more effective prosecution of violations of the criminal law of the state."

The Colorado District Attorneys Association has been funded for approximately three years, primarily with LEAA funds, and it is anticipated that this source of funding will expire June 30, 1975. Different approaches toward funding of the association were included in several draft bills which would provide legal, research, or other technical assistance for district attorneys.

The committee concluded that the services provided by the association are worthwhile and, if funding is to be continued, that it be provided by the counties composing a judicial district. Funding by the state is not recommended for several reasons, including the fact that district attorneys are essentially officials of local government.

Further, the board of directors of the association, in a resolution submitted to the committee, opposed the suggestion that the functions of providing research, standardized briefs, and other aids to district attorneys be conducted through the Office of Attorney General.

Social Security Coverage for Offices of District Attorneys -- Bill 10

Bill 10 concerns a complex problem of social security taxes due for offices of district attorneys. Basically, some counties, in particular counties in multiple county judicial districts, have overpaid social security taxes for the offices of district attorneys while other counties apparently have not paid social security. In those cases where the social security contribution has not been paid, both the employer and employee appear to be liable retroactively for social security contributions within the statute of limitation to January 1, 1971.

The over-payment situation exists because each county in a judicial district is presently considered, under the state's agreement with the federal government, to be fully liable for social security contributions for the district

attorney and his employees. As multiple employers, they are collectively paying more than they would be as single employers because each county pays a full employer's share rather than a proportionate share of the taxes.

The committee recommends Bill 10 which should resolve the overpayment situation. This bill would provide that an office of district attorney is to be considered a "juristic entity" which would allow counties to apportion the social security payments for this office in the same manner as they apportion salaries and other expenses.

No recommendation is submitted concerning the problem of back payments of the employer's and employee's share of social security taxes due. The committee concluded that it is not a state responsibility to pay these contributions retroactively for those counties which have not been reporting the social security taxes accurately.

COMMITTEE ON ADMINISTRATION OF JUSTICE

BILL 2

A BILL FOR AN ACT

1 AUTHORIZING THE PERFORMANCE OF CERTAIN FUNCTIONS OF COUNTY COURTS
2 BY THE CLERKS THEREOF.

Bill Summary

Permits clerks of county courts, when authorized by the chief justice of the state supreme court and the chief judge of the judicial district, to perform certain duties in place of the judge, but under his supervision, such as to issue some types of warrants and writs, to set bail, to approve bonds, to advise criminal defendants of their rights, to set motions for hearing and cases for trial, to grant continuances, to enter default and process on judgments, and to accept guilty pleas and set penalties therefor up to \$250 fine in specified wildlife, parks and outdoor recreation, and motor vehicle law violations.

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

4 SECTION 1. 13-6-212, Colorado Revised Statutes 1973, is
5 amended to read:

6 13-6-212. Duties of clerk. (1) The powers and duties of
7 the clerk of the county court shall be similar to the powers and
8 duties of the clerk of the district court exclusive of the powers
9 of the district clerk in probate and shall include such duties as
10 may be assigned to him by law, by court rules, and by the county
11 judge.

12 (2) UPON APPROVAL BY THE CHIEF JUSTICE OF THE SUPREME

1 COURT, THE CHIEF JUDGE OF A JUDICIAL DISTRICT MAY AUTHORIZE,
2 EITHER GENERALLY OR IN SPECIFIC CASES, THE CLERK OF THE COUNTY
3 COURT TO DO THE FOLLOWING:

4 (a) ISSUE BENCH WARRANTS, MISDEMEANOR OR FELONY WARRANTS,
5 AND WRITS OF RESTITUTION UPON WRITTEN OR ORAL ORDER OF A JUDGE;

6 (b) ADVISE DEFENDANTS IN CRIMINAL CASES OF THEIR PROCEDURAL
7 AND CONSTITUTIONAL RIGHTS;

8 (c) UNDER DIRECTION OF A JUDGE, SET BAIL;

9 (d) UNDER DIRECTION OF A JUDGE, APPROVE THE TYPE OF BOND IN
10 CRIMINAL CASES;

11 (e) ACCEPT PLEAS OF NOT GUILTY IN ALL CRIMINAL CASES AND
12 SET DATES FOR HEARINGS OR TRIAL IN SUCH CASES;

13 (f) SUBJECT TO THE REQUIREMENTS OF THE COLORADO RULES OF
14 CIVIL PROCEDURE, ENTER DEFAULT AND DEFAULT JUDGMENTS AND ISSUE
15 PROCESS FOR THE ENFORCEMENT OF SAID JUDGMENTS;

16 (g) UNDER THE DIRECTION OF A JUDGE, GRANT CONTINUANCES, SET
17 MOTIONS FOR HEARING, AND SET CASES FOR TRIAL; AND

18 (h) WITH THE CONSENT OF THE DEFENDANT, ACCEPT PLEAS OF
19 GUILTY AND IMPOSE PENALTIES IN MISDEMEANOR CASES INVOLVING
20 VIOLATIONS OF WILDLIFE AND PARKS AND OUTDOOR RECREATION LAWS FOR
21 WHICH THE MAXIMUM PENALTY SPECIFIED IN SECTION 33-6-127, C.R.S.
22 1973, IN EACH CASE IS A FINE OF NOT MORE THAN TWO HUNDRED FIFTY
23 DOLLARS, AND MISDEMEANORS INVOLVING THE REGULATION OF VEHICLES
24 AND TRAFFIC FOR WHICH THE PENALTY SPECIFIED IN SECTION 42-4-1501
25 OR ELSEWHERE IN ARTICLE 4 OF TITLE 42, C.R.S. 1973, IN EACH CASE
26 IS LESS THAN THAT MAXIMUM. A CLERK SHALL NOT LEVY A FINE OF OVER
27 TWO HUNDRED FIFTY DOLLARS NOR SENTENCE ANY PERSON TO JAIL. IF IN

1 THE JUDGMENT OF THE CLERK A FINE OF OVER TWO HUNDRED FIFTY
2 DOLLARS OR A JAIL SENTENCE IS JUSTIFIED, THE CASE SHALL BE
3 CERTIFIED TO THE JUDGE OF THE COUNTY COURT FOR REARRAIGNMENT AND
4 TRIAL DE NOVO.

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

BILL 3

A BILL FOR AN ACT

1 CONCERNING COMPOSITION OF THE STATE COUNCIL ON CRIMINAL JUSTICE.

Bill Summary

Increases the membership of the state council on criminal justice from 22 to 26 with substantial changes in the qualifications for appointment of members.

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

3 SECTION 1. 24-32-504 (2), Colorado Revised Statutes 1973,
4 is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 24-32-504. Criminal justice council created - composition -
6 chairman - compensation. (2) The council shall be comprised of
7 twenty-six members. The following eight shall be ex officio
8 members of the council: The attorney general, the state public
9 defender, the director of the Colorado bureau of investigation,
10 the executive director of the office of state planning and
11 budgeting, the executive director of the department of
12 institutions, the director of the division of local government in
13 the department of local affairs, the state court administrator,
14 and the chief of the Colorado state patrol. Any of the foregoing
15 officials may designate a substitute to serve regularly in his
16 place. Thirteen members shall be appointed by the governor, one

1 from each of the planning and management regions of this state
2 established by executive order, seven of whom shall be county
3 commissioners or members of governing bodies of municipalities.
4 Five additional members shall be appointed by the governor from
5 the state at large. Of those members first appointed for terms
6 commencing July 1, 1975, nine shall be appointed for a two-year
7 term, and nine shall be appointed for a four-year term.
8 Thereafter, each member shall serve a four-year term and shall be
9 eligible for reappointment.

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

BILL 4

A BILL FOR AN ACT

1 REQUIRING SUBMISSION OF PLANS BY THE DIVISION OF CRIMINAL JUSTICE
2 TO THE GENERAL ASSEMBLY FOR APPROVAL OF NEW PROGRAMS PRIOR
3 TO STATE FUNDING.

Bill Summary

Requires the director of the division of criminal justice to report to the general assembly concerning new programs which do or may require state funds. Requires general assembly approval by means of an appropriation therefor made by separate bill.

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

5 SECTION 1. 24-32-503, Colorado Revised Statutes 1973, is
6 amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

7 24-32-503. Duties of division. (2) The director of the
8 division of criminal justice shall report periodically and at
9 least once each year to the general assembly concerning the state
10 plans and the projects approved for funding by the council which
11 currently require or which may require funding by the state.

12 (3) No state funds shall be appropriated for purposes of
13 matching requirements of the federal government for new programs
14 approved by the state council on criminal justice unless such new
15 programs have been approved by the general assembly in a bill

1 other than a general appropriations bill.

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

BILL 5

A BILL FOR AN ACT

1 CONCERNING REQUIREMENTS RELATING TO THE USE OF STATE FUNDS FOR
2 PROGRAMS AND PURPOSES PARTIALLY FINANCED BY FEDERAL FUNDS,
3 AND MAKING AN APPROPRIATION THEREFOR.

Bill Summary

Requires the executive director of the office of state planning and budgeting to compile reports and summaries to show the general assembly all projects for which state funding is a requirement for the receipt of federal funds, and prohibits state expenditures for any such projects without specific approval thereof by the general assembly.

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

5 SECTION 1. 27-37-102, Colorado Revised Statutes 1973
6 (numbered as 3-39-102, C.R.S. 1963), as enacted by section 1 of
7 chapter 32, Session Laws of Colorado 1974, is amended BY THE
8 ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

9 24-37-102. Executive director - duties. (2) The executive
10 director shall collect appropriate information from all
11 departments of the executive branch relating to the number of
12 projects for which state funding is a requirement for the receipt
13 of funds from the federal government. An annual summary of this
14 information shall be submitted to the general assembly and a

1 complete report of projects shall be available on request of any
2 member of the general assembly.

3 (3) No state funds shall be expended for projects
4 incorporated in the annual report of the executive director
5 unless specific approval of the general assembly has been given
6 for such expenditure.

7 SECTION 2. Appropriation. (1) There is hereby
8 appropriated out of any moneys in the state treasury not
9 otherwise appropriated, to the office of state planning and
10 budgeting, the sum of fifty thousand dollars (\$50,000), or so
11 much thereof as may be necessary, for 3.5 FTE to carry out the
12 duties of the division of planning in the implementation of this
13 act.

14 (2) There is hereby appropriated, out of any moneys in the
15 state treasury not otherwise appropriated, to the department of
16 administration, the sum of fifteen thousand dollars (\$15,000), or
17 so much thereof as may be necessary, for 1.0 FTE to carry out the
18 duties of the division of accounts and control in the
19 implementation of this act.

20 (3) These appropriations are contingent upon the
21 availability of federal funds in like amounts for reimbursement
22 to the state of administrative overhead costs.

23 SECTION 3. Effective date. This act shall take effect July
24 1, 1975.

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

BILL 6

A BILL FOR AN ACT

1 CONCERNING THE DIVISION OF CRIMINAL JUSTICE, AND PROVIDING FOR A
2 NAME CHANGE THEREOF.

Bill Summary

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

Changes the name of the division of criminal justice to the division of criminal justice planning.

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

4 SECTION 1. 24-32-502 (1), Colorado Revised Statutes 1973,
5 is amended to read:

6 24-32-502. Division of criminal justice planning created.

7 (1) There is hereby created as a division of the department of
8 local affairs the division of criminal justice PLANNING, referred
9 to in this part 5 as the "division". The executive director of
10 the department of local affairs shall, subject to the provisions
11 of section 13 OF article XII of the state constitution, appoint
12 the director of the division, which office is hereby created.

13 SECTION 2. 24-1-125 (2) (h), Colorado Revised Statutes 1973,
14 is amended to read:

1 24-1-125. Department of local affairs - creation. (2) (h)
2 Division of criminal justice PLANNING, the head of which shall be
3 the director of the division of criminal justice PLANNING. The
4 division of criminal justice PLANNING and the office of the
5 director thereof, created by part 5 of article 32 of this title,
6 and their powers, duties, and functions are transferred by a type
7 2 transfer to the department of local affairs as a division
8 thereof. The state council on criminal justice, created by part
9 5 of article 32 of this title, and its powers, duties, and
10 functions are transferred by a type 1 transfer to the department
11 of local affairs and allocated to the division of criminal
12 justice PLANNING.

13 SECTION 3. Effective date. This act shall take effect July
14 1, 1975.

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

BILL 7

A BILL FOR AN ACT

1 CONCERNING DEBTS DUE THE STATE OF COLORADO, AND PROVIDING FOR THE
2 DUTIES OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
3 ADMINISTRATION WITH RESPECT THERETO.

Bill Summary

Requires executive director of the department of administration to acquire information on the collection by state agencies of debts due the state and then to make rules and regulations for the guidance of all agencies in carrying out collection procedures, including at what stage of delinquency or difficulty of collection a debt should be turned over to the controller for further collection efforts.

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

5 SECTION 1. 24-30-102 (1) and (2), Colorado Revised Statutes
6 1973, are amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS
7 to read:

8 24-30-102. Powers and duties of executive director. (1)
9 (g) Review the accounts of all state agencies with respect to
10 the status of debts owed to the state through any agency (other
11 than taxes recoverable by the department of revenue), and devise
12 methods to increase the efficiency of the agencies and the
13 controller in the collection of the debts.

14 (2) (f) Designate by rules and regulations, after

1 consultation with other state agencies, the methods to be
2 employed by state agencies in the collection of debts due the
3 state. Rules and regulations shall be uniform wherever possible
4 for all state agencies and shall include such things as the
5 classification of debts by type, amount, time status as to
6 delinquency, circumstances of debtor, possibility of error, and
7 any other method of classification which will aid an agency in
8 efficient efforts to recover amounts due the state. Such rules
9 and regulations shall also specify the requirements for a debt to
10 be classified as "referable to controller" for further steps to
11 effect collection thereof.

12 (g) Promulgate rules and regulations for the controller and
13 the staff of the division of accounts and control in the
14 collection of debts referred to that office, including such
15 matters as referrals to collection agencies or practicing
16 attorneys, authority to compromise, authorization of suit
17 filings, and methods of collection of judgments.

18 SECTION 2. Effective date. This act shall take effect July
19 1, 1975.

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

BILL 8

A BILL FOR AN ACT

1 CONCERNING THE COLLECTION OF DEBTS DUE THE STATE, AND PROVIDING
2 FOR THE DUTIES OF THE CONTROLLER AND THE DIVISION OF
3 ACCOUNTS AND CONTROL WITH RESPECT THERETO, AND MAKING
4 APPROPRIATIONS THEREFOR.

Bill Summary

Requires controller to assist state agencies in the collection of debts due the state, pursuant to rules and regulations of the executive director of the department of administration, and, when such debts have reached a certain stage of delinquency as specified in those rules and regulations, the controller is to take over the collection effort on behalf of the state, including the use of the services of assistant state solicitors or in certain cases collection agencies and private counsel. The controller can compromise debts, when authorized by rule and regulation, and can apply to the court to obtain judgments in cases where court orders to pay the expenses incurred by the state in furnishing public defender or other services to indigents charged with crimes. Appropriates \$100,000 to the department of administration and \$20,000 to the department of law.

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

6 SECTION 1. 24-30-201 (1), Colorado Revised Statutes 1973,
7 is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

8 24-30-201. Division of accounts and control - controller.

9 (1) (j) Pursuant to rules and regulations promulgated by the
10 executive director of the department of administration, to assist

1 state agencies in their efforts to recover moneys owing to the
2 state and to collect, on behalf of the state, accounts referred
3 to the controller and the division under rules and regulations
4 authorizing such referral under defined circumstances, as further
5 specified in section 24-30-202.4.

6 SECTION 2. Part 2 of article 30 of title 24, Colorado
7 Revised Statutes 1973, is amended BY THE ADDITION OF THE
8 FOLLOWING NEW SECTIONS to read:

9 24-30-202.4. Collection of debts due state - controller's
10 duties. (1) The controller shall advise and assist the various
11 state agencies concerning the collection of debts due the state
12 through such agencies, in accordance with rules and regulations
13 promulgated by the executive director of the department of
14 administration to achieve the prompt collection of debts due such
15 agencies.

16 (2) Beginning January 1, 1976, all state agencies shall
17 refer to the controller debts due the state which the agency has
18 been unable to collect and which debts have been classified,
19 pursuant to the rules and regulations applicable thereto, as
20 being "referable to controller", together with the data, records,
21 and information necessary for the controller to institute the
22 collection procedures of his office.

23 (3) (a) Upon referral to the controller of debts due the
24 state classified "referable to controller", he shall institute
25 procedures for collection thereof, pursuant to the rules and
26 regulations promulgated therefor by the executive director of the
27 department of administration.

1 (b) The controller may employ collection agencies or
2 private counsel to handle collections when it is not possible or
3 feasible for the controller, with the assistance of the office of
4 the state solicitor general, to handle a particular case or
5 cases.

6 (c) The controller is authorized to compromise any debt due
7 the state, but only in accordance with the rules and regulations
8 applicable thereto.

9 (d) Net proceeds of debts collected by the controller shall
10 be accounted for and paid into the general fund, and the
11 controller shall report periodically and at least annually to the
12 general assembly concerning the results of collection activities.

13 24-30-202.5. Additional collection work authorized. Upon
14 request of the state court administrator, the controller shall
15 also accept, for purposes of collection, payments ordered to be
16 paid by defendants in criminal cases defended by the office of
17 state public defender or court-appointed counsel in cases wherein
18 judgment has been entered for the payment of any amount as
19 attorney fee under section 21-1-103, C.R.S. 1973.

20 24-30-202.6. Assistant state solicitors. The state
21 solicitor shall appoint to the division such assistants as are
22 reasonably necessary to perform the legal services which the
23 controller may require to carry out the duties of collection of
24 debts due the state.

25 SECTION 3. Appropriation. (1) There is hereby
26 appropriated, out of any moneys in the state treasury not
27 otherwise appropriated, to the department of administration, for

1 the fiscal year commencing July 1, 1975, the sum of one hundred
2 thousand dollars (\$100,000), or so much thereof as may be
3 necessary, for the administration and implementation of this act.

4 (2) There is hereby appropriated, out of any moneys in the
5 state treasury not otherwise appropriated, to the department of
6 law, for the fiscal year commencing July 1, 1975, the sum of
7 twenty thousand dollars (\$20,000), or so much thereof as may be
8 necessary, to carry out the duties imposed upon the department by
9 this act.

10 SECTION 4. Effective date. This act shall take effect July
11 1, 1975.

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

BILL 9

A BILL FOR AN ACT

1 CONCERNING THE REPRESENTATION OF INDIGENT PERSONS IN CRIMINAL
2 CASES.

Bill Summary

Provides that inquiry is to be made into the financial conditions of persons requesting the services of the public defender or other court-appointed counsel on the basis of their claimed indigencies. Requires a financial statement and other information under oath, including information on family resources. Provides that the court is then to order payment of a reasonable fee to reimburse the state for a portion or all of the costs of the public defender's office in handling the defense, or the fee of private counsel. Provides that the order may require assignment of earnings or other security for future payments ordered. Provides that upon failure to comply with such an order, the state, through the controller's office, can apply to the court for judgment on unpaid amounts. Provides that for purposes of the act, such costs and fees, when imposed against a minor, are to be treated as family expenses chargeable to either parent.

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

4 SECTION 1. The introductory portion to 21-1-103 (1),
5 Colorado Revised Statutes 1973, is amended to read:

6 21-1-103. Representation of indigent persons. (1) The
7 state public defender shall represent as counsel, without charge
8 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, each indigent
9 person who is under arrest for or charged with committing a

1 felony if:

2 SECTION 2. 21-1-103, Colorado Revised Statutes 1973, is
3 amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

4 21-1-103. Representation of indigent persons. (4) The
5 determination of the degree of indigency of a defendant shall be
6 based upon his financial statement and other information provided
7 in writing under oath showing his lack of financial ability to
8 obtain counsel and any other information required by the court
9 that reasonably relates to his inability to obtain counsel,
10 specifically including an inquiry into the defendant's family
11 resources.

12 (5) (a) The court shall order that the defendant pay a
13 reasonable fee as reimbursement to the state for all of the
14 actual expenses of the office of public defender for representing
15 him. Actual expenses shall include a proportionate share of the
16 overhead costs of the office of public defender. When an
17 attorney, other than the public defender, is appointed to
18 represent a defendant, the court's order shall be for a
19 reasonable fee for such services. The order provided for in this
20 paragraph (a) shall be entered in all cases in which a defendant
21 is represented by the public defender or by court-appointed
22 counsel, regardless of the defendant's present condition of
23 indigency, and shall provide for the period of time within which
24 payment is to be made into the court.

25 (b) The court may order the defendant to make an assignment
26 of a part of his periodic earnings or trust income to the state.
27 The assignment is binding on the employer, trustee, or other

1 payor of the funds two weeks after service upon him of notice
2 that the assignment has been made. The payor shall withhold from
3 the earnings or trust income payable to the defendant the amount
4 specified in the assignment and shall transmit the payments to
5 the court. An employer shall not discharge or otherwise
6 discipline an employee as a result of a wage or salary assignment
7 authorized by this section.

8 (c) The court has the power to require security to be given
9 to insure enforcement of its orders, in addition to other methods
10 of enforcing court orders now or hereafter prescribed by statute
11 or by the Colorado rules of civil procedure.

12 (6) Upon failure of the defendant to comply with any such
13 order, the state court administrator shall refer the debt due the
14 state to the controller for collection pursuant to part 2 of
15 article 30 of title 24, C.R.S. 1973. Upon motion filed on behalf
16 of the state, the court shall enter judgment in the amount then
17 in default in the case.

18 (7) For the purposes of this section, any order entered
19 against a minor requiring the payment of an attorney fee shall be
20 considered an expense of the family of such minor under section
21 14-6-110, C.R.S. 1973, and shall be chargeable upon the property
22 of both parents of such minor, or either of them.

23 SECTION 3. 21-1-104, Colorado Revised Statutes 1973, is
24 amended BY THE ADDITION OF A NEW SUBSECTION to read:

25 21-1-104. Duties of public defenders. (3) The state
26 public defender shall report to the state court administrator all
27 cases in which a judge appoints a public defender contrary to the

1 recommendation of the public defender.

2 SECTION 4. Effective date. This act shall take effect July
3 1, 1975.

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

BILL 10

A BILL FOR AN ACT

1 CONCERNING SOCIAL SECURITY COVERAGE FOR THE OFFICE OF DISTRICT
2 ATTORNEY.

Bill Summary

Provides that each office of district attorney shall enter into agreements with the director of the division of employment to obtain social security coverage under an agreement with the federal government authorizing such coverage.

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

4 SECTION 1. Part 3 of article 1 of title 20, Colorado
5 Revised Statutes 1973, is amended BY THE ADDITION OF A NEW
6 SECTION to read:

7 20-1-307. Social security coverage. The office of district
8 attorney, including the district attorney and the employees of
9 each such office within each judicial district, shall be
10 considered a juristic entity as described in section 24-51-701,
11 C.R.S. 1973. Each office of district attorney shall enter into
12 an agreement with the director of the division of employment of
13 the state department of labor and employment for purposes of
14 including the district attorney and the employees of his office
15 under the state's federal-state social security coverage

1 agreement with the secretary of the United States department of
2 health, education, and welfare pursuant to section 24-51-704,
3 C.R.S. 1973.

4 SECTION 2. Effective date. This act shall take effect
5 January 1, 1975.

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

**LEGISLATIVE COUNCIL COMMITTEE
ON EDUCATION**

Members of the Committee

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Chairman
Sen. Hugh Fowler, Vice-
Chairman
Sen. Roger Cisneros
Sen. Fay DeBarard
Sen. William Garnsey
Sen. Kingston Minister
Sen. Albert Ruland

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Assistant

COMMITTEE ON EDUCATION

The Committee on Education, in its second year of a two-year study, recommends two bills relating to a revision of the school election laws (Bills 11 and 12) and a bill to provide aid to private higher education (Bill 13). The committee endorses the action of the Committee on State and Local Finance in bringing before the General Assembly four bills relating to school finance.

Legislation is submitted, without recommendation, relative to a revision of the teacher certification statutes (Bill 14). The committee concluded that legislation is not necessary in the area of faculty dismissals and reductions in force (RIF) at institutions of higher education. The rationale for this conclusion is discussed in this report.

The committee also reviewed several other subjects, but submits no recommendations for legislation on these topics: (1) data needs assessment project of the state Department of Education; (2) bilingual and reading needs study, directed in Senate Joint Resolution 20, 1974 session; (3) special education; (4) Boards of Cooperative Services; (5) Colorado High School Activities Association; (6) local district junior colleges; (7) Colorado Educational Resource Inventory System (CERIS); (8) health education; and (9) collective negotiations.

I. School Election Laws

House Joint Resolution 1027, adopted by the General Assembly in 1974, directed the committee to undertake a study of election laws. The resolution suggested the advisability of clarifying the relationship between the general election laws and the statutes governing school elections. Accordingly, the committee recommends legislation to separate school election laws, insofar as possible, from the general election statutes.

The two bills which are recommended are primarily the result of the work of a subcommittee which was appointed to resolve the problems with the school election laws. The bills, as recommended by the subcommittee and approved by the full committee, contain a number of substantive policy matters as well as technical amendments relating to the administration of elections. Also included in the recommended legislation is a provision which requires the state Department of Education to prepare a manual setting forth, in simplified terms, the most current procedures to be used in conducting school elections.

Recall School Elections -- Bill 11

Registration. Voters registered 32 days in advance of an election could vote in that election and voter registration for subsequent elections would take place up to five days before an election. Thus a person who registered after the 32nd day but before the fifth day prior to an election would have his name entered in the registration book after the election, but would not be eligible to vote until he had met the 32-day requirement.

Contested elections. Any school election, not just the election of school board members, could be contested. Colorado district courts would have jurisdiction in these contested elections.

Recall of school board members. Several significant changes are recommended in regard to recall proceedings:

(a) A committee of three to five persons would be responsible for representing the signers of the recall petitions.

(b) The petitions to be circulated would include the name of only one person to be recalled.

(c) In accordance with court decisions in Colorado, recall petitions could be signed by qualified voters, not just registered voters. Certain procedural requirements would help assure that the person is a qualified elector. A qualified elector, who is not a registered voter, would need to appear before a notary and make an oath by affidavit, stating that he is a citizen, is 18 years or older, has been a resident of the precinct for at least 32 days, and has given his correct address. The affidavit would be attached to the petition.

(d) The school board would determine the adequacy of the number of signers of recall petitions but this determination could be challenged in district court. Provision would also be made for the school board to contract with the county clerk to determine the sufficiency of signatures on the petitions. If such a case were necessary, the committee representing the signers of the petitions would pay no more than 40 cents per signature toward the cost of the service. Costs over that amount would be borne by the school district.

Technical amendments. (a) Certain definitions such as electronic voting equipment would be added to the school election laws and the statutes would specifically authorize the use of voting machines for school elections.

(b) Special provisions pertaining only to the school elections held in 1974 would be repealed.

(c) Statutory references to school districts of over 70,000 enrollment would be eliminated, although school election statutes pertaining to Denver would continue to be separate from other school districts. The reason for the separate statutes for Denver is that the election commission administers school elections in Denver while the school boards in all other districts have the principal responsibility for the election.

(d) References to county superintendents of schools would be deleted.

School Boards - Membership and Terms -- Bill 12

The second bill concerning school elections would provide a method for changing the number of school district directors on each board and the length of terms served by the board members. Bill 12 is separate from the previous bill for the reason that it is concerned with the structure of school boards rather than the requirements and procedures of school elections.

Denver would continue to elect seven school board members and other districts would continue to elect either five, six, or seven members. In these districts, if a plan is proposed, a change would be made to have either a five or seven-member board. All districts would have the option of establishing terms of either four or six years, provided that as close to the same number of vacancies as possible would be rotated at each election.

Changes in terms and number of members could be submitted to the voters either in the form of a plan adopted by the board by resolution or upon petition signed by at least 10 percent of the registered electors of the district. If a suitable petition were filed, the question to adopt or reject the plan would be submitted to the electorate at the next biennial school election. The statutory language which appears on the ballot would be simplified.

Aid to Private Institutions of Higher Education -- Bill 13

Because of the committee's concern over the role of the private colleges and universities in Colorado, a one day hearing was scheduled with the presidents of the five major private colleges and universities in the state (i.e., Regis

College, Loretto Heights College, The Colorado College, Colorado Women's College, and the University of Denver). The presidents of these colleges supported the position that a strong dual system of public and private colleges contributes to diversity among institutions and presents an educational choice for students.

A serious concern expressed by the presidents is that enrollments in the private sector have declined each year since 1970, for a net loss of 1,900 students, or 13.6 percent, in a four-year period while, during the same four-year period, enrollments in the public sector have increased by more than 14,500 students, or 13.9 percent statewide. Because of concerns similar to those expressed by the college presidents, the Commission on Higher Education, as part of its comprehensive planning project, appointed a Task Force on the Private Sector to study possible ways and means to utilize the resources of the existing private colleges in the state to enhance the state's total higher education system and to examine several forms of state funding which could be applicable within the private sector.

Since this study was already underway at the time of the committee hearing, members of the task force were requested to complete the initial stage of their study, i.e., determining options for more effective use of resources of the private sector, in time for the Committee on Education to consider the task force recommendations for possible inclusion as part of its final recommendations for 1975.

Bill 13 which established student-aid programs and authorizes contracts for services at accredited nonprofit institutions of higher education, incorporates the task force recommendations and is recommended by the committee.

The major provisions of the bill include:

- Authorization for the Colorado Commission on Higher Education to contract for educational services with each private college to provide educational services to Colorado resident students. An appropriation in the amount of \$892,700 for this purpose is included.
- Authorization for student grants to Colorado resident students, both undergraduate and graduate, attending private colleges. Such grants would include both need-based and no-need awards (excluding athletic scholarships), under the same guidelines applicable in the public sector. An appropri-

ation of \$1,152,000 for student grants is included.

- Authorization for a state appropriation to match federal funds for student loans made at private colleges, as they are presently matched in the public sector. An appropriation of \$100,000 for matching fund is included.
- An amendment to the statute which establishes a Colorado work-study program, extending the program to private institutions of higher education. An amount of \$75,000 is provided for the Colorado work-study program for Colorado resident students.

Rationale for recommendations. Generally, the task force's objective was to provide options for utilizing the resources of the private colleges and universities and not to propose any assumption by the state for either the responsibility for, or the control of, any institution in the private sector. The three major determinations which provided the basis for the task force's recommendations are:

- (1) It is in the public interest for Colorado to provide higher education opportunities for its citizens;
- (2) Colorado should preserve for its citizens the freedom of choice presented by the private institutions; and
- (3) The state could more efficiently utilize the total and diversified resources, both public and private, at less cost.

The task force was cognizant of the United States' constitutional restrictions prohibiting any laws respecting the establishment of religion. However, in light of recent U.S. Supreme Court decisions, the task force concluded that their recommendations were acceptable.

The task force was also aware of the Colorado Constitutional restrictions contained in Article V, Section 34, prohibiting an appropriation to any person or corporation not under absolute control of the state, and in Article IX, Section 7, prohibiting appropriations for sectarian purposes. In this regard, attorney general's opinions have been requested as to the applicability of these provisions to the recommendations of the task force. (At the time of this report, the opinions had not been received.)

The final report of the task force explains in greater detail the options for state funding in the private sector, precedents for such options, and constitutional issues involved in applying these approaches in Colorado.

II. School Finance

The committee reviewed four proposals on school finance which were submitted to the committee by members of the Council on Educational Development (COED):

- Modification of the pupil transportation formula;
- An amendment to further assist school districts with declining enrollments;
- Increase in the equalization support level and authorized revenue base; and
- Capital reserve and bond redemption fund equalization program.

Briefly, the major provisions of the bills are as follows:

Public School Transportation Act

State reimbursement at the rate of 24 cents per bus mile traveled in transporting pupils, plus 25 percent of the district's current operating expense which is in excess of 24 cents per bus-mile traveled. The present 90 percent limitation would be expanded to include the purchase of buses.

In addition, the recommendation would provide state reimbursement for 50 percent of the costs for the purchase of buses, subject to the overall 90 percent limitation. State payments would be exempted from the county treasurer's collection fee.

COED estimated the revised pupil transportation legislation would require a state appropriation of \$13,990,000 for fiscal year 1975-1976.

School Finance Act, Declining Enrollments

The School Finance Act would be amended to allow the

districts to compute attendance entitlement on either the average of the four years preceeding the budget year or the present provision for first or second preceeding year.

COED estimated the cost of the declining enrollment provision to be \$3 million for fiscal 1975-1976; \$6 million for calendar year 1976.

School Finance Act, Increase of Equalization Support Level and Authorized Revenue Base

The recommendation would provide (1) that: the state equalization support level per mill, per student, be increased for 1976 from \$29 to \$30.50; (2) that the minimum state support level per mill, per student, be increased for 1976 from \$10 to \$10.75; and (3) that the 1976 authorized revenue base for all school districts be increased by \$50.

The proposed legislation will require state funding of \$13.5 million for fiscal year 1975-1976 over what the act, unamended, would require. For calendar year 1976, the increased cost would be \$27 million.

Capital Reserve and Bond Redemption Fund Equalization Program

As a method of providing more revenue under the capital reserve levy, the proposal would provide that the state equalization formula apply to the capital reserve levy in the same manner as the general fund levy.

To encourage stabilization of the total school mill levy, it is proposed that school districts having a debt against the entire school district (as contrasted to the re-organized portions of old districts) would be required to use at least one-fourth of the equalized revenue from four mills for the bond redemption fund, thereby, reducing the bond and interest levy.

The state equalization support level for each of the four mills, per student, would be for 1976, \$30.50 with a minimum state support level of \$10.75, which is consistent with the proposed change in the state equalization support level in the School Finance Act.

Committee recommendation. In view of the fact that the Committee on State and Local Finance acted on these bills, the Committee on Education endorsed the action of the State and Local Finance Committee in bringing these matters before the General Assembly in 1975.

A more detailed description of the bills, as well as the text of the bills, is included in the report of the Committee on State and Local Finance.

III. Teacher Certification

Teacher Certification -- Bill 14

A significant amount of time was devoted to the consideration of draft legislation prepared by a committee of educators appointed by the state Department of Education to review the teacher certification statutes in Colorado. Bill 14, which sets forth a process of teacher preparation, certification, and subsequent recertification incorporates some of the recommendations of the committee of the state department, as well as amendments adopted by the Committee on Education, but is submitted to the General Assembly without recommendation. The process, as envisioned, would involve a series of interlocking steps rather than a list of specific requirements. A number of key steps in the process are noted below with some elaboration of the responsibilities involved in each step.

Setting of standards for teacher preparation programs.

(a) The state board would establish guidelines and standards to be used in the evaluation of any preparation program leading to certification of school professional personnel.

(b) Program review, site visitations, and comprehensive evaluations would be conducted by the state board to ensure that institutions develop programs responsibly, that the public interest and students are protected, and that institutions undertake activities within their capabilities.

Assistance, review, and evaluation of teacher training.

(c) The commissioner would provide recommendations and expertise to the state board to assist with their program review and approval responsibilities.

(d) The state department would serve as a resource to colleges and universities as they develop and implement programs.

(e) The commissioner, the state department, and advisory committees would review and evaluate standards and programs of teacher preparation so that the programs would be relevant to the role of educators and the needs of students in the schools in Colorado.

(f) The state department would follow up on graduates of Colorado teacher preparation programs to provide data for evaluation and improvement of these programs.

Requirements for certification. (g) Candidates for teaching certificates would be required to meet general qualifications and specific requirements for each type of certificate. Specific requirements for certification would vary between the types of certificates issued. Appropriate academic degrees, programs of teacher preparation, and other criteria, in addition to formal education requirements, would be established for each type of certificate. Certification fees would be \$15 and certification would be valid for five-year periods.

(h) An approved plan of professional development experience would be required for the renewal of a teaching certificate. The plan, to be submitted by the teacher to the state department, would need to be appropriate to the certificate to be renewed.

A plan of professional development for teachers would consist of not less than eight semester hours, three of which could be earned through in-service programs approved by the state board. Other criteria, in addition to formal education requirements, could be adopted by the state board for certification and recertification of teachers.

Renewal of certificates. (i) Applicants for renewal of certificates who had taught less than one year in the last five would be required to complete an approved plan of eight semester or twelve quarter hours of college credit and would be required to submit an institutional recommendation.

Types of certificates. (j) The subjects presently covered by special services certificates (Type E Certificates) could be extended by the state board. The state board could prescribe qualifications for persons who had completed a program of preparation in areas of the education of handicapped children; the physical and mental health of students; counseling and other psychological services for students; and curriculum materials.

Revocation or suspension of certificates. (k) The state board could revoke or suspend any teaching certificate or letter of authorization upon determination that the holder:

- (1) Knowingly made false or misleading statements on the application;

- (2) Had been adjudicated mentally incompetent;
- (3) Was in violation of a law involving unlawful sexual behavior;
- (4) Was in violation of a law involving illegal sale of narcotics; or
- (5) Had been determined to be professionally incompetent or found guilty of unethical behavior.

IV. Dismissals and Reduction in Force -- Higher Education

The committee considered the related topics of faculty dismissals, non-renewal of contracts, and reduction in force (RIF) in public higher education institutions in Colorado. A number of persons representing several different governing bodies of the institutions explained the status of the faculty rules, policies, and procedures which govern the various community colleges, state colleges, and universities in these areas.

The committee concluded that state legislation is not necessary at this time for the following reasons:

(1) The most satisfactory method for dealing with the situation is for each institution, or group of institutions under one governing board, to develop due process procedures as a joint effort between members of the faculty, the administration, and the institutional governing board.

(2) The committee found that the governing boards of all public institutions of higher education have acted to formulate written policies concerning the topics of dismissal, non-renewal, and RIFs. Policies have been adopted by the University of Colorado Board of Regents for all campuses of CU; the State Board of Agriculture for Colorado State University and for Fort Lewis State College; Trustees of the State Colleges for the five institutions which that board governs; the trustees of the University of Northern Colorado for UNC; and the State Board for Community Colleges and Occupational Education for the seven state community colleges under their jurisdiction. At the time of this writing, the trustees of the Colorado School of Mines were engaged in the process of extending existing procedures to include policy areas not previously covered.

(3) The several types of academic institutions have different objectives, requirements, and qualifications for faculty members which require their individual solutions for each campus or group of institutions. Since different conditions and situations may exist from institution to institution, the adoption of rigid statutory procedures to be used for a reduction in force or in the dismissal of tenured faculty (as opposed to non-tenured or probationary faculty) could result in a cumbersome and unwieldy procedure which would ultimately work to both the disadvantage of the faculty as well as the institution.

The committee supported the concept that fairness to all faculty members is fundamental, but each institution should develop its own standards and due process procedures uniquely suited to the needs and goals of the institution. In short, procedures fair and appropriate to a university may be inappropriate and unnecessary to achieve the same results at a small community college.

V. Other Issues Considered

Collective negotiations. Anticipating accelerated pressure for the adoption of collective bargaining legislation in Colorado, members of the committee believed it advisable to review the major issues involved in collective negotiations legislation. The committee heard from representatives of several educational organizations in Colorado as to the alternative approaches which they have considered and the possible implications that need to be recognized when dealing with the complex issue of public employee collective negotiations.

Statements were presented to the committee from the Colorado Federation of Teachers (CFT), Colorado Education Association (CEA), Colorado Association of School Executives (CASE), and the Colorado Association of School Boards (CASB).

Briefly, some of the positions taken were as follows:

(1) CFT: Amend the Colorado Labor Peace Act to provide collective bargaining for teachers and faculty. Strikes would be permitted, binding arbitration for grievances would be provided, and an elected teacher's organization would be the exclusive bargaining agent of the bargaining unit.

(2) CEA: Negotiations legislation should include: (a) enumeration of unfair practices by teachers or boards; (b) mediation followed by fact-finding if mediation is unsuccessful; (c) legalized work stoppage following employment of a

mediator and fact-finder; (d) binding arbitration over grievances; and (e) negotiated terms and conditions reduced to a written contract.

(3) CASE: If there is legislation, it should include (a) all public employees; (b) negotiable items, i.e., salaries and wage-related fringe benefits; (c) a provision that legal responsibilities of governing boards may not be negotiated; (d) prohibition of strikes; (e) mediation, fact-finding, and advisory arbitration; and (e) a timetable for negotiations consistent with the budgetary timetable.

(4) CASB: The Colorado Association of School Boards did not present an official position but submitted a list of issues to be considered in the development of the law and the popular arguments in favor and against a collective bargaining law for teachers.

Although the committee's intent was not to consider or recommend legislation, the committee concluded that if a collective negotiations law for teachers is adopted, the presence of a collective contract would eliminate the need for individual contracts.

Bilingual and reading study (S.J.R. 20, 1974 session). The committee followed the development of a study by the state Department of Education which is to establish the extent of activities and needs in school districts for special reading programs and bilingual education. Results of a survey of existing programs are being returned to the state department. The results should indicate the school districts in which programs are now being conducted, characteristics of the most effective programs, and how the programs can be adopted or modified for application in other school districts. In the reading program, in particular, some conclusions may be reached which will result in better coordination of existing programs such as right-to-read, compensatory education, and Title III of the Elementary and Secondary Education Act.

Junior colleges. Statutory provisions governing the operation of local district junior colleges are presently scattered in several articles of Colorado Revised Statutes pertaining to public elementary and secondary education and higher education. A number of committee members indicated a willingness to draft a recodification of the junior college statutes for introduction in the 1975 session. One of the objectives of this effort would be to codify, in one article of the higher education statutes, all of the laws which govern local district junior colleges.

Colorado High School Activities Association. In the 1973 committee report it was noted that a number of policies

and rules of the Colorado High School Activities Association (CHSAA) had been the topic of discussion and contention by persons interested in this organization. The specific issues raised related to procedures for appeal of a decision affecting an individual participant; time limitations on participation in interscholastic activities during non-school hours, in summer clinics, and during off-seasons; and the differentiation in rules for team sports as contrasted with individual sports and between athletic and non-athletic competition.

Subsequent to the committee's review and report on the CHSAA, the Colorado Association of School Boards, at its annual convention, directed a "study and review of CHSAA operations...to make appropriate recommendations for changes or improvement in that operation, if it is determined that such are needed." The Colorado Association of School Boards appointed a committee of seven school board members and four administrators to conduct the study. In addition, the CHSAA Board of Control, at its 1974 meeting, adopted a number of changes in procedure including a new appeals procedure, modification of the outside practice rule, and changes in the transfer rule.

The CASB committee had held six meetings at the time of this report and the Committee on Education was impressed with the diligence and care with which the problems were being studied. It appears, however, that a number of additional meetings will be required by the CASB committee prior to the formulation of their recommendations; therefore, it is premature to anticipate the changes which might result from this effort.

The Committee on Education is optimistic that the major issues involving interscholastic activities in the public schools can be resolved through the approach used by the CASB, the CHSAA itself, and continued monitoring by a citizen ad hoc committee. The General Assembly should review this area of concern periodically to ensure continued progress in the resolution of problems.

Boards of cooperative services (BOCS). Several persons testified before the committee objecting to boards of cooperative services on the grounds that they are usurping the powers of local boards of education and diminishing local autonomy. In addition, these persons objected to BOCS serving as "administrative units" for implementation of the Handicapped Children's Act.

The committee concluded that BOCS are unique in the sense that they exist and function solely at the discretion of local boards of education and that a BOCS can do only those things delegated to it by the component boards and can embark

upon a new program only after the commitment of the member boards is sufficient to finance a program.

In addition, the committee reaffirmed that the value of BOCES is primarily as a service agency which can provide services and programs to districts which the districts cannot more efficiently provide by themselves.

Colorado Education Resource Inventory System (CERIS). The committee heard a presentation on the CERIS approach to management of teaching personnel and the potential for application of modern administrative technology to management of public education.

The committee concluded that there are certain elements of the CERIS approach which would be both beneficial and efficient for public education. The CERIS program could promote the interchange of teachers between districts based on a state inventory of teachers and available positions, provide opportunities for twelve-month employment resulting in an increased annual salary, and could establish a statewide salary scale relieving local school boards of the responsibility for negotiating teacher's salaries.

Data needs assessment project of Department of Education. The committee followed the progress of the data needs assessment project which is being conducted by the Department of Education in conjunction with Westinghouse Learning Corporation. The goal of the project is to determine what types of data various segments of the population believe are needed to adequately describe school districts in the state. Once this determination has been made, the department will structure its data collection procedures so that this information can be made readily available.

Citizen discussion. A hearing was held at which time several private citizens expressed their views on educational programs and policies. Some of the issues discussed were vocational education, career education, a redefinition of educational goals and values, and the need for legislation to restore parental rights in education. Many of the concerns which were expressed to the committee, particularly in regard to the inherent dangers in providing equal program opportunities in the schools for both sexes, are primarily matters of federal concern over which the state has no control.

Health education. Representatives from the Department of Health and the Department of Education, as well as other interested persons, appeared before the committee with a bill which would establish a comprehensive health education program for students in grades K through twelve.

The committee concluded that the need for health education is apparent, but submits no recommendation on this topic.

Special education. Members of the state Special Education Advisory Committee appeared before the committee to discuss the acceptance of the concept of "mainstreaming" a greater number of special education children in the regular classroom as provided in the Handicapped Children's Act. In addition, several persons testified as to the accuracy of the cost projections for full implementation of the act. Other topics were reviewed including the process used by the state department for plan approval and the status and success of in-service training.

The committee concluded that it would be advisable for the General Assembly to continue to monitor the progress of administrative units, through the Department of Education, toward the statutory requirement of full implementation of the act by July 1, 1975.

TEXT

EXPLANATION

A BILL FOR AN ACT

1 CONCERNING SCHOOL ELECTIONS, AND MAKING AN APPROPRIATION
2 THEREFOR.

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

4 SECTION 1. 1-2-202 (5), Colorado Revised Statutes 1973, is
5 amended to read:

6 1-2-202. Registration by county clerk and recorder. (5)

7 ~~Notwithstanding~~ AT ANY TIME THAT THE REGISTRATION BOOKS OF THE
8 COUNTY CLERK AND RECORDER ARE CLOSED PURSUANT TO the provisions
9 of subsection (1) of this section, ~~during--the--period--that--the~~
10 ~~registration-books-are-closed-prior-to-a-primary-election;~~ except
11 for the five days before each primary election and on primary
12 election days, the county clerk and recorder shall register any
13 qualified elector residing in any precinct in the county who
14 appears in person at his office, or at any office regularly
15 maintained by him and staffed by his employees, BUT the names of
16 persons registering pursuant to the provisions of this subsection
17 (5) shall not be placed in the registration book nor added to the
18 list of registered electors ~~nor-shall-such-persons-be-entitled-to~~
19 ~~vote-at-any-election~~ until after the primary election for which

Would extend period during which a qualified elector may register with the county clerk, but the actual entering of the names in the registration book could not take place until after the election and in no case would the person be allowed to vote in any election until he had met the 32-day requirement.

TEXT

EXPLANATION

1 the registration books were closed. Registrations made pursuant
2 to this subsection (5) shall take effect on the day following the
3 primary election for which the registration books were closed,
4 and after said date such registrations shall be effective as of
5 the date the registration was actually made. The books and lists
6 prepared for all elections held after the primary election for
7 which the registration books were closed shall include the names
8 of all such persons WHO ACTUALLY REGISTERED MORE THAN THIRTY-TWO
9 DAYS PRIOR TO THE ELECTION FOR WHICH THE BOOKS OR LISTS ARE
10 PREPARED.

11 SECTION 2. 22-2-112 (1), Colorado Revised Statutes 1973, is
12 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

13 22-2-112. Commissioner - duties. (1) (1) To prepare a
14 manual setting forth simplified election procedures for use by
15 the election judges in the district. He shall notify the
16 superintendent of each district that such a manual is available
17 and that copies will be furnished upon request and free of
18 charge. When the school election laws have changed, he shall
19 revise the manual to comply with the then existing laws. Such

Would provide a manual to be prepared by the CDE to assist election judges with election procedures.

TEXT

EXPLANATION

1 revisions may be made by inserts to the manual.

2 SECTION 3. 22-31-101, Colorado Revised Statutes 1973
3 (numbered as 123-31-1, C.R.S. 1963), as amended by section 1 of
4 chapter 90, Session Laws of Colorado 1974, is amended BY THE
5 ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

6 22-31-101. Definitions. (9) "Electronic voting equipment"
7 or a "punch card electronic voting system" means a method in
8 which votes are recorded on ballot cards by means of marking or
9 punching, and such votes are subsequently counted and tabulated
10 by electronic vote tabulating equipment at one or more counting
11 centers.

12 (10) "Electronic vote tabulating equipment" or "electronic
13 vote counting equipment" includes any apparatus necessary to
14 automatically examine and count votes as designated on ballot
15 cards and tabulate the result.

16 (11) "Vote recorder" or "voting device" means any apparatus
17 which the voter uses to record his votes by marking or punching a
18 hole in a paper ballot or tabulating card, which votes are
19 subsequently counted by electronic tabulating equipment.

Would add definitions of "electronic vot-
ing equipment", "electronic vote tabula-
ting equipment", and "voter recorder" to
school election laws.

TEXT

EXPLANATION

1 SECTION 4. 22-31-104, Colorado Revised Statutes 1973,
2 (numbered as 123-31-4, C.R.S. 1963), as amended by section 2 of
3 chapter 90, Session Laws of Colorado 1974, is REPEALED AND
4 REENACTED, WITH AMENDMENTS, to read:

5 22-31-104. Regular biennial school election. Except as
6 provided in section 22-31-131, pertaining to districts whose
7 boundaries are coterminous with a city and county, the regular
8 biennial school election in each school district shall be held on
9 the first Tuesday after the first Monday in May of each
10 odd-numbered year.

11 SECTION 5. 22-31-106 (5), Colorado Revised Statutes 1973
12 (numbered as 123-31-6 (5), C.R.S. 1963), as amended by section 1
13 of chapter 91, Session Laws of Colorado 1974, is amended to read:

14 22-31-106. Persons entitled to vote at regular biennial
15 school elections - registration required. (5) Notwithstanding
16 the provisions of subsections (3) and (4) of this section, the
17 registration list for any school election held within a period of
18 one hundred thirty days following any general election, as

Cross reference to 22-31-131 (Section 14 of this act). Effect of section 4 would be to exclude Denver from this section since Denver school elections are provided for in Section 22-31-131.

TEXT

EXPLANATION

1 defined in section 1-1-104, C.R.S. 1973, shall include the names
2 of all those persons registered to vote at said general election
3 and in addition shall include the names of those persons who have
4 registered pursuant to the provisions of section 1-2-202 (5),
5 C.R.S. 1973, during the period when the registration books were
6 closed and who actually registered more than thirty-two days
7 prior to the school election for which said list is prepared.
8 ~~Notwithstanding the provisions of subsections (3) and (4) of this~~
9 ~~section, and any other provisions of law to the contrary, the~~
10 ~~board of education of any school district may, in its discretion,~~
11 ~~determine by resolution to use registration lists containing the~~
12 ~~names of all those persons who were registered to vote at the~~
13 ~~general election held in November, 1972, for any regular or~~
14 ~~special school election held during the calendar year 1974 only;~~
15 ~~if said lists are available and if, on the date on which said~~
16 ~~board takes action to call said school election, the county clerk~~
17 ~~and recorder in one or more of the counties having territory~~
18 ~~include within said school district has been prevented from~~
19 ~~completing the purchasing of said county's registration books by~~

Language stricken and the two subsections which follow (22-31-106 (6) and (7) repealed in Section 15) is not applicable after 1974 because these provisions pertain only to elections for 1974.

TEXT

1 legal-proceedings-or-otherwise:

2 SECTION 6. 22-31-107 (1), Colorado Revised Statutes 1973
3 (numbered as 123-31-7 (1), C.R.S. 1963), as amended by section 3
4 of chapter 90, Session Laws of Colorado 1974, is amended to read:

5 22-31-107. Qualification and nomination of candidates for
6 school director. (1) Any candidate for the office of school
7 director of a school district shall be a qualified REGISTERED
8 elector of such district and, if the school district has a
9 director district plan of representation, he shall be a resident
10 of the director district in which he is a candidate unless he has
11 been elected at the time of or prior to the adoption of a
12 director district plan of representation by the electors of said
13 district.

14 SECTION 7. 22-31-111 (1), Colorado Revised Statutes 1973
15 (numbered as 123-31-11 (1), C.R.S. 1963), as amended by section 4
16 of chapter 90, Session Laws of Colorado 1974, is REPEALED AND
17 REENACTED, WITH AMENDMENTS, to read:

18 22-31-111. Precincts and polling places. (1) (a) The
19 board of education, not less than five weeks prior to the time of

EXPLANATION

Change of "qualified" to "registered"
elector as a qualification for candidates
for school directors.

(1) Board of education, not county com-
mission or election commission,
would set precincts.

TEXT

1 the holding of any regular biennial school election, shall
2 establish one or more school election precincts in the school
3 district, consisting of one or more whole general election
4 precincts whenever practicable, shall number the same
5 consecutively beginning with the number one, and shall designate
6 one polling place in each precinct. Such precincts shall remain
7 in effect for all subsequent special elections unless modified by
8 the board at least five weeks prior to any such special election.

9 (b) When it is deemed necessary by the board, the board, or
10 if the board does not have time to meet, the secretary of the
11 board, may at any time before the day of the election change the
12 location of the polling place for the election precinct and in
13 case of such change shall post notices thereof at both the
14 original and the newly selected polling places no later than 7
15 a.m. of election day.

16 (c) On the day of the election, if it is deemed necessary
17 by the judges of election to hold an election at a place other
18 than the place designated therefor, the judges, after having
19 assembled at or as near as practicable to such place, may move to

EXPLANATION

(2) Time limit for precinct designation and changes would be five weeks prior to election.

(3) Precincts would be numbered and would have one polling place.

New paragraph (b) would add procedures for changes in polling places by the board or the secretary of the board.

New paragraph (c) would add procedure for judges of election to change polling place in case of emergency on the day of the election.

TEXT

EXPLANATION

1 the nearest convenient place for holding the election. In case
2 of such change, the judges shall post notices thereof at both the
3 original and the newly selected polling places as soon as
4 possible, and at such newly selected place shall forthwith
5 proceed with the election.

6 SECTION 8. 22-31-113, Colorado Revised Statutes 1973, is
7 amended to read:

8 22-31-113. Notice of school election. The secretary of
9 each board of education shall give written or printed notice of
10 the regular biennial school election, specifying the day and
11 polling places of such election, the boundaries of school
12 election precincts, the time during which the polls shall be
13 open, the offices and questions to be voted on, the names of all
14 candidates who have been nominated, and the qualifications for an
15 elector to vote at said election. Said notice shall be published
16 for ~~the two weeks next preceeding such election~~ THREE CONSECUTIVE
17 WEEKS BY THREE PUBLICATIONS, in some newspaper having general
18 circulation in the district, ~~in accordance with the provisions of~~
19 ~~part 1 of article 70 of title 24, C.R.S. 1973.~~ THE FIRST

Notice of school elections would be published not less than 18 days prior to the election, for three consecutive weeks,

TEXT

EXPLANATION

1 PUBLICATION OF SUCH NOTICE TO BE NOT LESS THAN EIGHTEEN DAYS
2 PRIOR TO THE ELECTION DATE.

by three publications in newspapers hav-
ing general circulation in the district.
Reference to part 1 of Article 70 of
Title 24 is to a general provision for
publication of legal notices.

3 SECTION 9. 22-31-114 (1), Colorado Revised Statutes 1973,
4 is amended, and the said 22-31-114 is further amended BY THE
5 ADDITION OF A NEW SUBSECTION, to read:

6 22-31-114. Ballots, ballot boxes, voting machines, and
7 electronic voting equipment. (1) Either paper ballots, ~~or~~
8 voting machines, OR ELECTRONIC VOTING EQUIPMENT of a type
9 approved for use in general elections may be used in regular
10 biennial school elections or in special school elections. Prior
11 to the time of the election the secretary of the board of
12 education of the school district shall cause to be prepared and
13 delivered to each school election precinct a sufficient number of
14 printed ballots and ballot boxes, ~~or~~ voting machines, OR VOTE
15 RECORDERS for the precinct for said election. Ballots, ~~or~~ voting
16 machines, OR VOTE RECORDERS shall contain the names of all
17 candidates nominated for school director and questions to be
18 voted upon at said election, which names shall be arranged by
19 director districts when applicable, and otherwise in alphabetical

Would add provisions for electronic vot-
ing equipment and vote recorders for
school elections.

TEXT

EXPLANATION

1 order according to surnames; and on the ballot OR VOTE RECORDER
2 shall be printed such words as will indicate the number and terms
3 of school directors to be elected. Ballot boxes shall meet the
4 same specifications as required for ballot boxes in general
5 elections.

6 (3) In school districts using electronic voting equipment,
7 the requirements and procedures shall be the same as those set
8 out in sections 1-6-113 to 1-6-121, C.R.S. 1973, insofar as they
9 are not inconsistent with the provisions of this article.

10 SECTION 10. 22-31-125, Colorado Revised Statutes 1973, is
11 amended to read:

12 22-31-125. Oath of directors. Each director shall, within
13 ten days after delivery of his certificate of election, appear
14 before some officer authorized to administer oaths, OR BEFORE THE
15 PRESIDENT OF THE BOARD, and take an oath that he will faithfully
16 perform the duties of his office as required by law and will
17 support the constitution of the United States, the constitution
18 of the state of Colorado, and the laws made pursuant thereto.

19 ~~The oath may be administered by the county superintendent or by~~

New subsection (3) would provide cross reference to general election statutes concerning requirements of electronic voting.

President of the school board could administer oath of office and the oath shall be filed with the county clerk and recorder. Reference to county superintendents administering the oath would be removed.

TEXT

EXPLANATION

1 ~~the--president--of--the-board-of-education-and~~ SUCH OATH shall be
2 filed with the county clerk AND RECORDER of the county in which
3 the headquarters of the district is located. In case a director
4 fails to take the oath within said period, his office shall be
5 deemed vacant and the vacancy thus created shall be filled in the
6 same manner as other vacancies in the office of director.

7 SECTION 11. 22-31-127, Colorado Revised Statutes 1973, is
8 amended to read:

9 22-31-127. Contests. Proceedings to contest the election
10 of any person declared duly elected as a member of the board of
11 education of any district in this state OR TO CONTEST THE RESULTS
12 OF ANY SCHOOL ELECTION may be instituted by any REGISTERED
13 qualified elector of such school district. Such proceedings
14 shall be instituted within ten days after the votes cast at such
15 election are canvassed. The ~~county~~ DISTRICT court of the county
16 wherein the headquarters of a school district is situated shall
17 have jurisdiction in all contests ~~for-the-office-of-director~~ of
18 ~~any-such~~ school ~~district~~ ELECTIONS. In such cases the rules of
19 practice and procedure in contested elections for county officers

- (1) Statute would specifically allow for contests of any school election.
- (2) District courts would have jurisdiction of contested school elections.
- (3) A person contesting the results of a school election would need to be a registered qualified elector.

TEXT

EXPLANATION

1 shall apply, as far as applicable.

2 SECTION 12. 22-31-128 (1) (a), (b), (c), and (d) (I) and
3 (II), (2), and (4) (a), Colorado Revised Statutes 1973 (numbered
4 as 123-31-28, C.R.S. 1963), as amended by section 7 of chapter
5 90, Session Laws of Colorado 1974, are amended to read:

6 22-31-128. Recall of school directors. (1) (a) A petition
7 containing the requisite number of signatures shall be filed with
8 the secretary of the board of education of the school district,
9 demanding an election of a successor to the school director named
10 in the petition. EACH PETITION SHALL DESIGNATE BY NAME AND
11 ADDRESS NOT LESS THAN THREE NOR MORE THAN FIVE PERSONS, REFERRED
12 TO IN THIS SECTION AS "COMMITTEE", WHO SHALL REPRESENT THE
13 SIGNERS THEREOF IN ALL MATTERS AFFECTING THE SAME. THE PETITION
14 SHALL CLEARLY INDICATE THE NAME OF THE SCHOOL DISTRICT AND THE
15 NAME OF THE DIRECTOR SOUGHT TO BE RECALLED. THE PETITION SHALL
16 INCLUDE THE NAME OF ONLY ONE PERSON TO BE RECALLED. The petition
17 shall contain a general statement, in not more than two hundred
18 words, of the grounds on which the recall is sought, which
19 statement shall be intended for the information of the electors

(1) A school recall petition would provide for a committee of 3, 4, or 5 persons to represent the signers of the petition.

(2) Each petition would contain the name of only one person to be recalled.

TEXT

EXPLANATION

1 of the school district. Such electors shall be the sole and
2 exclusive judges of the legality, reasonableness, and sufficiency
3 of the grounds assigned for recall, and said grounds shall not be
4 open to review.

5 (b) The petition shall be signed by ~~registered~~ QUALIFIED
6 electors of the school district equal in number to at least forty
7 percent of those voting for school director in the election at
8 which the director to be recalled was elected, but in no case
9 less than ten percent of registered electors qualified to vote in
10 the most recent biennial school election; except that no more
11 than thirty thousand signatures shall be required.

12 (c) (I) Any such recall petition may be circulated and
13 signed in sections, but each section shall contain a full and
14 accurate copy of the title and text of the petition. The
15 signatures need not all be on one sheet of paper, but each sheet
16 shall contain an oath, subscribed to BEFORE A NOTARY PUBLIC by
17 the person circulating such sheet, that the signatures thereon
18 are genuine. ~~Each person signing the petition shall add to his~~
19 ~~signature the date of his signing and his place of residence, and~~

A petition could be signed by qualified electors as opposed to only registered electors.

- (1) The petition would contain an oath, subscribed to by the circulator before a notary public, that the signatures on the petition are genuine.
- (2) Space would be provided for signers to indicate whether they are registered to vote in elections of the school district.

TEXT

EXPLANATION

1 No signature shall be counted if it was signed to the petition
2 more than sixty days prior to the date on which the petition was
3 filed with the secretary of the board of education. THE PETITION
4 SHALL PROVIDE SPACE FOR SIGNERS, WHO MUST BE QUALIFIED ELECTORS
5 OF THE SCHOOL DISTRICT, TO INDICATE WHETHER THEY ARE REGISTERED
6 OR NOT REGISTERED TO VOTE IN ELECTIONS OF THE SCHOOL DISTRICT.

7 (II) A PERSON SIGNING THE PETITION AND INDICATING THAT HE
8 IS A REGISTERED ELECTOR SHALL ALSO PRINT HIS LEGAL NAME, HIS
9 PLACE OF RESIDENCE, AND THE DATE OF SIGNING.

10 (III) A QUALIFIED ELECTOR SIGNING THE PETITION AND
11 INDICATING THAT HE IS NOT A REGISTERED ELECTOR SHALL, IN
12 ADDITION, APPEAR BEFORE AN OFFICER LEGALLY AUTHORIZED TO
13 ADMINISTER OATHS, AND ACKNOWLEDGE HIS SIGNATURE AND THE DATE OF
14 SIGNING, AND MAKE AN OATH BY AFFIDAVIT THERETO ATTACHED THAT HE
15 IS A CITIZEN OF THE UNITED STATES, THAT ON THE DATE OF SIGNING
16 THE PETITION, HE HAS ATTAINED THE AGE OF EIGHTEEN YEARS, HAS
17 RESIDED IN THE STATE OF COLORADO AND THE SCHOOL ELECTION PRECINCT
18 AT LEAST THIRTY-TWO DAYS, AND THAT HE HAS TRULY STATED HIS
19 RESIDENCE.

A registered elector would print his legal name, place of residence, and date of signing.

A qualified elector, who is not registered, would appear before a notary and make an oath by affidavit that: he is a United States citizen; is 18 years or older; has been a resident of the precinct for 32 days; and has truly stated his residence.

TEXT

EXPLANATION

1 (d) (I) Any such petition shall be deemed sufficient if THE
 2 BOARD OF EDUCATION DETERMINES THAT IT WAS signed by the requisite
 3 number of ~~registered~~ QUALIFIED electors of the district within
 4 the period specified by paragraph (c) of this subsection (1),
 5 unless a ~~protest~~ CHALLENGE in writing under oath shall be filed
 6 in the ~~county~~ DISTRICT court of the county in which the
 7 headquarters of the district is located by THE BOARD OF EDUCATION
 8 OR some ~~registered~~ QUALIFIED elector of the district, within
 9 fifteen days after such petition was filed, setting forth
 10 specifically the grounds of such ~~protest~~ CHALLENGE. THE BOARD OF
 11 EDUCATION MAY CONTRACT FOR THE SERVICES OF THE COUNTY CLERK AND
 12 RECORDER TO DETERMINE THE SUFFICIENCY OF THE SIGNATURES CONTAINED
 13 IN ANY SUCH PETITION. THE COST OF SUCH SERVICES, NOT TO EXCEED
 14 AN AMOUNT EQUAL TO FORTY CENTS PER SIGNATURE, SHALL BE BORNE BY
 15 THE COMMITTEE REPRESENTING THE SIGNERS BUT ANY COSTS IN EXCESS OF
 16 FORTY CENTS PER SIGNATURE SHALL BE BORNE BY THE SCHOOL DISTRICT.
 17 Upon receipt of a ~~protest~~ CHALLENGE, the clerk of the ~~county~~
 18 DISTRICT court shall forthwith mail a copy of the ~~protest~~
 19 CHALLENGE to the ~~person--or--persons--named-in-the-petition-as~~

- (1) Board of education would determine sufficiency of number of signatures on recall petitions.
- (2) Board of education could contract with county clerk to determine the sufficiency of signatures if petitions are challenged.
- (3) Committee representing the signers would bear the cost of verification of signatures in an amount not to exceed \$.40 per signature, with costs over that amount to be borne by the school district.
- (4) Changes are included relative to qualified electors signing the petitions.
- (5) Hearing on any challenge would be held in district court.

TEXT

EXPLANATION

1 COMMITTEE representing the signers thereof and to the secretary
2 of the board of education, giving notice of the time and place
3 for hearing such ~~protest~~ CHALLENGE. The hearing shall be held in
4 the ~~county~~ DISTRICT court of the county in which the headquarters
5 of the district is located. Such hearing shall be summary and
6 not subject to delay and shall be concluded within thirty days
7 after the petition was filed. The result of the hearing shall be
8 forthwith certified to the ~~person~~ COMMITTEE representing the
9 signers of such petition and to the secretary of the board of
10 education.

11 (II) If the petition is not sufficient, it may be
12 withdrawn by the ~~person~~ COMMITTEE representing the signers of
13 such petition, and, within fifteen days thereafter, may be
14 amended and refiled as an original petition.

15 (2) (a) The recall election shall be conducted in the same
16 manner as provided by law for regular biennial school elections,
17 insofar as practicable. EACH DIRECTOR PROPOSED TO BE RECALLED
18 AND THE COMMITTEE REPRESENTING THE SIGNERS OF THE PETITIONS MAY
19 APPOINT ONE WATCHER FOR EACH PRECINCT.

Committee could amend and refile petition.

Would allow precinct watchers for recall elections.

TEXT

EXPLANATION

1 (b) In school districts which use paper ballots, there
2 shall be printed on the official ballot, in not more than two
3 hundred words, the grounds set forth in the petition for
4 demanding the recall, and, in not more than two hundred words,
5 the school director's justification of his course in office. In
6 school districts which use voting machines, there shall be posted
7 inside each voting machine booth a card on which is printed, in
8 not more than two hundred words, the grounds set forth in the
9 petition for demanding the recall, and, in not more than two
10 hundred words, the school director's justification of his course
11 in office. IN SCHOOL DISTRICTS WHICH USE ELECTRONIC VOTING
12 EQUIPMENT, THERE SHALL BE SUPPLIED WITH THE VOTE RECORDER A SHEET
13 OF PAPER ON WHICH IS PRINTED THE SAME INFORMATION AS REQUIRED FOR
14 VOTING MACHINES IN THIS PARAGRAPH (b).

15 (c) The ballot, ~~or~~ voting machine, ~~contains~~ OR VOTE
16 RECORDER SHALL CONTAIN the question "Shall (name of person
17 against whom recall petition is filed) be recalled from the
18 office of school director?" Following such question shall be the
19 words "Yes" and "No" and a blank space in which the voter shall

Would provide that the information which is provided for voters using paper ballots and voting machines would be made available to voters using electronic voting equipment.

The same question would be submitted to the voters using a vote recorder as those using a paper ballot or voting machine.

TEXT

EXPLANATION

1 indicate his vote for or against such recall.

2 (4) (a) If the vote in the election recalls the school
3 director, the secretary of the board of education shall call an
4 election to fill the vacancy for the remainder of the unexpired
5 term; such election shall be held within ~~thirty~~ FORTY-FIVE days
6 after the certification of the results of the recall election.

7 SECTION 13. 22-31-129 (1) (h), Colorado Revised Statutes
8 1973, is amended to read:

9 22-31-129. Vacancies. (1) (h) If the person who was duly
10 elected or appointed does not attend MORE THAN three consecutive
11 regular meetings of the board of education ~~without-the-board-of~~
12 ~~education--having--entered--upon--its--minutes--an--approval--for--an~~
13 ~~additional-absence-if-such-additional-absence-is-not~~ UNLESS THE
14 BOARD BY RESOLUTION SHALL APPROVE ANY ADDITIONAL ABSENCES OR
15 UNLESS SUCH ABSENCES ARE due to a temporary mental or physical
16 disability or illness;

17 SECTION 14. 22-31-131, Colorado Revised Statutes 1973
18 (numbered as 123-31-31, C.R.S. 1963), as amended by section 9 of
19 chapter 90, Session Laws of Colorado 1974, is REPEALED AND

Election to fill vacancy caused by recall election would be within 45 days of recall election.

Vacancy would be created if the board member fails to attend more than three consecutive regular meetings, unless the board by resolution were to approve additional absences.

TEXT

EXPLANATION

1 REEACTED, WITH AMENDMENTS, to read:

2 22-31-131. Election procedures in districts composed of a
3 city and county. (1) The regular biennial school election in
4 each school district coterminous with a city and county shall be
5 held on the third Tuesday in May of each odd-numbered year and
6 shall be conducted and supervised by the election commission of
7 said city and county.

8 (2) Every elector qualified and registered to vote at a
9 general election shall be entitled to vote at such regular
10 biennial school election if he is registered on or before the
11 thirty-second day before such school election.

12 (3) Any candidate for the office of member of the board of
13 education of such district shall be a registered elector of such
14 district.

15 (4) Any person who desires to be a candidate for the office
16 of member of the board of education shall file a written notice
17 of such intention with the election commission at least
18 thirty-two days prior to the election date together with a
19 nomination petition signed by not less than fifty registered

Rewritten section would eliminate exist-
ing references which include school dis-
tricts of over 70,000 enrollment in this
section. Amended section would apply only
to Denver.

No change from present law.

No change from present law.

Technical change would delete reference
which is not applicable to Denver.

TEXT

EXPLANATION

1 electors of said district, which petition shall contain the name
2 and term of the office for which the person is nominated and his
3 post-office address, place of residence, and place of business.
4 Each of the electors signing the same shall add to his signature
5 his place of residence.

6 (5) The election commission, at least eighteen days before
7 such regular biennial school election, shall give written notice
8 of the election in substantially the same manner as is set forth
9 in section 22-31-113.

10 (6) Either ballots, voting machines, or electronic voting
11 equipment of a type approved for use in general elections may be
12 used in such school elections. The election commission shall
13 prepare the ballots, voting machines, or vote recorders for said
14 election. Said ballots, voting machines, or vote recorders shall
15 contain the names of the candidates to be balloted for at said
16 election, which names shall be arranged in alphabetical order
17 according to surnames, and such words as will indicate the number
18 of members of the board of education to be elected. Whenever
19 such school election is combined with a municipal election, the

Technical change as in subsection (4).

- (1) Technical changes as in subsection (4).
- (2) Provision would be included for use of electronic voting equipment.

TEXT

EXPLANATION

1 election commission shall permit and arrange for the joint use of
2 voting machines or electronic vote recorders for balloting for
3 candidates for municipal offices, for candidates for the board of
4 education of said school district, and for such other
5 propositions as may be submitted to the electors of said school
6 district or city and county.

7 (7) Registration requirements for such school elections
8 shall be the same as those defined by state law governing general
9 elections.

10 (8) (a) The appointment of judges of election, the printing
11 of pollbooks and oath forms, the designation of precinct
12 boundaries and polling places, the canvassing of the votes cast,
13 and other procedures pertaining to the conduct of school
14 elections required by this article to be done or performed by the
15 secretary or board of education shall, in school districts
16 coterminous with a city and county, be done and performed by the
17 election commission. The election commission shall canvass the
18 returns within five days of such election and shall certify the
19 results thereof to the secretary of the board of education
20 forthwith upon completion of such canvass.

No change from present law.

- (1) Clerks of elections are no longer appointed.
- (2) Language changes would make this subsection apply only to Denver.
- (3) References to county clerks would be deleted.

TEXT

EXPLANATION

1 (b) Whenever the date of such school election is identical
2 to the date set for a municipal election in a city and county
3 that is coterminous with such school district, the election
4 commission shall arrange for the combining of such school
5 election with said municipal election and shall designate as
6 school election precincts and polling places the same election
7 precincts and polling places established for such municipal
8 election and shall designate the judges of such municipal
9 election as judges of such school election. It shall not be
10 necessary to preserve school ballots cast, to lock any voting
11 machine used, or to preserve vote recorders cast for any period
12 in excess of fifteen days after such election unless otherwise
13 ordered by the court.

14 (9) Voting by absentee ballot shall be permitted at such
15 school elections in the same manner and under the same conditions
16 as are prescribed by law in general elections.

17 (10) If such school election is combined with a municipal
18 election of a city and county that is coterminous with said
19 school district, said school district shall be liable for any

No change from present law.

Subsection would be amended to apply only to Denver.

TEXT

EXPLANATION

1 increased cost of conducting said election attributable to such
2 combination. If such school election is not combined with a
3 municipal election of a city and county that is coterminous with
4 said school district, the board of education of such district
5 shall pay the entire cost of said election. Any amounts so
6 becoming due to such city and county from such school district
7 shall be promptly paid upon presentation of a certified statement
8 therefor by the election commission.

9 (11) Except as provided in this section, school elections in
10 school districts coterminous with a city and county shall be
11 subject to other provisions of law pertaining to school
12 elections.

13 SECTION 15. 22-70-119 (2), Colorado Revised Statutes 1973,
14 is amended to read:

15 22-70-119. Qualification of voters. (2) In all cases
16 where specific provision is not made in this article, election of
17 members of junior college committees shall be governed by general
18 laws governing elections in school districts. ~~having-a-school~~
19 ~~population-in-excess-of-three-thousand;~~

Subsection would apply only to Denver.

Technical changes would conform with other changes by deleting population classifications.

-113-

B111 11

TEXT

EXPLANATION

1 SECTION 16. Repeal. 22-31-106 (6) and (7), Colorado
2 Revised Statutes 1973 (numbered as 123-31-6 (6) and (7), C.R.S.
3 1963), as enacted by section 2 of chapter 91, Session Laws of
4 Colorado 1974, are repealed.

5 SECTION 17. Appropriation. In addition to any other
6 appropriation, there is hereby appropriated out of any moneys in
7 the state treasury not otherwise appropriated, to the department
8 of education for allocation to the commissioner of education, for
9 the fiscal year beginning July 1, 1975, the sum of three thousand
10 dollars (\$3,000), or so much thereof as may be necessary, to
11 provide for the preparation and printing of a simplified school
12 election procedures manual pursuant to section 2 of this act.

13 SECTION 18. Safety clause. The general assembly hereby
14 finds, determines, and declares that this act is necessary for
15 the immediate preservation of the public peace, health, and
16 safety.

Subsections which would be repealed apply only to 1974 school election registration procedures. (See also Section 4 of bill.)

BILL 12

TEXT

EXPLANATION

A BILL FOR AN ACT

1 CONCERNING THE ELECTION OF SCHOOL DIRECTORS.

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

3 SECTION 1. 22-31-105, Colorado Revised Statutes 1975, is
4 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 22-31-105. School directors - number - election - term.

6 (1) Except as provided in subsection (2) of this section, in
7 each school district of the state, there shall be elected five,
8 six, or seven school directors. Such directors shall be elected
9 for staggered terms of office, with as close to the same number
10 of vacancies in each election as possible according to the length
11 of the term of office, for a term of four or six years each. The
12 number and term shall be as established by any plan of
13 reorganization, or any amendment to said plan; or as established
14 prior to the effective date of this section, as amended, or any
15 amendment thereto; or as established in a proposed plan as
16 provided in subsection (4) or (5) of this section.

17 (2) In each school district coterminous with a city and
18 county, there shall be elected seven school directors, each for a

Rewritten section would continue to allow any school district, except Denver, to elect 5, 6, or 7 school directors on a staggered basis for terms of 4 or 6 years each, as established under any plan of reorganization or as provided by statute.

Denver could change the terms of directors, but the number of directors would remain at seven.

TEXT

EXPLANATION

1 term of six years or as amended under subsection (4) of this
2 section and until his successor is elected and qualified as
3 provided under said subsection (4).

4 (3) All school directors shall be voted on at large by the
5 electors of the entire school district, whether or not the
6 district has a director district plan of representation.

7 (4) (a) The board of education of any school district may,
8 by resolution passed by a majority of all members of the board,
9 submit to the qualified registered electors of the school
10 district, at the next regular biennial school election, a
11 proposed plan to change the terms of office of the directors of
12 the district from six years to four years or from four years to
13 six years, as the case may be. Such terms of office shall be
14 staggered as provided under subsection (1) of this section, but
15 under such proposed plan the term of a school director shall not
16 be increased or decreased after his election or appointment. The
17 proposed plan shall be adopted by resolution of the board at
18 least sixty days prior to the election.

19 (b) Upon written petition the board of education of any

All directors would be voted on at large whether or not the district has a director district plan of representation. (Existing language)

The board of education could adopt by resolution and submit to the qualified registered electors a proposed plan to change the terms of directors from 6 to 4 years or from 4 to 6 years. Terms would be staggered.

A petition and a proposed plan would be

TEXT

EXPLANATION

1 school district shall submit to the qualified registered electors
2 of the school district, at the next regular biennial school
3 election, a proposal to change the terms of office of the school
4 directors of the district from six years to four years or from
5 four years to six years, as the case may be. Such terms of
6 office shall be staggered as provided under subsection (1) of
7 this section. The petition shall be signed by at least ten
8 percent of the registered electors of the district, and the
9 proposed plan, specifying terms of office and establishing the
10 procedure for making the transitions, shall be attached thereto.
11 The petition, together with the proposed plan, shall be submitted
12 to the secretary of the board of education at least ninety days
13 prior to the election.

14 (c) No proposal to change the terms of office of the school
15 directors of the district shall be submitted within four years
16 after a previous proposal to change the terms of office has been
17 submitted to the qualified registered electors of the district.

18 (d) The secretary of the board of education shall cause
19 notice to be given that at the next biennial election for school

submitted to the board of education set-
ting forth a change in the length of
terms from 6 to 4 years or from 4 to 6
years.

Existing language.

Existing language except that the words
"qualified registered electors" would be
substituted for the word "voters" of the

TEXT

EXPLANATION

1 directors a plan revising the terms of office of school directors
2 will be submitted to the qualified registered electors of the
3 district; and such notice shall be published and posted in the
4 same manner as required for the regular biennial school election.
5 Said notice shall state the question to be submitted to the
6 qualified registered electors, the qualifications of a qualified
7 registered elector to vote thereon, the date of election, the
8 polling places and hours of polling as shall be designated for
9 the regular biennial school election, and that such plan is on
10 file in the administration offices of the district for public
11 inspection during reasonable business hours; except that said
12 notice may be combined with the notice otherwise required for the
13 election of school directors at said regular biennial school
14 election.

15 (e) The ballot shall contain the words "For the (increase)
16 (decrease) to a (six) (four) year term of office for school
17 directors" and "Against the (increase) (decrease) to a (six)
18 (four) year term of office for school directors". Otherwise, the
19 ballots and election procedures shall be the same as prescribed

district.

Reworded for clarity.

TEXT

EXPLANATION

1 for the regular biennial school election.

2 (f) If a majority of the votes at said election shall be
3 "For the (increase) (decrease) to a (six) (four) year term of
4 office for school directors", the plan shall become effective
5 upon canvass of election returns. If a majority of the votes
6 shall be "Against the (increase) (decrease) to a (six) (four)
7 year term of office for school directors", the school directors
8 of said district shall continue to be elected or appointed as
9 prescribed in this section.

10 (5) (a) The board of education of any school district not
11 coterminous with a city and county may, by resolution passed by a
12 majority of the whole board, submit to the qualified registered
13 electors of the school district, at the next regular biennial
14 school election, a proposed plan to increase the number of school
15 directors from five to seven or from six to seven or decrease the
16 number of school directors from seven to five or from six to
17 five. Such terms of office shall be staggered as provided under
18 subsection (1) of this section, but under such proposed plan the
19 term of a school director shall not be increased or decreased

Reworded for clarity.

- (1) Provision would exclude Denver. Previous language excluded districts with a school enrollment of more than 40,000 and less than 8,000.
- (2) The board, by adoption of a resolution, could submit a plan to the qualified registered electors to change the number of directors from 5 to 7, 6 to 7, 7 to 5, or from 6 to 5. Terms would be staggered.
- (3) Term of school director could not be increased or decreased during his term.

TEXT

EXPLANATION

1 after his election or appointment. The proposal shall be adopted
2 by resolution of the board at least sixty days prior to the
3 election.

4 (b) Upon written petition the board of education of any
5 school district not coterminous with a city and county shall
6 submit to the qualified registered electors of the school
7 district, at the next regular biennial school election, a
8 proposed plan to increase the number of school directors from
9 five to seven or from six to seven or decrease the number of
10 school directors from seven to five or from six to five. Such
11 terms of office shall be staggered as provided under subsection
12 (1) of this section. The petition shall be signed by at least
13 ten percent of the registered electors of the district and shall
14 be submitted to the secretary of the board of education at least
15 ninety days prior to the election.

16 (c) The secretary of the board of education shall cause
17 notice to be given that at the next biennial election for school
18 directors a proposed plan revising the number of school directors
19 will be submitted to the qualified registered electors of the

(1) Provision would exclude Denver. Same proposal as in paragraph (a) but the question would be submitted to a vote by the qualified registered electors upon petition presented to the board.

Public notice provision.

TEXT

EXPLANATION

1 district; and such notice shall be published and posted in the
2 same manner as required for the regular biennial school election.
3 Said notice shall state the question to be submitted to the
4 qualified registered electors, the qualifications of a qualified
5 registered elector to vote thereon, the date of election, the
6 polling places and hours of polling as shall be designated for
7 the regular biennial school election, and that such plan is on
8 file in the administration offices of the of the district for
9 public inspection during reasonable business hours; except that
10 said notice may be combined with the notice otherwise required
11 for the election of school directors at said regular biennial
12 school election.

13 (d) The ballot shall contain the words "For (increasing)
14 (decreasing) the number of school directors from (five to seven)
15 (six to seven) (seven to five) (six to five)" and "Against
16 (increasing) (decreasing) the number of school directors from
17 (five to seven) (six to seven) (seven to five) (six to five)".
18 Otherwise, the ballots and election procedures shall be the same
19 as prescribed for the regular biennial school election.

Wording of ballot proposal.

TEXT

EXPLANATION

1 (e) If a majority of the votes on said question shall be
2 "For (increasing) (decreasing) the number of school directors
3 from (five to seven) (six to seven) (seven to five) (six to
4 five)", the plan shall become effective for the election of
5 school directors at subsequent regular biennial school elections.
6 If a majority of the votes shall be "Against (increasing)
7 (decreasing) the number of school directors from (five to seven)
8 (six to seven) (seven to five) (six to five)", there shall
9 continue to be the same number of school directors as before the
10 election.

11 SECTION 2. 22-31-108 (1) and (2), Colorado Revised Statutes
12 1973, are amended to read:

13 22-31-108. Adoption, modification, or elimination of
14 director district plan of representation. (1) The board of
15 education of any school district which desires to propose the
16 adoption of a director district plan of representation, ~~or a plan~~
17 ~~to change the number of director districts~~; or the elimination of
18 a director district plan of representation and replace such plan
19 with an at-large plan of representation may submit a plan to

Effect of results of election.

- (1) Stricken language would be unnecessary since changes in the number of board members would be covered in section 1 of this bill.
- (2) Change in percentage of persons required to sign petitions for director district plan would conform with requirements for signatures in terms of office and in number of school directors.

TEXT

EXPLANATION

1 implement such change to the registered electors of the school
2 district at any regular biennial school election or at a special
3 school election called by the board for such purpose. The plan
4 shall be adopted by the board of education at least sixty days
5 prior to the election.

6 (2) The registered electors of any school district who
7 desire to propose the adoption of a director district plan of
8 representation, ~~or a plan to change the number of director~~
9 ~~districts,~~ or the elimination of a director district plan of
10 representation and replace such plan with an at-large plan of
11 representation may petition the board of education of said school
12 district to submit a plan to implement such change to the
13 registered electors of the district at any regular biennial
14 school election. The petition shall be signed by at least
15 ~~fifteen~~ TEN percent of the registered electors of said school
16 district, and the proposed plan of representation shall be
17 attached thereto. The petition, together with the proposed plan,
18 shall be submitted to the secretary of the board of education of
19 the school district at least sixty days prior to the election.

TEXT

EXPLANATION

1 If the plan meets statutory requirements, it is the duty of the
2 board of education to submit such plan to the registered electors
3 of the school district at the next regular biennial school
4 election.

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

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COMMITTEE ON EDUCATION

BILL 13

A BILL FOR AN ACT

1 ESTABLISHING STUDENT-AID PROGRAMS AT ACCREDITED NONPROFIT
2 INSTITUTIONS OF HIGHER EDUCATION, AUTHORIZING CONTRACTS WITH
3 SUCH INSTITUTIONS, AND MAKING AN APPROPRIATION THEREFOR.

Bill Summary

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

Creates programs of loan, student scholarship, and work study for resident students attending institutions of higher education within the state and provides that the new programs will be administered in the same manner as those like programs of public institutions of higher education. Places a limitation of three hundred dollars per student per school year on aid granted under the programs and no more than five percent of money available shall be awarded to students on a basis other than need. Authorizes the commission on higher education to contract with private institutions of higher education for educational services. Provides a post audit review of all programs. Appropriates \$2,199,400 dollars for the implementation of this bill.

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

5 SECTION 1. Title 23, Colorado Revised Statutes 1973, as
6 amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

7 ARTICLE 3.5

8 Private Institutions of Higher Education

9 23-3.5-101. Definitions. As used in this article, unless

1 the context otherwise requires:

2 (1) "Commission" means the Colorado commission on higher
3 education.

4 (2) "Private institution of higher education" means a
5 non-public four-year college, junior college or university
6 located in this state which requires as a prerequisite for
7 admission to a degree program that a person has successfully
8 completed high school or the equivalent thereof, and which is
9 accredited by the north central association of colleges and
10 secondary schools. The term does not include any theological or
11 proprietary institution nor does it include any institution
12 operated for profit.

13 (3) "Public institution of higher education" means an
14 institution of higher education established and existing pursuant
15 to law as an agency of the state of Colorado, or as a local
16 district junior college, and supported wholly or in part by tax
17 revenues.

18 23-3.5-102. Programs created. (1) In addition to the
19 programs of loan matching pursuant to the federal "National
20 Defense Education Act of 1958", as amended, state student
21 scholarships and aid, and work study established pursuant to part
22 2 of article 1 of this title for students attending institutions
23 of higher education supported in whole or in part by state funds,
24 there are hereby created and authorized the same programs for
25 students, both undergraduate and graduate, attending private
26 institutions of higher education.

27 (2) The programs created by subsection (1) of this section

1 shall be administered in the same manner as those programs for
2 students attending public institutions of higher education;
3 except that none of the moneys made available pursuant to the
4 provisions of this article shall be used for athletic grants and
5 scholarships. The commission shall promulgate regulations for
6 the administration of this article through the private
7 institutions of higher education and may require their agreement
8 to the provisions of such regulations in order for their students
9 to participate in the programs.

10 23-3.5-103. Student aid - limitation. Of the moneys made
11 available for state student scholarships and aid pursuant to the
12 provisions of this article, no more than five percent of such
13 amount shall be awarded to students on a basis other than need,
14 and no such student shall receive more than three hundred dollars
15 per academic year plus summer session. The remainder of
16 available moneys shall be awarded to students on the basis of
17 need, and no such student shall receive more than twelve hundred
18 dollars per academic year plus summer session.

19 23-3.5-104. Commission authorized to contract. Subject to
20 available appropriations, the commission is authorized to
21 contract with private institutions of higher education for the
22 provision of educational services which it determines in the
23 public interest should be available to Colorado resident
24 students, provided that the commission also determines that the
25 purchase of such services is consistent with any comprehensive
26 plan adopted pursuant to 23-1-108 (1) (b) and that such
27 comparable services will be purchased in the private institution

1 of higher education at no greater cost to the state than if such
2 services were to be provided in public institutions.

3 23-3.5-105. Authorization for appropriation. In order to
4 fund the programs established by this article the general
5 assembly shall make annual appropriations to the commission for
6 work study programs, for state matching of federal work study
7 programs, for loan matching programs pursuant to the federal
8 "National Defense Education Act of 1958", as amended, for state
9 student scholarships and aid programs authorized by section
10 23-3.5-102, and for contracts authorized by section 23-3.5-104.

11 23-3.5-106. Availability of article. The provisions of
12 this article shall be available only to those students who are
13 residents of this state for tuition purposes as determined
14 pursuant to article 7 of this title.

15 23-3.5-107. Post audit review. The programs authorized by
16 this article shall be subject to legislative post audit review.

17 SECTION 2. 23-1-201 (1), Colorado Revised Statutes 1973, is
18 amended to read:

19 23-1-201. Work study program - use of funds. (1) The
20 commission is directed to establish a work study program in
21 institutions of higher education supported in whole or in part by
22 state funds OR IN PRIVATE INSTITUTIONS OF HIGHER EDUCATION, AS
23 DEFINED IN SECTION 23-3.5-101, in cooperation with such
24 institutions of higher education. The work study program shall
25 be designed to provide employment for qualifying students in good
26 standing with the institution in positions which are directly
27 under the control of the institution of higher education

1 providing such position or in positions with nonprofit
2 organizations or governmental agencies with which the institution
3 may execute student employment contracts. Any student who is a
4 resident of the state of Colorado and who is enrolled or accepted
5 for enrollment in an undergraduate division of an institution of
6 higher education supported in whole or in part by state funds OR
7 A PRIVATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION
8 23-3.5-101, shall be eligible to qualify for participation in the
9 work study program established pursuant to this section.

10 SECTION 3. Appropriation. In addition to any other
11 appropriation, there is hereby appropriated, out of any moneys in
12 the state treasury not otherwise appropriated, to the Colorado
13 commission on higher education, for the fiscal year commencing
14 July 1, 1975, for the implementation of this act, the sum of two
15 million one hundred ninety-nine thousand four hundred dollars
16 (\$2,199,400), or so much thereof as may be necessary, to be
17 allocated as follows: For state student scholarships and aid one
18 million one hundred twenty-eight thousand dollars (\$1,128,000),
19 for National Defense Education Act loan matching one hundred
20 thousand dollars (\$100,000), for contracts authorized by section
21 23-3.5-104, C.R.S. 1973, eight hundred ninety-six thousand four
22 hundred dollars (\$896,400), and for work study programs
23 seventy-five thousand dollars (\$75,000).

24 SECTION 4. Effective date. This act shall take effect July
25 1, 1975.

26 SECTION 5. Safety clause. The general assembly hereby
27 finds, determines, and declares that this act is necessary for

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

COMMITTEE ON EDUCATION

BILL 14

A BILL FOR AN ACT

1 CONCERNING TEACHER CERTIFICATION.

Bill Summary

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

Requires the board of education to adopt standards for institutions of higher education and to prescribe standards for qualifications for the issuance of teacher certificates. Enacts the "Teacher Certification Act of 1975" which provides for the continuing evaluation and revision of standards for the certification of teachers and encourages the professional development of teachers; charges a fee of fifteen dollars for examination and review of an application for a teacher's certificate; provides that a teacher must pursue a course of education to upgrade his skills before a certificate may be renewed; changes the standards for revocation and suspension of a teaching certificate; and provides for continuing evaluation of institutions of teacher education.

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

3 SECTION 1. 22-2-109 (1), Colorado Revised Statutes 1973, is
4 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 22-2-109. State board of education - duties. (1) The
6 state board of education shall:

7 (a) Evaluate and determine and publish its findings as to
8 which state institutions of higher education meet the
9 requirements of an accepted institution of higher education

1 pursuant to section 22-60-103 (1);

2 (b) Evaluate and determine and publish its findings as to
3 which programs of study of state institutions of higher education
4 meet the requirements of an approved program of teacher
5 preparation pursuant to section 22-60-103 (2);

6 (c) Adopt rules and regulations which prescribe standards
7 for the evaluation of teacher preparation programs;

8 (d) Make periodic visits as may be necessary to the
9 colleges and universities in the state in order to observe and
10 evaluate the programs of preparation offered therein;

11 (e) Utilize the capabilities of professional educators from
12 all levels of education in the development of standards of
13 evaluation and in the evaluation of teacher preparation programs
14 in the state institutions;

15 (f) Adopt rules and regulations which prescribe standards
16 of qualification, preparation, training, or experience that are
17 required for the issuance of teacher certificates, administrator
18 certificates and letters of authorization;

19 (g) Adopt rules and regulations which prescribe standards
20 for endorsements deemed appropriate for each type of certificate
21 or letter of authorization;

22 (h) Utilize the capabilities of professional educators from
23 all levels of education in the development of standards for
24 teaching certificates, administrator certificates, letters of
25 authorization, and appropriate endorsements;

26 (i) Conduct or arrange for research pertinent or essential
27 to implement the provisions of article 60 of this title including

1 but not limited to teacher certification and teacher preparation
2 programs in institutions of higher education.

3 SECTION 2. Article 60 of title 22, Colorado Revised
4 Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to
5 read:

6 ARTICLE 60

7 Teacher Certification

8 22-60-101. Short title. This article shall be known and
9 may be cited as the "Teacher Certification Act of 1975".

10 22-60-102. Legislative declaration. (1) It is declared to
11 be the policy of the state of Colorado to provide quality
12 education in the schools of the state and to this end to provide
13 a process for the evaluation and revision of the standards for
14 the certification of teachers and to encourage the professional
15 development of teachers. It is further the policy of this state
16 that teachers in Colorado be of good moral character, have a
17 thorough and up-to-date knowledge in depth of their subject
18 matter, and, except for teachers applying for or holding a type C
19 certificate, have a thorough grounding in the moral, ethical, and
20 philosophical roots of our civilization, have a broad educational
21 background in the liberal arts, hold at least a bachelor's
22 degree, and have an adequate foundation in professional education
23 including student teaching.

24 (2) It is also the policy of this state to safeguard the
25 welfare of our children against unqualified, incompetent, and
26 immoral teachers, to improve the instructional programs in the
27 schools of the state, to encourage wiser use of the services of

1 teachers, and to permit flexibility of standards for the
2 certification of teachers in accordance with changing educational
3 concepts and programs. To these ends, this article shall be
4 liberally construed.

5 22-60-103. Definitions. As used in this article, unless
6 the context otherwise requires:

7 (1) "Accepted institution of higher education" means an
8 institution of higher education which offers at least a four-year
9 program or equivalent of studies leading to a bachelor's or
10 higher degree and which has a teacher preparation program
11 approved by the state board of education for teacher
12 certification.

13 (2) "Approved program of preparation" means a program of
14 study for teacher preparation including student teaching, leading
15 to graduation from an accepted institution of higher education,
16 that meets the standards of the state board of education and that
17 upon completion leads to a recommendation for certification by an
18 accepted institution of higher education.

19 (3) "Board of education" means the governing body
20 authorized by law to administer the affairs of any school
21 district in the state except junior and community college
22 districts.

23 (4) "Certificate" means the license to teach in the
24 instructional program of a school district or to administer,
25 supervise, counsel, or direct such programs.

26 (5) "Endorsement" means the designation on a certificate or
27 letter of authorization of grade level, subject matter, or

1 service specialization in accordance with the preparation,
2 training, or experience of the holder of such certificate or
3 letter of authorization.

4 (6) "In-service education program" means a program directly
5 sponsored by a school district or a board of cooperative services
6 for all or any portion of the instructional, administrative, and
7 support personnel employed by the district to improve the quality
8 of the learning process.

9 (7) "School district" means any school district organized
10 and existing pursuant to law, but does not include junior or
11 community college districts.

12 (8) "State board of education" means the state board of
13 education established by section 1 of article IX of the state
14 constitution.

15 (9) "Teacher" means any person employed to instruct
16 students or to administer, direct, or supervise the instructional
17 program in a school in the state.

18 (10) "Year of study" shall mean two semesters or three
19 quarters during which a student carries a normal course load as
20 defined by the institution.

21 22-60-104. Types of certificates issued - term. (1) The
22 department of education is designated as the sole agency
23 authorized to issue certificates to persons of good moral
24 character and acceptable personal qualifications who possess
25 specific qualifications required to meet the objectives of each
26 type of certificate, as follows:

27 (a) Type A. The general teacher certificate, certifying

1 that a person has been awarded or is eligible for a bachelor's
2 degree from an accredited institution; has completed an approved
3 program of teacher preparation at an accepted institution of
4 higher education, which program includes a professional teacher
5 education sequence including field experience; meets high
6 standards of professional performance and ability; demonstrates
7 thorough familiarity with the subject matter to be taught; and is
8 found to offer the competencies essential to maintain and improve
9 the quality of instruction in the public schools of the state.

10 (b) Type B. The professional teaching certificate,
11 certifying that a person has a minimum of three years of
12 experience under a Type A or equivalent certificate and has
13 completed a master's degree or higher degree in an accepted
14 institution of higher education.

15 (c) Type C. The vocational teaching certificate,
16 certifying that a person has satisfactorily completed five or
17 more calendar years of satisfactory work experience in the
18 specific occupational area in which instruction is to be given
19 and meets such other requirements as to academic preparation,
20 professional preparation, professional performance and ability,
21 and experience as the state board of education may establish to
22 maintain and improve the quality of instruction in the public
23 schools of the state.

24 (d) Type D. The administrative certificate, certifying
25 that a person has completed an approved program of school
26 administration in an accepted institution, has completed a
27 master's degree or higher degree in an accepted institution of

1 higher education, and meets such other requirements as the state
2 board of education may establish concerning professional
3 performance and ability.

4 (e) Type F. The special services certificate, certifying
5 that a person has satisfactorily completed a program of
6 preparation in one of the following special areas: The education
7 of handicapped children; the physical and mental health of
8 students; counseling and other psychological services for
9 students; or are specialists in curriculum materials, including
10 librarians. Such certificate shall also certify that the person
11 has been awarded a degree at an accepted institution of higher
12 education and has met the standards of the state board concerning
13 academic and professional education, experience, performance, and
14 personal qualifications.

15 (f) The state board of education may issue certificates for
16 teachers of adult education subjects. Such certificates shall be
17 for teaching in the subject or subjects named on the certificate.
18 The academic preparation, professional education sequence,
19 personal qualifications, training and experience, professional
20 performance, and ability requirements shall be determined by the
21 state board of education.

22 (2) The state board of education is authorized to establish
23 such other requirements for any of the types of teaching
24 certificates provided for in subsection (1) of this section as it
25 deems necessary to maintain and improve the quality of
26 instruction in the public schools of the state; except that no
27 degree in addition to those specified for each type of

1 certificate shall be required by such rules and regulations.

2 (3) Certificates granted under this section shall be valid
3 for a period of five years from the date of issuance.

4 (4) Applicants for Types A, B, D, and E certificates who
5 have not been a teacher for at least one year within a five-year
6 period prior to the application date shall complete an approved
7 plan of professional development of not less than eight semester
8 or twelve quarter hours of college credit as approved by the
9 Colorado department of education.

10 (5) Each applicant for a certificate may be required to
11 submit a statement from a designated recommending official of the
12 accepted institution of higher education or training agency; such
13 statement shall certify that the applicant has completed the
14 approved program in a satisfactory manner and in good standing,
15 but such statement shall not be required for the renewal of a
16 certificate.

17 (6) In determining the moral qualifications of applicants,
18 the state board of education shall be governed by the provisions
19 of section 24-5-101, C.R.S. 1973.

20 (7) This section shall apply to all certificates granted
21 after July 1, 1975.

22 22-60-105. Waiver of professional education courses -
23 certificates. The state board of education may waive
24 professional education courses in accordance with previous
25 experience and demonstrated competency for an applicant for a
26 Type A teaching certificate who has taught for a period of five
27 years.

1 22-60-106. Letters of authorization - types - applicant's
2 qualifications. (1) The state board of education is authorized
3 to issue the following letters of authorization to persons of
4 good moral character, notwithstanding the qualifications
5 prescribed for certificates in section 22-60-104;

6 (a) An applicant for a letter of authorization, Type I,
7 shall possess outstanding talent in a particular area of
8 specialization and demonstrated ability and knowledge therein and
9 shall enjoy wide recognition as an authority in such area. His
10 services shall have been requested by a board of education and
11 shall be limited to his area of specialization.

12 (b) An applicant for a letter of authorization, Type II,
13 shall have been awarded at least a bachelor's degree from a
14 standard institution of higher education but need not have
15 completed the sequence of professional education courses. A Type
16 II letter of authorization shall be valid only while the holder
17 serves as an intern in a program approved by the state board of
18 education.

19 (c) A letter of authorization, Type III, may be issued by
20 the state board of education permitting an applicant to teach at
21 a particular grade level or in a special academic or vocational
22 area when in the judgment of said board an emergency exists and
23 such action is essential to the preservation of good
24 instructional programs in the public schools and to the
25 educational well-being of the children enrolled therein.

26 (2) A letter of authorization shall be valid for a period
27 of one school year and shall be subject to renewal for one

1 additional school year, notwithstanding requirements for the
2 renewal of a certificate. In determining an applicant's
3 character, the board shall be governed by the provisions of
4 section 24-5-101, C.R.S. 1973.

5 22-60-107. Fees. The fee for the examination and review of
6 an application for a certificate or letter of authorization, or
7 any renewal thereof, is fifteen dollars. Upon determination of
8 eligibility of an applicant to receive a certificate or letter of
9 authorization, such certificate or letter of authorization shall
10 be issued without the payment of an additional fee. All fees
11 collected under this section shall be transmitted to the state
12 treasurer and credited to the general fund.

13 22-60-108. Renewal of certificate. (1) A certificate
14 shall expire as proscribed in section 22-60-104 notwithstanding
15 the provisions of section 24-4-104 (7), C.R.S. 1973, and may be
16 renewed upon application and payment of the prescribed fee. An
17 applicant for renewal of a certificate shall be required to
18 submit, on forms provided by the department of education,
19 evidence that he has completed a plan of professional development
20 experiences which is appropriate to the certificate to be
21 renewed. The plan shall consist of not less than eight semester
22 or twelve quarter hours of college or university credit from an
23 accepted institution, except that three semester hours of credit
24 may be earned through in-service education programs approved by
25 the state board of education.

26 (2) The state board of education shall adopt rules and
27 regulations which would establish criteria in addition to the

1 formal educational requirements for certification and
2 recertification of teachers.

3 (3) The state board of education shall establish criteria
4 for local school district in-service education programs which:

5 (a) Demonstrate that there are identified needs for
6 in-service education and that the identified needs have been
7 assessed by teachers and other school district personnel in
8 cooperation with other agencies or organizations;

9 (b) Provide for planned activities which meet the needs for
10 in-service education;

11 (c) Include an evaluation plan which will determine the
12 effect of the activities on the learning process;

13 (d) Indicate the part which the in-service education
14 program plays in implementing the overall long-range plans of the
15 district or the board of cooperative services;

16 (e) Evidence cooperation with institutions of higher
17 education, where the program could benefit from such cooperation,
18 and with the department of education.

19 22-60-109. Endorsement of certificate or letter - effect.

20 The state board of education is authorized to cause a certificate
21 or letter of authorization to be endorsed, which endorsement may
22 specify the grade level, subject matter area, or other
23 specialization which may be appropriate to an applicant's major
24 preparation, training, and experience.

25 22-60-110. Grounds for suspending or revoking certificate

26 or letter. (1) The state board of education may revoke or
27 suspend any teaching certificate or letter of authorization:

1 (a) Upon evidence that the holder knowingly made any false
2 or misleading statements on the application;

3 (b) When the holder has been determined to be mentally
4 incompetent by a court of competent jurisdiction;

5 (c) When the holder is found guilty of a violation of any
6 law of this state or any municipal law of this state involving
7 unlawful sexual behavior pursuant to section 18-3-401, C.R.S.
8 1973;

9 (d) When the holder is found guilty of a violation of any
10 law of this state, any municipality of this state, or law of the
11 United States involving the illegal sale of narcotics.

12 (2) The state board of education may suspend or revoke a
13 certificate or letter of authorization if the state board finds
14 and determines that the holder thereof has become professionally
15 incompetent or guilty of unethical behavior.

16 (3) The state board of education shall promulgate
17 appropriate rules and regulations defining the standards of
18 unethical behavior and professional incompetency.

19 22-60-111. Procedure - denial, suspension, revocation -
20 certificate or letter. Procedures for the denial, suspension, or
21 revocation of a certificate or letter of authorization shall be
22 in accordance with the provisions of article 4 of title 24,
23 C.R.S. 1973.

24 22-60-112. Hearing officer - duties. The state board of
25 education shall appoint a hearing officer who shall conduct
26 hearings on the denial, suspension, or revocation of a
27 certificate or letter of authorization. The officer shall reduce

1 his findings to written form and submit a written report and
2 recommendations to the state board of education.

3 22-60-113. Evaluation of approved programs of teacher
4 education. (1) Teachers employed by the school districts of the
5 state who completed their training at accepted institutions of
6 higher education in this state shall be provided forms for the
7 evaluation of the teacher preparation programs in which that
8 teacher obtained his training. Such forms shall be prepared and
9 distributed by the Colorado department of education; the
10 completed forms shall be returned promptly to the department of
11 education and shall be reviewed annually by the state board of
12 education.

13 (2) The administrative staff of the school districts of
14 this state shall be provided forms to evaluate the teaching
15 experience and training of graduates of Colorado teacher
16 preparation institutions employed within said district.
17 Evaluation shall be completed during the ninth month of the first
18 and third years of teaching or at such other times as may be
19 deemed appropriate by the state board of education. Such forms
20 shall be completed and returned promptly to the department of
21 education and shall be reviewed annually by the state board of
22 education. Such evaluation information shall be made available
23 to colleges and universities.

24 22-60-114. Prior certificates validated. This article
25 shall not be construed as invalidating any certificate issued
26 pursuant to law prior to July 1, 1975, and said certificate shall
27 remain valid until the date of expiration, except as provided in

1 sections 22-60-110 and 22-60-111 for the suspension or revocation
2 of a certificate.

3 SECTION 3. 22-63-102 (10), Colorado Revised Statutes, 1973,
4 is amended to read:

5 22-63-102. Definitions. (10) "Teacher's certificate"
6 means a certificate as defined in section 22-60-103 ~~(3)~~ (4).

7 SECTION 4. 22-63-108 (2), Colorado Revised Statutes 1973,
8 is amended to read:

9 22-63-108. Interest prohibited. (2) Any employee who
10 violates the provisions of subsection (1) of this section is,
11 upon determination thereof, subject to suspension or revocation
12 of his certificate or letter of authorization as provided in
13 section ~~22-60-111~~ 22-60-110 (2).

14 SECTION 5. 22-65-105 (6), Colorado Revised Statutes 1973,
15 is amended to read:

16 22-65-105. Duties and powers of the commission. (6) The
17 commission shall advise and consult with the department in the
18 administration of sections ~~22-60-111~~ 22-60-110 to ~~22-60-115~~
19 22-60-112 and article 63 of this title.

20 SECTION 6. Effective date. This act shall take effect July
21 1, 1975.

22 SECTION 7. Safety clause. The general assembly hereby
23 finds, determines, and declares that this act is necessary for
24 the immediate preservation of the public peace, health, and
25 safety.

**LEGISLATIVE COUNCIL COMMITTEE
ON BANKING**

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Sen. William Garnsey, Vice-
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Sen. Don MacManus
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COMMITTEE ON BANKING

The interim Committee on Banking was created by the Legislative Council in 1973 to review the commercial banking laws of Colorado. In response to this broad charge, the committee's activities in 1973 centered primarily on identification of those areas of the commercial banking code which may require amendment due to change in bank structure or regulatory need.

Major trends in the banking industry were identified and the structure of banking in Colorado was examined. The committee's inquiry placed particular emphasis on the following areas: (a) branch banking; (b) the rapid growth of multi-bank holding companies in Colorado; (c) use of electronic systems for fund transfers; (d) proposed changes in Colorado's banking code; and (e) possible effects of federal legislation stemming from the "Hunt Commission" report. This report concerned the structure and functions of financial institutions and included a number of recommendations of possible importance to the study by the Committee on Banking.

Testimony in 1973 indicated that there exists a significant interconnection among the major components of the financial industry. Consequently, the committee sought to broaden the scope of its inquiry, and permission was received from the Legislative Council to include a review of savings and loan association and credit union statutes in the committee's studies.

In meetings held in the 1974 interim, the committee concentrated on: a review of twelve proposed changes to the Colorado banking code, as advanced by Mr. Harry Bloom, state bank commissioner; consideration of two amendments to Colorado's credit union statutes; and discussion of a proposal to authorize limited branch banking in Colorado.

I. State Banking Code

Updating the Colorado Banking Code -- Bill 15

The intent of the Committee on Banking, in recommending six attached bills, is to modernize and streamline the present regulatory practices of the Division of Banking. Bill 15 embodies several proposed changes in these statutes.

Hearing required within six months. The present statute requires that the banking board hold a hearing concerning a charter application within six months of date of filing the application. As a result of the increased number of applications that have been filed, the board has been required to conduct two or three hearings per month to meet the statutory requirement. The six-month restriction also requires the board to conduct a hearing on an application when one application for the same area has already been denied and the denial is being appealed to the Court of Appeals. In other cases, the applicants have requested that a hearing be postponed for valid reasons, but these requests have been denied due to the six-month limitation.

Bill 15 would allow the bank commissioner to postpone, for valid reason and good cause, the hearing required for granting or denying a charter.

Minimum number of bank examinations. Colorado statutes contain two provisions relating to the minimum number of bank examinations required of the commissioner. One statute requires two examinations by the commissioner for all state banks organized prior to the enactment of the Colorado Banking Code of 1957. The banking code of 1957, however, requires twice-a-year bank examinations for all state banks organized after 1957, except that the commissioner may accept, in lieu of one of his examinations, the examination made by the Federal Deposit Insurance Corporation or the Board of Governors of the Federal Reserve System. The committee concluded that this inconsistency should be resolved.

Further, as a result of the rapid increase in workload during the past several years, the Division of Banking has been unable to meet the required twice-a-year examination schedule. In addition, the Joint Budget Committee denied the division's fiscal year 1975 budget request for additional funds and personnel, and reduced its staff by four examiners. The Committee on Banking and the Joint Budget Committee are in agreement that the division needs to conduct at least one bank examination annually but that twice-a-year examinations, in most cases, are unnecessary. The existing statutory language would be clarified under Bill 15 to require examination of state banks at least once a year. Also note that Bill 19, concerning the powers and duties of the state banking commissioner, contains a similar amendment to a separate statute.

New banks - deposit insurance - management. Under the present statute it is possible for a bank to open for business without providing deposit insurance. According to the commissioner, banks that have opened without deposit insur-

ance have not received public support or experienced normal growth until deposit insurance was acquired.

Another problem involving new banks relates to the banking board's inability to determine, prior to opening for business, if the management of a new bank is qualified by character and experience and if their financial status is consistent with their responsibilities and duties. This problem sometimes arises when the proposed officers of the new bank are employed by an existing bank and disclosure of their association with the applicants could result in the termination of their employment. In other instances, the applicants have not been able to obtain qualified management prior to the authorization of a charter.

Bill 15 would provide that the granting of a new state bank charter be contingent upon obtaining membership in the Federal Deposit Insurance Corporation and upon the approval of the proposed management by the banking board.

Change of bank's location. In evaluating an application for a change of location of a bank, the statute directs that the banking board use the standards of "public convenience and advantage." However, the statute is not clear as to what the banking board is to consider in applying this standard.

The criteria under which the banking board could grant a change of a bank's location would be clarified under Bill 15. The bill would specify that the board consider both the community to which the bank will be moving and the community from which the bank will move in terms of public convenience and advantage.

Publishing list of stockholders. A list of the stockholders is included in an application for charter, and present statute requires that the list be published. Some applications have had in excess of 100 stock subscribers. Since the applications are public records which may be examined by any party, the publication of long lists of stockholders is expensive and does not serve any useful purpose. Bill 15 would delete the present requirement that the list of stockholders be published in an application for a state bank charter.

Persons entitled to testify. Present statutes are unclear regarding the individuals who may be heard and who are entitled to introduce testimony during a hearing on an application for a state bank charter. Under Bill 15, language would be added to state that those persons receiving

notice by registered or certified mail would be entitled to be heard, as well as such others as the banking board may determine to be necessary.

Powers of Banking Board - Assessment of Examination Fees --
Bill 16

Currently, the Division of Banking's operations are financed by a combination of examination fees, which are statutorily established, and by a general fund appropriation. The examination fees, however, are not sufficient to cover examination costs. Deficits have occurred since fiscal year 1971 and for fiscal year 1974, the deficit totaled \$38,326. The commissioner suggested that the administrative expenses attributable to the supervision of state banks, industrial banks, and credit unions be recovered through the assessment of fees for the examination of these organizations.

The committee agreed with this approach. Bill 16 would put the Division of Banking on a self-supporting basis by allowing the banking board and the commissioner to assess fees for supervision in proportion to an institution's assets and resources.

Banking Board - Emergency Grant of a New Charter -- Bill 17

The commissioner pointed out that, in cases of unexpected closings, banks might be reorganized and opened again quickly if normal chartering procedures could be by-passed. By reorganizing in this manner, the public at large and the depositors of the closed bank might be protected. The United States Comptroller of the Currency presently has this authority. In two recent cases, state banks which were forced to close reopened under a federal charter. Had the state been allowed to reorganize these banks, it would not have lost direct supervisory control.

Under Bill 17, all of the requirements of the banking code for obtaining a bank charter would be waived in those instances in which a state bank has been closed and when it has been determined by the board and by the FDIC that it would be in the best interests of the public and the depositors to organize a new bank to assume the deposit liabilities of the failed bank.

Change of Bank Ownership - Report to Bank Commissioner --
Bill 18

The present statute requires that a state bank report promptly any changes among executive officers and directors to the commissioner, but it is not required that reports be made concerning changes in ownership of a significant portion of a bank's stock. Either situation involving these changes may have effect upon the operating policies of a particular bank and the commissioner must be aware of changes in ownership in order to effectively supervise state banks.

Bill 18 would require an officer of a state bank to report to the commissioner any change in ownership of voting stock which results in the control of ten percent or more of this stock by a stockholder or affiliated group. The report is to include, insofar as it is obtainable, information concerning the number of shares involved, the names of the seller and purchaser, the total number of shares owned by seller and purchaser, and any loans made in connection with the acquisition. The required reporting of any change among executive officers and directors of a bank would be retained.

Powers and Duties of State Bank Commissioner -- Bill 19

Exchange of information. The commissioner is not now legally empowered to exchange information with the Federal Deposit Insurance Corporation or the Board of Governors of the Federal Reserve System as to the condition of banks under his supervision. Such exchange would be beneficial in the pursuit of the division's duties and would be permitted under Bill 19.

Minimum number of bank examinations. Explanation of the inconsistency in present statutes relating to the minimum required number of bank examinations is contained on page 148 of this report. Bill 19 would amend existing statutory language concerning the powers and duties of the commissioner to require examination of a state bank at least once a year.

II. Credit Union Statutes

State Credit Union Membership -- Bill 20

Presently, a member who leaves the sphere of operation of a credit union may choose to retain his shares and deposits in that credit union and thus remain a member. The member may borrow from that credit union, but the funds

borrowed may not be in excess of the value of his shares and deposits. This provision was said to discourage potential members from participating in credit unions and to penalize members who leave a credit union's membership field.

Bill 20 would allow a member who leaves a credit union's sphere of influence to retain full membership if so permitted under the credit union's by-laws. The by-laws must be approved by the state banking commissioner in order to become effective.

III. Branch Banking

A question of major interest to the committee was whether to permit branch banking in Colorado. Extensive testimony was received concerning both the possible beneficial effects and negative consequences of branch banking on Colorado's economy.

The present Colorado banking statutes prohibit branch banking but provide that a bank may establish one "detached facility" within 3,000 feet of the principal office of that bank, but not within 300 feet of the premises of another bank or its detached facility. These detached facilities are restricted to receiving deposits, to issuing money orders, cashier's checks, and traveler's checks or similar instruments, and to cashing checks or drafts, making change, and other similar activities. A detached facility which engages in any activities other than these is considered a branch, and such facilities are prohibited.

Proponents of allowing full-service branch offices to operate in Colorado advanced several arguments to support the view that the present banking structure is not providing sufficient service. It was contended that a branch banking structure would provide the public with a superior level of service than is presently the case. Colorado was said to have the third highest people-per-office figure in the United States (about 9,000). Further, branch offices would make banking more accessible to the public. Every state west of Colorado has statewide branching and the economies in these states do not differ substantially from that of Colorado.

It was also argued that savings and loan associations in Colorado may now branch and may soon offer electronic funds transfer systems, thus giving them a substantial competitive advantage. Branching was said to stimulate compe-

tition within market areas and competition is beneficial to consumers.

Opponents of branch banking suggested that the effect of any liberalization of Colorado's present statutes would lead to economic domination of Colorado's economy by a small number of large banks. The net result would be abuse of economic power and removal of local control and initiative. Opponents note that multi-bank holding companies (MBHC) controlled 70 percent of the deposits in Colorado at the end of 1973. If allowed to branch, these MBHCs would soon control both local market areas as well as the state's economy as a whole, thus reducing competition among banks. In addition, such a banking structure would siphon money away from consumers, rural and urban, to be invested in areas which promise greater success.

A limited branch banking proposal was advanced for the committee's consideration during the 1974 interim. Under this proposal, banks would be allowed to establish branches subject to the following conditions:

(1) Any bank could establish a branch at any location within the county in which it has its principal office with an exception that any bank having its principal office in a Standard Metropolitan Statistical Area (SMSA) which includes several counties could establish a branch at any location within such SMSA.

(2) Another condition concerned the population size of a community. Under the proposal, no branch could be established in any community which has a population of less than 2,500 and in which the principal office of another bank is located. This limitation would apply to all parts of the state.

(3) A third condition was that except by acquisition of an existing bank by merger, consolidation, or purchase, no bank may establish more than two branches per calendar year.

(4) A fourth condition would provide for limited branch banking across counties, other than in SMSAs, that do not have a commercial bank. 1/ It was proposed that any bank could establish one branch in any county which does not

1/ The following six counties do not have a commercial bank: Costilla, Custer, Gilpin, Hinsdale, Mineral, and San Juan.

contain the principal office of a bank, but only if the branch bank's principal office were situated in an adjacent county.

The committee's primary concern during its consideration of this limited branch banking proposal has been the interest of the public and the adequacy of Colorado's present banking structure in serving these interests. Several members of the committee feared that a significant concentration of Colorado's financial resources would occur if the General Assembly were to adopt a branch banking proposal. These members were particularly apprehensive about granting any branching power to multi-bank holding company banks. The combined advantages of branching and multi-bank holding company status might grant an undue competitive advantage to such banks.

After receiving extensive testimony, a majority of the committee determined that a branch banking structure would not enhance service in Colorado and the committee does not recommend the above proposal.

COMMITTEE ON BANKING

BILL 15

A BILL FOR AN ACT

1 CONCERNING THE STATE BANKING CODE.

Bill Summary

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

Deletes references to notices of intention to file a bank charter. Allows the banking commissioner to postpone bank charter hearings beyond the six months allowed by statute for valid reasons and good cause. Provides that notice of hearings by the banking division may be sent by registered or certified mail and deletes the notice of hearing to stockholders of a proposed bank. Requires the order to grant a new charter to a proposed bank be contingent upon the proposed bank obtaining membership in the federal deposit insurance corporation rather than making application for membership to the FDIC. Allows the banking board to make a new bank charter contingent upon the banking board's subsequent approval of a final disclosure of the new bank's management. Extends the criteria for a change in location of a bank to the public convenience, need, or advantage of the community from which the bank will be moved as well as the community to which the bank is to be moved.

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

3 SECTION 1. 11-2-111 (1), Colorado Revised Statutes 1973, is
4 amended to read:

5 11-2-111. Records. (1) Information from the records of
6 the division shall be revealed only to members of the banking
7 board, except insofar as the same may be rendered necessary by

1 law; except that any party entitled to appear in a hearing on an
2 application for bank charter shall have access to the applicant's
3 ~~notice--of--intention~~; proposed articles or amended articles of
4 incorporation, application for charter, and proposed bylaws and
5 except that the commissioner may exchange information as to the
6 condition of banks with the United States comptroller of the
7 currency, banking departments of other states, the federal
8 reserve system and its examiners, and the federal deposit
9 insurance corporation and its examiners.

10 SECTION 2. The introductory portion of 11-3-110 (3) and
11 11-3-110 (4), (5), (6), and (7), Colorado Revised Statutes 1973,
12 are amended to read:

13 11-3-110. Procedure for granting or denying charter. (3)
14 The banking board, within six months after the filing of an
15 application for charter, and subject to subsection (7) of this
16 section, shall hold a public hearing to consider the application.
17 HOWEVER, THE COMMISSIONER MAY, FOR VALID REASONS AND WITH GOOD
18 CAUSE, POSTPONE SUCH HEARING. At such hearing the applicant
19 shall have the burden of proving:

20 (4) On hearing, the board may admit in evidence the
21 application for charter and any other relevant information in the
22 files of the division. The applicant and all others receiving
23 notice BY REGISTERED OR CERTIFIED MAIL under subsection (5) of
24 this section are also entitled to be heard and to introduce
25 testimony at such hearing, as well as such others as the banking
26 board may determine to be necessary.

27 (5) The commissioner shall give notice of the hearing on

1 application for charter provided in subsection (3) of this
2 section at least thirty days in advance of the hearing date fixed
3 by the board, by registered or certified mail, to the applicant,
4 to each bank doing business in the community in which the
5 proposed bank is to be located, to such additional banks as may
6 be doing business within a three-mile radius of the location of
7 the proposed bank, and to such other persons or banks as the
8 commissioner or the banking board may designate. Such notice
9 shall be in the form prescribed by the banking board and shall
10 include the names of the incorporators, ~~the stockholders~~, the name
11 and location of the proposed bank, the date, time, and place of
12 the hearing, and that the application and proposed articles of
13 incorporation or amended articles of incorporation are available
14 for inspection in the office of the commissioner. The
15 commissioner shall also cause such notice to be published at
16 least one time not less than twenty days prior to the date fixed
17 for such hearing in a newspaper of general circulation within the
18 community in which the proposed bank is to be located.

19 (6) Within one hundred twenty days following the date of
20 conclusion of the hearing, the banking board shall issue a
21 written order requiring the commissioner to grant a charter if a
22 majority of the board finds that the requirements of subsection
23 (1) of this section have been met and that the applicant has met
24 the burden of proof prescribed in subsection (3) of this section.
25 The board shall make execution of its order to grant a charter
26 contingent upon the proposed bank ~~making-a-bona-fide-application~~
27 ~~for~~ OBTAINING membership in the federal deposit insurance

1 corporation or the federal reserve system. IN APPLICATIONS WHERE
2 MANAGEMENT HAS NOT BEEN FULLY DISCLOSED AT THE TIME OF THE
3 HEARING, THE BOARD MAY MAKE EXECUTION OF ITS ORDER TO GRANT A
4 CHARTER CONTINGENT UPON ITS SUBSEQUENT APPROVAL OF MANAGEMENT.
5 If a majority of the banking board finds that the requirements of
6 subsection (1) of this section or the burden of proof of
7 subsection (3) of this section have not been met, the application
8 for charter shall be denied. The banking board may revoke a
9 charter which may have been granted in any case where the
10 proposed bank has not exercised its charter and opened for
11 business within six months from the date of the order to grant
12 the charter.

13 (7) If within a ninety-day period there has been filed with
14 the commissioner two or more applications for charter for state
15 banks to serve the same community, the banking board may hold a
16 single hearing to consider such applications. The board may
17 grant or deny a charter to any one or more of the applicants
18 without regard to the priority in time of filing applications. ~~or~~
19 ~~notices--of--intention.~~ The determination of the banking board to
20 deny a charter to an applicant who might otherwise qualify for a
21 charter under subsections (1) and (3) of this section shall be
22 based upon a finding that the public need or advantage of the
23 community or area of the community in which the proposed bank
24 will be located will best be served by such denial and by the
25 granting of a charter on another application or other
26 applications heard at such single hearing.

27 SECTION 3. 11-3-117 (5), Colorado Revised Statutes 1973, is

1 REPEALED AND REENACTED WITH AMENDMENTS to read:

2 11-3-117. Amendments of articles - change of location -
3 authorized but unissued stock. (5) Except as otherwise
4 specified in subsection (4) of this section, the commissioner
5 shall present the application for amendment to the banking board.
6 In making its determination thereon, the board shall consider
7 whether the public convenience, need, or advantage of the
8 community or area of the community in which the proposed bank
9 will be located or from which the bank will be moved will best be
10 served by granting the application, and shall be guided by the
11 standards prescribed for the approval of an application for a
12 charter, insofar as they are reasonably applicable.

13 SECTION 4. Effective date. This act shall take effect July
14 1, 1975.

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

COMMITTEE ON BANKING

BILL 16

A BILL FOR AN ACT

1 CONCERNING THE POWER OF THE DIVISION OF BANKING TO ASSESS FEES.

Bill Summary

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

Provides that the division of banking may assess fees to cover expenses of the division in supervising and examining state banks, industrial banks, and credit unions.

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

3 SECTION 1. 11-2-114, Colorado Revised Statutes 1973, is
4 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 11-2-114. Assessments. The banking board shall make
6 assessments to cover expenses of regular examinations and the
7 administrative expenses of the division of banking, attributable
8 to the supervision of state banks subject to its jurisdiction,
9 upon said state banks in proportion to their assets or resources.
10 Assessments may be made more frequently than annually at the
11 discretion of the banking board. The annual rate of such
12 assessment shall be the same for all state banks; except that
13 state banks examined more frequently than once in a calendar year
14 shall, in addition, be assessed the expense of these additional

1 examinations. The banking board shall in addition make
2 assessments to cover the expenses of examinations of trust
3 departments of state banks in a like manner.

4 SECTION 2. 11-20-113, Colorado Revised Statutes 1973, is
5 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6 11-20-113. Examination fees. The state bank commissioner
7 shall charge every state bank for examinations the amount to be
8 assessed by the banking board as provided in 11-2-114.

9 SECTION 3. 11-22-111, Colorado Revised Statutes 1973, is
10 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

11 11-22-111. Examination fees. The state banking
12 commissioner shall make assessments to cover expenses of regular
13 examinations and the administrative expenses of the division of
14 banking, attributable to the supervision of industrial banks
15 subject to its jurisdiction, upon said industrial banks in
16 proportions to their assets or resources. Assessments may be
17 made more frequently than annually at the discretion of the state
18 bank commissioner. The annual rate of such assessment shall be
19 the same for all industrial banks; except that industrial banks
20 examined more frequently than twice in a calendar year shall, in
21 addition, be assessed the expense of these additional
22 examinations.

23 SECTION 4. 11-30-106 (1), Colorado Revised Statutes 1973,
24 is amended to read:

25 11-30-106. Examinations - reports - powers of commissioner.
26 (1) Credit unions shall be under the supervision of the state
27 bank commissioner. Every credit union shall be examined by him

1 at least annually; except that, in the case of a credit union
2 having assets not exceeding twenty-five thousand dollars, the
3 commissioner may accept an audit of a certified public accountant
4 in lieu of making an examination. For each examination made by
5 the commissioner, a credit union shall pay the commissioner a fee
6 of fifty-five dollars per man-day or an aggregate fee of three
7 dollars for each one thousand dollars of assets, whichever is the
8 lesser, plus fifteen cents for each full one thousand dollars of
9 assets; but the minimum fee for any examination made by the
10 commissioner shall be twenty-five dollars. IN ADDITION TO THE
11 FOREGOING FEES, THE COMMISSIONER MAY ASSESS EACH CREDIT UNION AN
12 ADDITIONAL AMOUNT, THE TOTAL OF WHICH ASSESSMENTS, TOGETHER WITH
13 THE FEES PROVIDED IN THIS SUBSECTION (1), SHALL COVER THE
14 EXPENSES OF THE DIVISION OF BANKING ATTRIBUTABLE TO THE
15 SUPERVISION OF STATE CHARTERED CREDIT UNIONS SUBJECT TO THE
16 COMMISSIONER'S JURISDICTION; EXCEPT THAT THE ASSESSMENT SHALL BE
17 AT THE SAME RATE FOR ALL CREDIT UNIONS.

18 SECTION 5. Effective date. This act shall take effect July
19 1, 1975.

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

COMMITTEE ON BANKING

BILL 17

A BILL FOR AN ACT

1 CONCERNING THE EMERGENCY GRANT OF NEW BANK CHARTERS.

Bill Summary

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

Provides that the banking board may issue an emergency grant of a new charter to qualified individuals in lieu of bank liquidation or reorganization.

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

3 SECTION 1. Article 5 of title 11, Colorado Revised Statutes
4 1973, is amended BY THE ADDITION OF A NEW SECTION to read:

5 11-5-108. Emergency grant of new charter. In lieu of
6 liquidation or reorganization, the banking board may, in the
7 interest of protecting the public and the depositors of a closed
8 bank, issue a new bank charter to qualified individuals for the
9 same location as the closed bank, contingent upon the new bank
10 assuming full liability for all of the deposits of the closed
11 bank. A new charter may be issued summarily without the
12 publication of notice, without the holding of a public hearing,
13 and without complying with any of the other provisions and
14 procedures specified in this code.

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

COMMITTEE ON BANKING

BILL 18

A BILL FOR AN ACT

1 CONCERNING REPORTS OF CHANGE IN OWNERSHIP OF A STATE BANK TO THE
2 STATE BANK COMMISSIONER.

Bill Summary

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

Requires a state bank to report any change in outstanding voting stock that results in a change in ownership of the bank. Defines the term "control" of ownership. Specifies the contents of the report to the commissioner.

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

4 SECTION 1. 11-2-109, Colorado Revised Statutes 1973, is
5 amended BY THE ADDITION OF A NEW SUBSECTION to read:

6 11-2-109. Bank reports to commissioner. (4) (a) Whenever
7 a change occurs in the outstanding voting stock of any state bank
8 which will result in control or in a change in the control of
9 said bank, the president or other chief executive officer of said
10 bank shall promptly report such facts to the commissioner upon
11 obtaining knowlege of such change. As used in this subsection
12 (4), the term "control means the power to directly or indirectly
13 direct or cause the direction of the management or policies of

1 the bank. A change in ownership of voting stock which would
2 result in direct or indirect ownership by a stockholder or an
3 affiliated group of stockholders of less than ten percent of the
4 outstanding voting stock shall not be considered a change of
5 control. If there is any doubt as to whether a change in the
6 outstanding voting stock is sufficient to result in control
7 thereof or to effect a change in the control thereof, such doubt
8 shall be resolved in favor of reporting the facts to the
9 commissioner.

10 (b) The reports required by paragraph (a) of this
11 subsection (4) shall contain the following information to the
12 extent that it is known by the person making the report:

13 (I) The number of shares involved;

14 (II) The names of the sellers or transferors;

15 (III) The names of the purchasers or transferees;

16 (IV) The names of the beneficial owners if the shares are
17 registered in another name;

18 (V) The purchase price;

19 (VI) The total number of shares owned by the sellers or
20 transferors, the purchasers or transferees, and the beneficial
21 owners both immediately before and after the transaction; and

22 (VII) Detailed information concerning any loans made in
23 connection with the acquisition.

24 (VIII) Such other information as may be available to inform
25 the commissioner of the effect of the transaction upon control of
26 the bank whose stock is involved.

27 SECTION 2. Safety clause. The general assembly hereby

1 finds, determines, and declares that this act is necessary for
2 the immediate preservation of the public peace, health, and
3 safety.

COMMITTEE ON BANKING

BILL 19

A BILL FOR AN ACT

1 CONCERNING THE POWERS AND DUTIES OF THE STATE BANK COMMISSIONER.

Bill Summary

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

Requires that the state bank commissioner examine state banks only once a year instead of twice a year. Allows the exchange of information between the state bank commissioner and the federal deposit insurance corporation or the board of governors of the federal reserve system as to the condition of banks.

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

3 SECTION 1. 11-2-108 (1), Colorado Revised Statutes 1973, is
4 amended to read:

5 11-2-108. Examinations and examiner's reports. (1) The
6 commissioner shall, at least ~~twice~~ ONCE each calendar year and as
7 often as he deems advisable, carefully examine the books,
8 records, papers, assets, and liabilities of every kind and
9 character owned by, or relating to, every state bank; shall keep
10 himself fully informed as to its financial condition and business
11 methods; shall make and file in his office a correct report in
12 detail disclosing the results of such examination; and shall mail

1 a copy of such report to the bank examined. However, the
2 commissioner is authorized to accept in his discretion, in lieu
3 of one of such examinations, the examination that may have been
4 made of said bank within a reasonable period by the federal
5 deposit insurance corporation or by the board of governors of the
6 federal reserve system if a copy of said examination is furnished
7 to the commissioner. The commissioner may also, in his
8 discretion, accept any other report relative to the condition of
9 a state bank, which may be obtained by said authorities within a
10 reasonable period, in lieu of such report authorized by the laws
11 of this state to be required of such bank by his division if a
12 copy of such report is furnished to the commissioner.

13 SECTION 2. 11-20-109, Colorado Revised Statutes 1973, is
14 amended to read:

15 11-20-109. Information confidential. Neither the state
16 bank commissioner nor his deputies shall divulge any information
17 acquired by them in the discharge of their duties, except insofar
18 as the same may be rendered necessary by law. THE STATE BANK
19 COMMISSIONER He may exchange information as to the condition of
20 banks with the United States comptroller of the currency, THE
21 FEDERAL DEPOSIT INSURANCE CORPORATION, THE BOARD OF GOVERNORS OF
22 THE FEDERAL RESERVE SYSTEM, and banking departments of other
23 states.

24 SECTION 3. 11-20-112, Colorado Revised Statutes 1973, is
25 amended to read:

26 11-20-112. Examinations once yearly. The state bank
27 commissioner, at least twice ONCE each year and as often as he

1 deems advisable, shall carefully examine all the books, records,
2 papers, assets, and liabilities of every kind and character owned
3 by or relating to every bank, and shall keep himself fully
4 informed as to the financial condition and business methods
5 thereof, and shall make and file in his office a correct report
6 in detail disclosing the results of such examination.

7 SECTION 4. Effective date. This act shall take effect July
8 1, 1975.

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

COMMITTEE ON BANKING

Bill 20

A BILL FOR AN ACT

1 CONCERNING MEMBERSHIP IN CREDIT UNIONS.

Bill Summary

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

Provides that a member of a credit union who leaves the field of membership of the credit union may retain his membership as provided by the bylaws of the credit union.

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

3 SECTION 1. 11-30-103 (3), Colorado Revised Statutes 1973,
4 is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 11-30-103. Membership. (3) A member who leaves the field
6 of membership of the credit union may retain membership in the
7 credit union as provided by the bylaws of the credit union.

8 SECTION 2. Effective date. This act shall take effect July
9 1, 1975.

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

**LEGISLATIVE COUNCIL COMMITTEE
ON WATER**

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*replaced Sen. Harry Locke

COMMITTEE ON WATER

The Committee on Water was directed by the Legislative Council to undertake a study of the following subjects: (1) The relationship between the administrative functions of the state engineer's office and land use legislation; (2) A review of the statutes establishing the Colorado Water Conservation Board construction fund; (3) The establishment of river basin management authorities; and (4) The administration of non-tributary aquifers as defined in Senate Bill 213 enacted in the 1973 session.

I. Topics on Which Bills Are Recommended

As a result of its studies during the 1974 interim, the committee recommends three bills included with this report. Bill 21 relates to legislation regulating subdivisions and would require that county commissioners submit all subdivision water supply plans to the state engineer, except those plans of subdivisions which would connect with existing municipal water supply systems. If the state engineer renders an adverse opinion on the adequacy of a subdivision's water supply plan, the subdivider would be required to notify prospective purchasers of such an opinion. In addition, the position of the state engineer would be clarified in denying applications for well permits in subdivisions where he has rendered an adverse opinion on the adequacy of the subdivision's water supply plan.

Bill 22 would change the present statutory dates for the completion of the tabulation of water rights and would strike the existing provision that the tabulation proceedings are to be considered general adjudication proceedings.

Bill 23 would give the counties certain powers with regard to constructing flood control works and in removing flood hazards from streams.

Functions of the State Engineer's Office as Related to Land Use Legislation -- Bill 21

In both the 1973 and 1974 interim periods, policies of the state engineer's office were discussed with regard to that office's review of the adequacy of subdivision water supply plans under Senate Bill 35 (1972 session), and the issuance of permits for domestic in-house use wells under House Bill 1042 (1972 session).

The question on the relationship between these acts arises in the situation where the subdivision is relying on small capacity, domestic, in-house use wells for its water supply. An example of the problem is illustrated below in regard to well permits:

(1) The county commissioners exercise their option of submitting the subdivision's water supply plan to the state engineer under the provisions of S.B. 35;

(2) The state engineer provides an opinion on the "...material injury to decreed water rights, historic use of and estimated water yield...conditions associated with said water supply evidence. The state engineer shall consider the cumulative effect of on-lot wells on water rights and existing wells...";

(3) The state engineer may return to the county commissioners an adverse opinion on the water supply plan on the basis that the proposed wells would cumulatively have the effect of injuring existing wells or water rights;

(4) The county commissioners could approve the subdivision despite the adverse ruling;

(5) Individuals who purchased lots in the subdivision could apply for well permits under the provisions of H.B. 1042.

Given this situation, it is the policy of the state engineer to deny permits for individual applicants within the entire subdivision on the basis that an individual's well, plus the cumulative effect of all other proposed individual wells within the subdivision, would materially injure the vested water rights of others.

The state engineer is in a difficult position if one permit is issued to construct a domestic well in a subdivision where he has rendered an adverse opinion on the subdivision's water supply plan. If one permit is issued, it is the state engineer's policy that he would have to issue permits to the other individuals in order not to be prejudicial to the other lot owners. The state engineer's policy in the situation illustrated above has been upheld in a case adjudicated in Water Division No. 2 (Case No. W-4024).

A second problem relates to the failure of some counties to submit water supply plans for subdivisions to the state engineer for an opinion. As noted previously, county commissioners are given the option in deciding whether to submit subdivision water supply plans to the state engineer

for his review and opinion. The state engineer expressed a need for his office to obtain the water supply plans for all proposed subdivisions in order to know where these subdivisions are being proposed and to have adequate information on subsequent well applications. In cases where the water supply plan is adequate, the state engineer's opinion should be easily rendered and should not cause undue delay.

Bill 21 would require county commissioners to submit all subdivision water supply plans to the state engineer for his review and opinion except for the plans of those subdivisions which are to connect with a municipal water supply system. Under Bill 21, if the state engineer were to render an adverse opinion on the water supply plan of a subdivision, and if the county commissioners still approve the subdivision, the subdivider is to furnish all purchasers a copy of the state engineer's opinion prior to the sale.

In addition, the bill would clarify the state engineer's position under the Water Right Determination and Administration Act of 1969 in denying applications for well permits in subdivisions where the state engineer has rendered an adverse opinion on the water supply plan. The state engineer would consider the cumulative effect of all wells in the subdivision in determining material injury.

Tabulation of Water Rights -- Bill 22

Two problems were brought to the attention of the committee regarding the tabulation of water rights and conditional water rights. The first problem concerns the statutory deadlines for completing the tabulations and the deadlines for making revisions to the tabulations. The second problem involves the statutory language which provides that proceedings concerning the tabulation of water rights and conditional water rights every four years "shall be considered general adjudication proceedings" (37-92-402 (2) (K), C.R.S. 1973). This language indicates that the tabulation proceedings are, in effect, a "re-adjudication" of all previously adjudicated water rights. The committee suggests that such a "re-adjudication" is not the purpose of the tabulation.

The Water Right Determination and Administration Act of 1969 provides that the division engineer, after the initial tabulation, and no later than July 1, 1974, and by July 1 every four years thereafter, is to prepare a new tabulation of all water rights and conditional water rights in his division. Notice is to be published by July 10 that the tabulation has been made and that it is available for inspection. A copy is to be mailed to persons affected by changes in the

tabulation (e.g., owners of water rights found to be abandoned, new claimants to water rights, etc.). September 10 is the deadline for filing written objections to the manner in which water rights or conditional water rights are listed or to omission of a right.

By October 10, the division engineer is to make revisions to the tabulation. If the tabulation is revised, notice of the revision is to be published by October 20. Written protests to the tabulation are to be filed by November 30 and, beginning in the second week of December, the water judge in each division is to hold hearings on protests to the tabulation. After these hearings the court is to make the appropriate adjustments and enter a judgment and decree. If no protests are filed, the court is to enter a judgment and decree incorporating and confirming the tabulation by November 30.

Clerical mistakes in the judgment and decree may be corrected by the water judge on his own initiative or upon petition by any person. Substantive errors may be corrected by the water judge upon petition of any person whose rights have been affected. Finally, the proceedings set forth shall be considered general adjudication proceedings.

The division engineers completed the 1974 tabulation by the July 1 deadline but the printer was unable to deliver the printed listings until August. As a result, the tabulation was unavailable for inspection by July 10 as required by statute and the time available for review of the tabulations was also shortened.

A group of water lawyers subsequently filed blanket objections to every listing in each water division. In addition, the state engineer's office filed a complaint with the judges in the seven water divisions asking for a stay of the operation of the tabulation proceedings until January 1975, because of the printing problem. A later complaint was entered asking for a stay of the proceedings until May 2, 1975, so that the legislature could act on this matter. This order has been signed by four of the water division judges and it is expected that the other three water judges will also sign the order.

Testimony before the committee indicated that the existing statutory deadlines, even without this year's printing problem, were too short to provide all parties with adequate time for review or other action. Therefore, the committee discussed revised tabulation proceedings deadlines.

With regard to the second problem, concern was expressed that the statutory provision declaring that the tabulation proceedings shall be general adjudication proceedings is not consistent with the purpose of the tabulation. The committee suggested that the purpose of the tabulation list is not to provide for a "re-adjudication" of all water rights.

Bill 22 would change the present dates for the tabulation of water rights and would strike the language that declares the proceedings regarding the tabulation are to be general adjudication proceedings. Listed below are the proposed date changes included in the bill.

	<u>Present</u>	<u>Proposed</u>
Completion of tabulation by division engineers	July 1, 1974, and every <u>four</u> years thereafter	July 1, 1975, and every <u>five</u> years thereafter
Cut-off date for data to be included in new tabulations	Not specified	Prior to January 1 of the year of the next tabulation
Publication of notice of tabulation and availability for inspection	July 10, 1974, and every four years thereafter	July 10, 1975, and every five years thereafter
Deadline for written objections to listings in tabulation	September 10	December 10
Division engineer's revisions to tabulation	October 10	May 10 of the succeeding year
Publication of revisions	October 20	June 10 of the succeeding year
Protests to revisions to water clerk and division engineer	November 30	August 30 of the succeeding year

	<u>Present</u>	<u>Proposed</u>
Hearings by water judge on protests to the cabulation	Second week in December	September or Octo- ber term day of the succeeding year

County Flood Control Powers -- Bill 23

The committee recommended a bill last year to give certain powers relative to flood control to county commissioners. This bill (H.B. 1019) and two other bills on the same subject (S.B. 60 and H.B. 1120) were considered in the 1974 session and the General Assembly enacted S.B. 60.

Testimony before the committee in the 1974 interim indicated that the U.S. Corps of Engineers requires an assurance that flood protection projects constructed by the corps will be maintained after construction. The corps has concluded that Colorado counties do not have the authority to provide all of the necessary assurances for contractual agreements with the federal government. Consequently, the Colorado Water Conservation Board has had to provide the assurance that such projects will be maintained. However, the board does not have the actual capability of maintaining projects while counties do have some of the necessary equipment for this purpose. It was stated that S.B. 60 did not remedy this situation.

The committee is recommending Bill 23, which would repeal and reenact the legislation enacted in the 1974 session. The bill would grant the Board of County Commissioners of each county the power to construct works necessary for the control of floods and for the abatement of stream channel erosion and to remove obstructions in the channel of any natural stream which creates a flood hazard. However, water diversion devices could not be removed or modified except at the counties' own expense and risk and only if the quality or quantity of water or any water right was not altered or diminished.

The bill would retain most of the provisions of S.B. 60 regarding rights of access to streams. The county would have to give notice and negotiate with the owner of the lands for access. If negotiations fail, the county could institute proceedings in the district court for an order compelling the owner to permit access. Counties would be authorized to assess a levy not to exceed three mills to establish a flood control fund and the counties may also contract with local, state, and federal entities to carry out the purposes of this article. Further, the Colorado Water Conservation Board

could make grants to counties or other local agencies to assist counties in carrying out the purposes of the article.

II. Other Assigned Study Topics

River Basin Authorities

The committee recognizes the need throughout the state for better management of Colorado's valuable water resources. Proper management of Colorado's water resources would result in more efficient use of water and would insure the availability of an adequate and stable water supply when needed. For committee recommendations on river basin authorities see the 1973 interim report (Publication No. 203, pp. 97-98).

The committee's study on methods to achieve better management of Colorado's water resources was continued in the 1974 interim. Dr. Norman Evans, Director of the Environmental Resources Center at Colorado State University, and associated faculty members involved in the study of water resource management met with the committee. The purpose of this meeting was to familiarize the committee with the type of research being done by C.S.U. in the area of water resource management and to solicit comments on means to manage Colorado's water resources more efficiently. Legislation is not submitted by the committee regarding river basin management, but it is recognized that there is an urgent and continuing need to search for methods to improve the management of Colorado's water resources.

A Study of Aquifers, as Defined in Senate Bill 213

S.B. 213 of the 1973 session provided that the state engineer is to administer certain nontributary aquifers. In his consideration of whether to issue a "permit to construct a well," in nontributary aquifers, only the water underlying the land owned by the applicant shall be considered unappropriated; the aquifer shall be presumed to have a useful life of 100 years if there is no substantial artificial recharge; and no material injury shall result from the issuance of a permit.

The committee discussed two items under this general topic:

(1) The feasibility and desirability of administering certain nontributary aquifers under unitization procedures similar to oil and gas pools;

(2) The legal conflict, if any, between the Colorado Supreme Court decision (Whitten v. Coit, 153 Colo. 157, 385 P.2d 121), which held that the doctrine of prior appropriation of water is not applicable in nontributary underground waters, and elements of S.B. 213 which appear to adopt aspects of the prior appropriation doctrine.

Although specific recommendations are not submitted on this topic, the committee reviewed information on Colorado's groundwater conditions with regard to the tributary and non-tributary nature of groundwater, the geologic characteristics of water-bearing strata, the adequacy or inadequacy of certain groundwater sources as a long-term water supply, and concepts of groundwater management, conjunctive use, and recharge. (See Summary of Colorado Hydrogeology, prepared for the committee by Willard Owens Associates, Inc.)

It was concluded that presently there is limited data on groundwater conditions in Colorado, particularly with regard to nontributary aquifers, and the committee is not making any recommendations in this subject area.

Proposed Regulations for the State Discharge System Relating to Agricultural Activities

At its June 28, 1974, meeting, the committee was briefed by the technical secretary of the Water Quality Control Commission on the draft regulations for the state discharge permit system relating to agricultural activities. Following a discussion of the proposed regulations, a letter was prepared and sent to the commission outlining the questions raised during the meeting. The letter included several possible amendments to the proposed regulations. The commission subsequently agreed to adopt the committee's recommendations on the proposed agricultural discharge permit regulations.

COMMITTEE ON WATER

BILL 21

A BILL FOR AN ACT

1 CONCERNING THE DUTIES OF THE STATE ENGINEER RELATING TO THE
2 ADEQUACY OF SUBDIVISION WATER SUPPLIES.

Bill Summary

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

Requires the state engineer to give an opinion on the adequacy of water supplies for proposed county subdivisions in all cases except when a municipal supply is available. Requires the state engineer to notify the county commissioners of determinations that water supplies are inadequate, which opinion is to be made available to prospective purchasers of subdivision homes. Amends water law to clarify the right of the state engineer to consider the cumulative effect of wells in determining when material injury to other water rights exists.

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

4 SECTION 1. 30-28-136 (1) (h) and (3), Colorado Revised
5 Statutes 1973, are amended to read:

6 30-28-136. Referral and review requirements. (1) (h) When
7 applicable EXCEPT WHEN THE PROPOSED SUBDIVISION IS TO BE
8 CONNECTED TO AN ADEQUATE EXISTING MUNICIPAL WATER SUPPLY, to the
9 state engineer for an opinion regarding material injury to
10 decreed water rights, historic use of and estimated water yield
11 to supply the proposed development, and conditions associated

1 with said water supply evidence. The state engineer shall
2 consider the cumulative effect of on-lot wells on water rights
3 and existing wells.

4 (3) (a) The provisions of this part 1 shall not modify the
5 duties or enlarge the authority of the state engineer or the
6 division engineers nor divest the water courts of jurisdiction
7 over actions concerning water right determinations and
8 administration; neither shall any opinion of the state engineer
9 submitted under subsection (1) (h) of this section nor any
10 finding by a board of county commissioners concerning subdivision
11 water supply matters create any presumption concerning injury or
12 noninjury to water rights; and neither the state engineer's
13 opinion nor the finding of the board of county commissioners may
14 be used as evidence in any administrative proceeding or in any
15 judicial proceeding concerning water right determinations or
16 administration.

17 (b) IN THE EVENT THE STATE ENGINEER DETERMINES THAT
18 MATERIAL INJURY TO DECREED WATER RIGHTS WILL OCCUR IF THE
19 PROPOSED DEVELOPMENT IS APPROVED AND THAT HE WILL NOT ISSUE WELL
20 PERMITS AS A RESULT, HE SHALL NOTIFY THE BOARD OF COUNTY
21 COMMISSIONERS. A COPY OF THIS OPINION SHALL BE FURNISHED TO THE
22 SUBDIVIDER. IN THE EVENT THE SUBDIVISION IS APPROVED
23 NOTWITHSTANDING THE STATE ENGINEER'S OPINION, THE SUBDIVIDER
24 SHALL FURNISH TO ALL PURCHASERS A COPY OF THE STATE ENGINEER'S
25 OPINION PRIOR TO THE SALE.

26 SECTION 2. 37-92-602 (3) (b), Colorado Revised Statutes
27 1973, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

1 37-92-602. Exemptions - presumptions. (3) (b) (III) If
2 the application is for a well as defined in subparagraph (II) of
3 this paragraph (b) which will be located in a subdivision as
4 defined in section 30-28-101 (10), C.R.S. 1973, for which the
5 water supply plan has not been recommended for approval by the
6 state engineer, the cumulative effect of all such wells in the
7 subdivision shall be considered in determining material injury.

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

COMMITTEE ON WATER

BILL 22

A BILL FOR AN ACT

1 CONCERNING TABULATIONS OF WATER RIGHTS TO BE COMPILED UNDER THE
2 "WATER RIGHT DETERMINATION AND ADMINISTRATION ACT OF 1969".

Bill Summary

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

The dates by which the state engineer and the division engineer are to have all water rights in the state tabulated is set back a year, from July 1, 1974, to July 1, 1975, and subsequent tabulations are to be at 5 year intervals rather than 4. Dates for the completion of various facets of the tabulation are set back accordingly. Repeals a provision referring to the tabulations as being general adjudication proceedings.

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

4 SECTION 1. 37-92-401 (5), Colorado Revised Statutes 1973,
5 is amended to read:

6 37-92-401. Lists of priorities. (5) The tabulation
7 provided for in this section shall be used by the division
8 engineer, the state engineer, and their staffs for administrative
9 purposes and for the purpose of preparing the 1974 1975
10 tabulation specified in section 37-92-402. Subject to the
11 foregoing procedures any person aggrieved by any portion of such
12 tabulation may file a written protest with the water clerk and

1 the division engineer setting forth the factual and legal basis
2 for such protest. The fee for filing such protest with the water
3 clerk shall be twenty dollars. Thereafter the water judge shall
4 order such notice, conduct such proceedings, and enter such
5 orders as he deems appropriate to deal with such protest pending
6 the proceedings in section 37-92-402.

7 SECTION 2. 37-92-402 (1), the introductory portion of
8 37-92-402 (2), and 37-92-402 (2) (b), (2) (c), (2) (d), (2) (e),
9 (2) (f), and (2) (k), Colorado Revised Statutes 1973, are amended
10 to read:

11 37-92-402. Tabulations - abandonment. (1) No later than
12 July 1, 1974 1975, and July 1 every ~~four~~ FIVE years thereafter
13 the division engineer with the approval of the state engineer
14 shall prepare a new tabulation of all water rights and
15 conditional water rights in his division. The 1974 1975
16 tabulation shall reflect any changes in the 1970 tabulation
17 PROVIDED FOR IN SECTION 37-92-401 which the division engineer and
18 the state engineer determine to be advisable based on the
19 principles set forth in section 37-92-401 to reflect correctly
20 the priority of water rights. and The 1974 1975 tabulation and
21 succeeding tabulations shall ~~include--the--priorities--awarded~~
22 ~~subsequent--to--these--listed--in--the--preceding--tabulation;--shall~~
23 ~~incorporate--any--changes--of--water--rights--that--have--been--approved;~~
24 ~~shall--note--any--changes--from--conditional--water--right--to--water~~
25 ~~right;~~ REFLECT JUDGMENTS AND DECREES DETERMINING, CHANGING, OR
26 OTHERWISE AFFECTING WATER RIGHTS AND AND CONDITIONAL WATER
27 RIGHTS, WHICH JUDGMENTS AND DECREES HAVE BEEN ENTERED SUBSEQUENT

1 TO THOSE REFLECTED IN THE PRECEDING TABULATION AND PRIOR TO
2 JANUARY 1 OF THE YEAR OF THE CURRENT TABULATION, SHALL
3 INCORPORATE ANY CHANGES IN EARLIER TABULATIONS ORDERED BY THE
4 WATER JUDGE, shall modify any water rights or conditional water
5 rights which the division engineer determines to have been
6 abandoned in part, and shall omit any water rights or conditional
7 water rights which the division engineer determines have been
8 totally abandoned. Except as specified in the preceding
9 sentence, each tabulation pursuant to this section shall make no
10 changes in the listings in previous tabulations except changes to
11 correct clerical errors and changes ordered by the water judge
12 pursuant to paragraph (i) of subsection (2) of this section, and
13 any such changes, modifications, or omissions shall be especially
14 noted by some appropriate means. In making his determination
15 with respect to abandonment, the division engineer shall
16 investigate the circumstances relating to each water right, the
17 water available under which has not been fully applied to a
18 beneficial use. In making such tabulation, the division engineer
19 may use such system of numbering and listing water rights and
20 conditional water rights in order of seniority as is suited to
21 the administrative needs of the particular division or portion
22 thereof. He shall have separate priority lists as necessary so
23 that only those water rights and conditional water rights which
24 take or will take water from the same source and are in a
25 position to affect one another will be on the same priority list.

26 (2) The following deadlines shall then be effective ~~in-1974~~
27 ~~and-every-four-years-thereafter~~ FOR THE 1975 TABULATION AND FOR

1 SUCCEEDING TABULATIONS:

2 (b) Not later than ~~September~~ DECEMBER 10, any person who
3 wishes to object to the manner in which a water right or
4 conditional water right is listed in the tabulation or to the
5 omission of a water right or conditional water right from such
6 tabulation shall file a statement of objection in writing with
7 the division engineer. A fee of ten dollars shall be paid with
8 such filing; except that no fee shall be required for any such
9 filing to correct any clerical error.

10 (c) On or before ~~October~~ MAY 10 OF THE SUCCEEDING YEAR, the
11 division engineer shall make such revisions, if any, as he deems
12 proper in the aforesaid tabulation. In considering the matter
13 raised by statements of objections, the division engineer may
14 consult with interested persons. The division engineer shall
15 consult with the state engineer and shall make any revisions in
16 the tabulation determined by the state engineer to be necessary
17 or advisable. The revised tabulation or, if there are no
18 revisions, the original tabulation, signed by the division
19 engineer and by the state engineer, shall be filed on or before
20 ~~October~~ MAY 10 OF THE SUCCEEDING YEAR with the water clerk. A
21 copy of such tabulation, together with any revisions, shall be
22 available in the office of each division engineer and the offices
23 of each water commissioner and each county clerk and recorder for
24 inspection at any time during regular office hours, and the
25 division engineer shall furnish or mail a copy to anyone
26 requesting same upon payment of a fee of five dollars. If the
27 tabulation is revised, the division engineer on or before ~~October~~

1 20 JUNE 10 OF THE SUCCEEDING YEAR shall publish a notice that the
2 tabulation has been revised and that the revision may be
3 inspected or a copy thereof obtained as specified in this
4 paragraph (c). Such publication shall be made as is necessary to
5 obtain general circulation once in each county or portion thereof
6 which is in the division by means of one or more newspapers
7 which, if feasible, are published in the division.

8 (d) Any person who wishes to protest the manner in which a
9 water right or conditional water right is listed in the
10 tabulation, including any revisions, or the omission of a water
11 right or conditional water right from such tabulation shall file
12 a written protest with the water clerk and with the division
13 engineer not later than ~~November~~ AUGUST 30 OF THE SUCCEEDING
14 YEAR. Such protest shall set forth in detail the facts and legal
15 basis therefor. Service of a copy of the protest or any other
16 document is not necessary for jurisdictional purposes, but the
17 water judge may order service of a copy of the protest or any
18 other document on any person and in any manner which he may deem
19 appropriate. The fee for filing such protest with the water
20 clerk shall be twenty dollars.

21 (e) Commencing ~~the-second-week-in-December~~ ON THE SEPTEMBER
22 OR OCTOBER TERM DAY (AS THE CASE MAY BE) OF THE SUCCEEDING YEAR,
23 IN THE RESPECTIVE DIVISIONS PURSUANT TO SECTION 37-92-304 (1),
24 and continuing for as long as may be necessary, the water judge
25 of each division shall conduct hearings on the tabulation filed
26 by the division engineer and any protests that have been filed
27 with respect thereto. The hearings shall be conducted in

1 accordance with trial practice and procedure; except that no
2 pleadings other than the protest shall be required. The
3 protestant shall appear either in person or by counsel in support
4 of the protest. The division engineer shall appear in support of
5 the tabulation, and, if requested by the division engineer, the
6 attorney general shall represent the division engineer. All
7 persons interested in the portions of the tabulation which are
8 being protested shall be permitted to participate in the hearing
9 either in person or by counsel if they enter their appearance in
10 writing prior to the date on which hearings are to commence.
11 Such entry of appearance shall identify the portion of the
12 tabulation with respect to which the appearance is being made.
13 The water judges of the various divisions shall arrange their
14 hearings, if necessary in their discretion, to accommodate
15 counsel and other persons who may be involved in hearings in more
16 than one division. Promptly after hearing all protests the water
17 judge shall enter a judgment and decree which shall either
18 incorporate the tabulation of the division engineer as filed or
19 shall incorporate same with such modifications as the water judge
20 may determine proper after the hearings.

21 (f) If no protests have been filed, then promptly after
22 ~~November~~ AUGUST 30 OF THE SUCCEEDING YEAR the water judge shall
23 enter a judgment and decree incorporating and confirming the
24 tabulation of the division engineer without modification.

25 (k) ~~Proceedings--set--forth--in--this--section--shall--be~~
26 ~~considered-general-adjudication-proceedings;~~ FOR THE PURPOSE OF
27 THE 1975 TABULATION SPECIFIED IN SUBSECTION (1) OF THIS SECTION,

1 THE TABULATIONS PROMULGATED BY THE DIVISION ENGINEERS IN JULY OF
2 1974, AS SUPPLEMENTED, SHALL BE CONSIDERED THE TABULATIONS
3 REQUIRED BY SAID SUBSECTION (1), AND THE STATEMENTS OF OBJECTION
4 FILED WITH THE DIVISION ENGINEERS IN 1974, AS SUPPLEMENTED, SHALL
5 BE CONSIDERED THE STATEMENTS OF OBJECTION PROVIDED FOR IN
6 PARAGRAPH (b) OF THIS SUBSECTION (2).

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

COMMITTEE ON WATER

BILL 23

A BILL FOR AN ACT

1 CONCERNING THE POWERS OF COUNTIES TO CONTROL FLOODS, AND
2 AUTHORIZING STATE ASSISTANCE TO LOCAL GOVERNMENTS FOR SUCH
3 PURPOSES.

Bill Summary

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

Authorizes county commissioners to control floods in their respective counties by removing obstructions and constructing works to control stream channel erosion and flooding. Authorizes the commissioners to adopt plans for flood control, subject to the approval of the state water conservation board as to construction of works. Details method to be followed in inspecting streams for flood hazards. Provides for cooperative action by landowners, and for court orders in the absence of agreement, and for damages where shown. Authorizes a tax levy of up to 3 mills to establish a county flood control fund. Provides that the state water conservation board may assist counties with money.

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

5 SECTION 1. Article 30 of title 30, Colorado Revised
6 Statutes 1973, (numbered as article 31 of chapter 36, C.R.S.
7 1963) as enacted by section 1 of chapter 43, Session Laws of
8 Colorado 1974, is REPEALED AND REENACTED, WITH AMENDMENTS, to
9 read:

1 ARTICLE 30

2 Control of Floods

3 30-30-101. Legislative declaration. For the purpose of
4 protecting life and property, the board of county commissioners
5 of each county of this state shall have the powers granted by
6 this article for the control of floods and the abatement of
7 stream channel erosion.

8 30-30-102. Authority to construct works. (1) To carry out
9 the purposes of this article, and subject to the review and
10 approval by the Colorado water conservation board of plans
11 involving construction of works, the board of county
12 commissioners of each county shall have the authority within its
13 respective county to:

14 (a) Construct any works necessary for the control of
15 floods;

16 (b) Construct any works necessary for the abatement of
17 stream channel erosion;

18 (c) Remove or cause to be removed any obstruction in the
19 channel of any natural stream which creates a flood hazard.
20 Water diversion devices may not be removed or modified except as
21 provided in subsection 30-30-103 (5).

22 30-30-103. Adoption of plan - acquisition of lands or
23 rights-of-way. (1) A board of county commissioners by
24 resolution may, after public hearing, adopt plans to carry out
25 the purposes of this article, which plans, with respect to the
26 construction of works, shall not be carried out until and unless
27 they have been approved in the form of a resolution adopted by

1 the Colorado water conservation board at a regular or special
2 meeting of that board.

3 (2) The board of county commissioners shall have the power
4 to acquire by gift, purchase, or voluntary agreement all lands or
5 rights-of-way necessary to accomplish the adopted plan.

6 (3) For the purpose of ascertaining flood hazard
7 conditions, the board of county commissioners and its authorized
8 agents and employees shall have reasonable access rights to any
9 stream. Such access shall be through existing gates, roads, and
10 lanes where possible, and, except in an emergency, the board
11 shall give at least five days' prior notice of a need for access.
12 In any event, the board or its authorized agents and employees
13 shall be liable for damages resulting to water diversion
14 facilities, fences, growing crops, and other private property
15 arising out of the exercise of such access rights.

16 (4) (a) If the board of county commissioners determines
17 that there are obstructions on the property owner's property
18 which in their opinion create a flood hazard, they shall give
19 him written notice of those conditions. Thereafter the board of
20 county commissioners shall negotiate with the owner to reach
21 agreement as to the existence of such conditions and as to the
22 procedures necessary for the elimination thereof. If such
23 agreement is reached, the owner, if he requests, shall be given a
24 reasonable time within which to eliminate such conditions
25 himself, and such agreement may provide for compensation to the
26 owner for such work.

27 (b) If the board of county commissioners and the owner

1 cannot reach such agreement, then, unless the owner consents to
2 access by the board of county commissioners, the board of county
3 commissioners shall have access only through the institution of
4 proceedings in the district court for a mandatory order
5 compelling the owner to permit access for the purposes specified
6 in section 30-30-102. In such court proceedings, it shall be
7 appropriate for the court to consider the necessity for and the
8 reasonableness of the request of the board of county
9 commissioners for access and to award to the owner such payment,
10 if any, as may be proper to compensate him for damages to his
11 property resulting from the flood control work on his property as
12 authorized by the board of county commissioners.

13 (5) The board of county commissioners shall have the
14 authority and right to modify, at its own expense and risk,
15 existing water diversion devices for the purposes of this
16 article, but it shall in no way alter or diminish the quality or
17 quantity of water entitled to be received under any vested water
18 right.

19 (6) Notice of the public hearing required under subsection
20 (1) of this section shall be given by publishing a brief
21 description and estimated cost of the proposed flood control
22 works, along with notice of the time and place of the hearing,
23 published once each week for two successive weeks in a newspaper
24 of general circulation within the county in which said flood
25 control works are proposed, the last publication of which shall
26 be not less than ten days nor more than thirty days prior to the
27 date set for said hearing.

1 30-30-104. Contracts and agreements. The board of county
2 commissioners may enter into contracts and agreements with
3 adjoining counties, the state of Colorado, or any agency or
4 political subdivision thereof for the purposes of implementing or
5 carrying out the purposes of this article.

6 30-30-105. Tax levy. For the purposes of this article, the
7 board of county commissioners of each county is hereby authorized
8 to assess a levy not to exceed three mills per dollar of
9 valuation for assessment against all taxable property within the
10 county, the revenues from which shall be used to establish a
11 flood control fund to be expended only to carry out the purposes
12 of this article; except that no such levy shall be made against
13 any taxable property within the boundaries of any special
14 district organized under state law which has the authority to and
15 is levying a property tax for flood control purposes.

16 30-30-106. Colorado water conservation board - grants to
17 counties. The Colorado water conservation board may make grants
18 to counties or other local governmental agencies, out of moneys
19 appropriated to it by the general assembly or other funds
20 available for such purpose, to assist such governmental agencies
21 in carrying out the purposes of this article in the manner and
22 under such terms and conditions as may be prescribed by said
23 board. Grants under this section may be made upon application by
24 the county or other local governmental agency therefor and on the
25 basis of the urgency of the flood control problems and the
26 financial need therefor, not to exceed fifty percent of the costs
27 incurred by a county or other local governmental agency.

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