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0219 Volume II — Committees on: Education, Transportation, Legislative Procedures, State Affairs, Agriculture

Colorado Legislative Council

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Report to the Colorado General Assembly:
RECOMMENDATIONS FOR 1977 COMMITTEES ON:

Education
Transportation
Legislative Procedures
State Affairs
Agriculture

VOLUME II

COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 219

December, 1976

LEGISLATIVE COUNCIL

OF THE

COLORADO GENERAL ASSEMBLY

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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.

COLORADO LEGISLATIVE COUNCIL

RECOMMENDATIONS FOR 1977

(Volume II)

Committees on:

Education

Transportation

Legislative Procedures

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Legislative Council

Report To The

Colorado General Assembly

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December 14, 1976

To Members of the Fifty-first Colorado General Assembly:

Submitted herewith are the final reports of the Legislative Council interim committees for 1976. This year's report consolidates the individual reports of twelve committees into two volumes. The reports of the Committees on Health, Environment, Welfare, and Institutions I and School Finance are contained in two separate volumes.

Respectfully submitted,

/s/ Senator Fred Anderson
Chairman
Colorado Legislative Council

FA/pm

FOREWORD

The recommendations of the Colorado Legislative Council for 1977 appear in two consolidated volumes with two separate reports for the Committees on Health, Environment, Welfare, and Institutions I and School Finance. Volume I contains the reports of the Committees on Business Affairs and Labor, Judiciary I, Local Government, Wildlife, Finance, Judiciary II, and Health, Environment, Welfare, and Institutions II. Reports in Volume II are from the Committees on Education, Transportation, Legislative Procedures, State Affairs, and Agriculture.

In addition to the findings and recommendations resulting from studies assigned pursuant to House Joint Resolution No. 1047 (1976 session), several bills and other recommendations pertaining to the operation and organization of the executive departments are included with some of the committee reports. These recommendations resulted from a letter of October 20, 1976, from the Legislative Council to the executive directors of the principal executive departments, which stated, in part, "...[A]ll directors of principal departments are requested to submit to the appropriate Legislative Council interim committees those statutory proposals they desire to have introduced during the 1977 Session of the General Assembly ... in line with the oversight function performed by each committee under the General Assembly's Joint Rule 25."

The Legislative Council reviewed the reports contained in this Volume II at its meeting on December 6, 1976. With the exception of Bills 28 and 32 from the Committee on Education, the Legislative Council voted to transmit all bills included herein with favorable recommendation to the 1977 session of the General Assembly.

The committees and staff of the Legislative Council were assisted by the staff of the Legislative Drafting Office in the preparation of bills and resolutions. Michael T. Risner and Marcia Baird assisted the Committee on Education; Gary E. Davis and John Lansdowne, the Committee on Transportation; James C. Wilson, Jr., and Rebecca C. Lennahan, the Committee on Legislative Procedures; Marcia Baird and Michael T. Risner, the Committee on State Affairs; and Terry W. Walker and Sue Burch, the Committee on Agriculture.

December, 1976

Lyle C. Kyle
Director

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COMMITTEE ON EDUCATION

MAJORITY REPORT

In an effort to find a means of resolving problems which have developed with the implementation of the Handicapped Children's Educational Act (HCEA), as enacted in 1973, House Joint Resolution 1047 (1976) provided for the study of the following aspects of the education of handicapped children:

(a) The method through which the executive department proposes and the General Assembly adopts legislation to fund the "Handicapped Children's Educational Act", with particular inquiry into the relationship between the funding method and said act's concept of "mainstreaming";

(b) The act's "mainstreaming" concept in general and the implementation of this concept;

(c) The relative responsibilities of local administrative units, community-centered programs for the mentally retarded and seriously handicapped, the department of institutions, and the department of social services under the "Handicapped Children's Educational Act";

(d) Requirements for the receipt of federal funding for programs for the education of handicapped children and the relationship between these requirements and those of said act;

(e) The relationship between the "Handicapped Children's Educational Act" and the "Public School Finance Act of 1973"; and

(f) The need for changes in said act with respect to an administrative unit's authority to contract with public and quasi-public agencies for the provision of educational services.

Funding of the Handicapped Children's Educational Act

Section 22-20-114 of the HCEA provides that an administrative unit which operates a special education program approved by the Department of Education is entitled to receive reimbursement by the state for certain percentages of the several expenditures specified in the act. These reimbursable items include 80 percent of the salaries of instructional and support personnel, 80 percent of transportation costs, 80 percent of consultation and evaluation services, 50 percent of the cost of materials and equipment, and 100 percent of the mileage expenses incurred by consulting psychologists, psychiatrists, and social workers. This section also specifies that payments made under

the Act's provisions shall not affect the amount of other state aid received by each unit.

It was contended, however, that the state's appropriations to fund the Act have not been sufficient to meet all the legitimate reimbursement claims made by each administrative unit. The state Department of Education testified that this shortfall (estimated to be approximately $13 million in fiscal year 1977) can be directly attributed to the method used by the General Assembly in estimating the annual appropriation necessary to fully reimburse each unit.

Present funding. For the purpose of determining the amount each unit receives, all of the administrative units have been divided into three categories -- urban, rural, and mixed. The total number of handicapped children in each administrative unit is determined for each category of handicap, and the number of special education teachers is reported to the Department of Education. Using the total number of identified handicapped children, the procedure then determines the "full-time equivalent student" (FTE). The total number of hours of actual service provided a handicapped child is computed, and this total is then divided by five hours in order to develop an FTE student.

Each FTE student is equal to five hours of service provided by a special education teacher. Note that this concept relates to time of service, regardless of the number of actual students with whom a teacher may come in contact. For example, if a teacher provides five hours of service to one handicapped child, the child is counted as one FTE student. If, however, one hour of service is provided simultaneously to five handicapped children, these five handicapped children are also counted as one "FTE" student. Similarly, if a teacher provides one-half hour of instruction to ten individual students, this constitutes one FTE.

Finally, the ratio of FTE students to teachers for each handicapping condition in each administrative unit is determined. These ratios are then compared with all those units within a given category (urban, rural, or mixed) to determine the average ratio of students to teachers for each handicapping condition in each category. If a unit requests reimbursement for fewer teachers than the statewide average, that unit is funded on actual ratio of students to teachers in that unit. Units which request reimbursement for more teachers than the statewide average are funded based on the number of teachers which the statewide average produces. It should be noted that the Joint Budget Committee maintains that "support staff" (e.g., consulting psychologists, social workers, audiologists, nurses, occupational and physical therapists) are funded on a statewide average ratio of staff to actual students. Those services a handicapped child receives from a regular classroom teacher are funded through monies received from the school district's general fund budget, not from the HCEA.

Recommendation. The HCEA provides that administrative units which operate approved educational programs for handicapped children

are entitled to reimbursement of statutorily prescribed expenses incurred by that unit. Testimony repeatedly indicated, however, that the Joint Budget Committee has adopted the convention of a statewide full-time equivalency pupil to teacher ratio as the basis of estimating the required annual state appropriation to fund the Act. It was also contended that this formula is not recognized by present statutes as the means of funding the Act. Further, it appears that an FTE formula creates an incentive to retain handicapped children within a self-contained classroom, since special education classrooms generate more FTE students, for given size groups of children, than do less restrictive environments. This situation is in direct conflict with one of the expressed purposes of the Act -- that handicapped children be educated in the regular classroom whenever possible.

The Committee on Education concluded that the method of funding used by the Joint Budget Committee is in violation of the intent, if not the letter of the law. The committee recommends that this method of funding be terminated, and that the Joint Budget Committee fund the Act based on a strict interpretation of the reimbursement provisions of the Act.

At its November 11 meeting the committee requested that the Department of Education, in conjunction with the Joint Budget Committee, develop a recommended solution to this funding matter. Three alternative proposals were presented by the department at the committee's final meeting on November 25. These alternatives were not presented in the form of legislation, but were suggested as bases upon which legislation might be developed. The first alternative presented is recommended by the committee as the best method of resolving the funding issue, although the committee was unable to adequately consider those legislative proposals, if any, which may be necessary to implement this alternative.

The recommended alternative would continue to utilize the current legislation regarding the reimbursement of costs. However, the alternative would require increases in state appropriations over a four year period to the extent that, in fiscal year 1981, sufficient funds would reimburse all approved expenses of the state's administrative units.

The committee notes that legislation may be necessary to specify that the FTE formula could not be used in developing the needed appropriations and to allow the department to establish the necessary criteria regarding the maximum and minimum level of programs any unit could provide. This alternative also anticipates the use of the current teacher to pupil ratios established in the rules and regulations for the administration of the HCEA adopted in October of 1976.

The second alternative presented was also considered worthy of further examination by the department, although extensive evaluation must be conducted to determine the merit of this proposal. This alternative would provide state funding to each administrative unit based upon a ratio of special education staff personnel to the average

daily attendance of that unit. Each unit would be allotted one special education staff member for a given number of pupils (e.g., one staff for each 100 students). The particular type of staff hired would be determined by needs of the unit and its special education program. Funds would be provided on the basis of a fixed amount of money per staff unit. For example, an administrative unit, on the basis of its average attendance, could be allowed a total of 25 special education staff personnel. Using a fixed allotment of $8,000 per staff unit, the administrative unit would therefore be provided a total of $200,000. The department noted in its presentation that these staff units could be weighted to allow for increased costs, such as teacher experience and preparation, or increased travel expenses, as may be incurred in rural settings.

Mainstreaming

The term "mainstreaming" is used in describing the intent of the Act that handicapped children be educated in the regular classroom setting to the greatest extent practicable. This word, however, does not appear in the Act itself, and many persons indicated that its use may lead to incorrect inferences regarding the Act's intent. The implication of mainstreaming is that the schools have been segregating exceptional children and must now attempt to integrate these children into normal classroom environments, regardless of the nature of the child's handicap.

Generally, witnesses favored the term "least restrictive environment" in describing the principal aim of the Act. This concept would provide that, if a state pursues a legitimate goal that involves restricting fundamental liberty, it must do so using the least restrictive alternative available. Applied to education, courts have ruled (PARC v. Pennsylvania (343 F. Supp. 279), in principle, that the state and individual school districts bear the particular burden of proving that placement of a child in a separate classroom or institution does not constitute an unconstitutional violation of that child's right of freedom of movement.

While the act has been fully implemented for only one year, those testifying before the committee generally endorsed the concept of mainstreaming, and noted the Act's positive effects on special education programs. It was noted, on the other hand, that some problems have developed in cases in which units have attempted to mainstream handicapped children in a manner which ignores their particular needs. In addition, the need for additional in-service training and increased consultive services for regular classroom teachers (in order that they may be adequately prepared to deal with those unique problems they may encounter) was emphasized.

Administrative Responsibilities of Various Agencies

Four state agencies are presently involved with the education of handicapped children in Colorado:

(1) the Department of Education, responsible for the administration of the Handicapped Children's Educational Act;

(2) the Department of Institutions, which operates programs in four state institutions (the state home and training schools in Grand Junction, Pueblo, and Wheat Ridge, and the Colorado School for the Deaf and Blind), and also contracts with locally established community centers, which provide local educational services to the mentally retarded and seriously handicapped;

(3) the Department of Social Services, which is responsible for the administration of funds made available through Title XX of the Social Security Act. These funds are used primarily by the community centers to provide their various programs. This department does not perform any educational services; and

(4) the Department of Health, which provides certain support services with regard to the education of the handicapped, such as diagnostic services.

The implementation of the HCEA has led to uncertainty on the part of those agencies providing certain educational services to the handicapped, as to their respective duties. Much of this uncertainty has stemmed apparently from confusion over the definitions of certain key terms in the Act, and the implications which result from the use of particular definitions.

The terms "education" and "handicapped children", in particular, appear to have created much of this confusion. Education might be defined to include virtually any kind of beneficial service, including the development of personal hygiene habits. Or, the term might be limited to imparting general knowledge to those children who have at least some ability to interpret or generalize on the information they are given. The term, while not defined in the Act, plays an important role in determining those individuals who are to be provided educational services within the public school, and, consequently, in determining the extent of the administrative unit's responsibility in this area.

The types of handicap which were intended to be served through the Act were also discussed. The definition of handicapped children might be interpreted to include only those children with certain "significant" handicaps. Consequently, the administrative unit's responsibility to "seriously handicapped" persons (presently served by community centers), as opposed to "significantly handicapped" persons, is unclear.

By interpreting these terms broadly enough so that the administrative units are responsible for providing a wide range of educational services to all handicapped children, regardless of the severity of their handicap, the obligations of the state and the administrative units are increased. At the same time, the obligations of the Department of Institutions and community centers, which also conduct education programs for those more severely retarded, might be decreased. This shift in responsibility might in turn cause or require an alteration in the current funding levels of these two agencies.

An Attorney General's opinion issued on April 27, 1976, disapproving, in part, of the Department of Education's proposed rules (tentatively adopted in February, 1976), for the administration of the HCEA suggests that the Department of Education must assume greater responsibility for handicapped children. The opinion states in part:

> ...means must be provided for the assessment and assignment of all school age children resident within the district who may be handicapped. This is the [state] Board's basic responsibility under the Act, in order to provide "means for educating" all handicapped children. That responsibility has not been met by the old rules, the rules, or the revised rules in their current form. Although the rules set forth a procedure for the assessment of children enrolled in the public schools, they fail to apply to "all children"...The State Board of Education must develop a specific method and specific criteria for the identification, assessment, and assignment of all children who may be handicapped including those in nonpublic schools and community center board programs.

While the opinion does not prohibit the provision of "educational services" by community center boards, it points out that the "education" of handicapped children is the clear responsibility of the public schools, which must monitor programs conducted outside of the public school system. The opinion states that the HCEA recognizes the obligation of the state to provide "educational opportunities" to all children, and specific definitions, standards, and criteria to that end must be developed by the state board.

The Department of Education's responsibilities may also be affected by Public Law 94-142, the "Education for All Handicapped Children Act of 1975", enacted by the United States Congress in November, 1975. The Act amended the provisions of the "Education of the Handicapped Act", and provides federal funds to states which establish educational programs meeting its specified eligibility and application provisions. It serves the purpose of the Act -- to assure that all handicapped children receive an education -- by providing the states with federal revenues.

The federal Act makes it clear that in order to obtain federal funds, the state educational agency (Department of Education) is

> ...responsible for assuring ... that all educational programs for handicapped children within the state, including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency, and shall meet education standards for the State educational agency.

This language would indicate that to participate in the federal program, the state board would be required to oversee the educational programs of other state agencies (such as the Department of Institutions). This requirement would appear to parallel the Attorney General's opinion regarding the Department of Education's responsibilities in assessing and assigning children to various programs, but would also extend the responsibility of the Department of Education of it is required to act in a supervisory role over the programs administered by other agencies.

The committee does not recommend any action with respect to this area but it is apparent that the General Assembly will need to continue to monitor developments in this important area.

Requirements for the Receipt of Federal Funds

Testimony highlighted two major issues regarding the receipt of federal funds. First, the committee discussed the relationship between Title XX of the federal Social Security Act (SSA) and the HCEA, including funds available for education through the federal SSA. Title XX provides funds for the training programs conducted through community center boards (Article 11 of Title 27, C.R.S. 1973). With the passage of the HCEA, however, the availability of these federal funds for community center boards was brought under scrutiny. Federal officials questioned whether the HCEA would result in the availability of educational services to persons without regard to income, and at no cost. Section 228.43 of the Code of Federal Regulations specifically prohibits the use of federal Title XX monies for educational services provided without regard to income or at no cost. Consequently, the availability of funds for community center boards has been uncertain pending the resolution of questions regarding the availability of educational services to the handicapped.

Discussions with federal and state officials, however, suggest that this matter could be resolved administratively. The funds required of the state to match those federal funds available under Title XX may be used to provide the necessary amount to fund the educational programs conducted by the community center boards. In doing so, no federal funds would be expended in order to carry on these services, and consequently there could be no question that federal Title XX funds were being properly used.

The second area of concern relates to Public Law 94-142, briefly discussed above, which is to be implemented by October of 1977. This federal act would make available to Colorado substantial sums of money to conduct its special education programs. However, any state which wishes to qualify for assistance under the federal Act must demonstrate to the U.S. Commissioner of Education that it has, in effect, a policy that assures all handicapped children the right to a free, appropriate, public education. In addition, a state must submit a plan to the Commissioner, including assurances that the state will comply with several stipulations, including:

(1) establishment of programs to assure that any federal funds received by the state, or any of its political subdivisions, are used to achieve the goal of providing for the education of handicapped children;

(2) establishment of policies to assure participation of handicapped children in the program assisted by the act. In addition, handicapped children placed in private schools by the state or local educational agency as the means of carrying out the requirements of the act, are to be provided special education and related services at no cost to their parents; and

(3) assurance that available federal funds will be used to supplement and increase the level of state and local funds expended for the education of handicapped children, will not be commingled with state funds, and in no case will be used to supplant such state and local funds.

The Act provides that federal monies may be available to both state and local educational agencies. Consequently, in order for local agencies or administrative units to acquire the funds provided, they must make application to the state educational agency. This local application is to include assurances that all children residing in the jurisdiction of the local educational agency who are handicapped and are in need of special education, regardless of the severity of their handicap, will be identified, located, and evaluated. The application is also to establish a goal of providing full educational opportunities to all handicapped children and establish a timetable for accomplishing that goal.

Testimony before the committee indicated that the HCEA is in substantial compliance with the federal Act. Concern was expressed, however, regarding the degree of autonomy the federal Act would allow Colorado in pursuing particular educational goals. Persons meeting with the committee suggested that the requirements of the federal Act would be enforced in Colorado, regardless of whether this state submits a state plan and receives federal funds. This position was supported by a letter from T. H. Bell, former U.S. Commissioner of Education, to Dr. Calvin Frazier, Commissioner, Colorado Department of Education.

The committee makes no recommendations on this matter while it awaits the issuance of rules and regulations governing the federal legislation.

The Public School Finance Act of 1973

The categorical aid provided by the HCEA may be described as an excess cost funding method. While the Public School Finance Act of 1973 is intended to meet the needs of all students attending public school, the HCEA provides the necessary additional funds to defray the increased costs to school districts operating special education programs. Testimony indicated that this present relationship is operating effectively. In view of this testimony, and because the Committee on School Finance was also reviewing the School Finance Act, the committee makes no recommendations in the area of school finance.

Recommendations Concerning the HCEA 1/

In addition to the recommendation regarding the funding of the HCEA, the committee submits the following recommendations concerning the act. The first three recommendations are general in nature, relating to the need for in-service teacher education, to class size with regard to the mainstreaming concept, and to paperwork requirements. The next seven recommendations constitute proposed legislation. These recommendations are summarized below.

Appropriation for In-service Training

As stated in the legislative declaration, it was the intent of the General Assembly in enacting the HCEA that handicapped children be educated in the regular classroom, and be assigned to special education classrooms only when the nature of the child's handicap makes assignment to a regular classroom impractical. The presence of a handicapped child in the regular classroom setting poses unique problems for the classroom teacher. If regular classroom teachers are to be prepared to cope with these problems, they must be provided with the necessary special education support personnel and materials.

The committee recommends that the General Assembly appropriate sufficient funds to support a proper level of special education support personnel and materials. In addition, it is recommended that state funds be appropriated specifically to implement a program of in-service training designed to provide the classroom teacher with skills and techniques appropriate in meeting the special needs of handicapped children in a regular classroom setting.

1/ The Legislative Council at its December 6 meeting voted to approve this report and recommend Bills 29, 30, 31, 33, and 34 favorably to the General Assembly. The Council voted, however, to transmit bill Nos. 28 and 32 to the General Assembly without recommendation.

Class Size

The primary thrust of the Handicapped Children's Educational Act is to educate handicapped children in the regular classroom setting, when it is determined that such placement will enhance the child's learning experience. It is also the intent of the Act, however, that this normalization process should not interfere with the educational programs conducted in the classroom. It has been noted that the "mainstreaming" of handicapped children may result in the placement of handicapped children in classes that are too large for the teacher, while attending, to deal effectively with their special needs, as well, to the needs of the other students in the class.

It is recommended that school districts make all reasonable efforts to place handicapped children only in classes which are of sufficiently small size to allow for effective individualized attention to the handicapped child, with little or no diminution of the quality of education and amount of teacher time devoted to other students.

Paperwork

Testimony indicated that the implementation of the Handicapped Children's Educational Act requires extensive effort on the part of special education personnel in completing the numerous related forms and reports. Such requirements are time-consuming, drawing the social worker, special education teacher, and other special service personnel away from their primary function -- that of providing direct service to the handicapped children. As a result, both regular and handicapped students do not receive the amount of instruction or service to which they are entitled, or might be afforded if such requirements were reduced.

It is recommended that all possible efforts be made by the General Assembly, the Department of Education, and superintendents of local administrative units to seek measures which will reduce the amount of paperwork required of special education personnel.

Allocation of Funds for Residents of State Institutions -- Bill 28

This bill, a slightly amended version of H.B. 1189 as passed by the House of Representatives in 1976, would provide that the School Finance Act of 1973 is to make available funds for residents of school districts who are residents of state institutions. The bill is intended to ensure that a given amount of money would be available to the institution in order to provide needed educational services.

Contracting Authority of Administrative Units -- Bill 29

This proposal would expand the present contracting authority of administrative units (section 22-20-106 (6)) so that they could con-

tract for the provision of all necessary supporting services. This bill would delete existing statutory language which provides that the special education program plan required of each administrative unit may indicate how that unit intends to utilize the services of mental health clinics and centers.

As amended, this subsection would authorize the department to approve: (1) the agency providing the service; (2) the services provided; and (3) the contract for the particular service offered.

Reimbursement for Tuition Costs -- Bill 30

The purpose of this proposal is to clarify and make more equitable the provisions of the law relating to reimbursement for tuition costs. At the present time, administrative units may contract for special education services with administrative units, and may be reimbursed 100 percent of cost of services, on a non-prorated basis. Also, districts within an administrative unit may contract with each other for special education services, and the administrative unit (on a variance) may be reimbursed 100 percent of the cost of these services, also non-prorated, in addition to the reimbursement it receives for the program itself (e.g., teachers' salaries, supplies, and materials).

One purpose of these amendments would be to provide an impetus for more meaningful negotiations in determining tuition costs. The amendment to section 22-20-114 (1) (b) is intended to establish a simplified method of determining the amount of reimbursement to which the district of residence would be entitled, since the authorized revenue base per attendance entitlement in the district must be deducted from tuition claims.

Amendments to Article 20 of Title 22 -- Bill 31

This proposal contains amendments to several sections affecting various areas of the HCEA. First, it would amend the legislative declaration to include the phrase "least restrictive environment". Second, it would require that at least one handicapped adult would be appointed by the State Board of Education as a member of the State Special Education Advisory Committee. Third, the bill would include the salaries of school counselors and the mileage expenses of "itinerant approved personnel" as items which would be reimbursed.

Counting of Pupils -- Bill 32

This bill would remove from section 22-20-107 (2) language which provides that a school district providing an education to children under contract with community center boards is not to count these children for purposes of state school aid.

Transportation of Community Center Board Clients -- Bill 33

An amendment would be made under Bill 33 to expand the definition of "pupil transportation" to include the transportation of children attending community centers (section 22-51-102 (3)). This amendment was proposed in response to concerns expressed by school districts and community center boards regarding the capability of school districts to provide transportation services to community center board clients.

Federal Funds for Students in Private Colleges -- Bill 34

This proposal would authorize the Commission on Higher Education to provide federal funds, available under the State Student Incentive Grant (SSIG) program, to students attending private colleges. Presently, the monies available from this program may only be provided to students in publicly supported colleges.

This proposal is a result of the federal Education Amendments of 1976 (P.L. 94-482) which Act provides that, beginning July 1, 1977, states receiving SSIG funds must make them available to resident students attending private accredited as well as public post-secondary institutions. The effect of this federal provision is that, unless Colorado provides approximately $200,000 in grant moneys for matching funds applicable to Colorado resident students in the accredited private institutions, it will lose $600,000 applicable in fiscal year 1978 to Colorado resident students in the public institutions. The match required on the public side has been fully met by funds appropriated in the on-going Colorado Student Grant program.

Committee on Education

Minority Report

Senator Hugh Fowler

I favor Alternative II, as presented to the committee by the state Department of Education, as a new means of financing special education (and generally ALL education). The administration of the present system is assuming monstrous proportions -- beginning with an unacceptable amount of paperwork in the average classroom (not a special education classroom). It is time to remove the state from the close monitoring of the programs, and recognize that the units now know how to implement the provisions of the Act. Further, administrative units will be encouraged to do so if they are adequately funded by a formula which provides the flexibility they need to respond to the variable needs of their children.

The current method used to develop an appropriations estimate requires teachers and other personnel literally to account for each minute of service to a handicapped child. This provision alone requires that each administrative unit operate an extensive accounting system in order to monitor each teacher's time. Alternative II appears to offer an easier means of developing the necessary information to fund the Act. Use of the ADAE figures suggested by the department would only require each unit to utilize information which is easily developed.

The proposed alternative would provide each administrative unit with a particular number of special education staff units, based on that unit's ADAE. Reimbursement would not be limited to the particular category of professions presently listed in the Act (section 22-20-114). Each unit would then be funded at a given amount for each staff unit employed. For example, a unit which has an ADAE of 2,000 would be allotted 20 staff units (one unit for each 100 ADAE), and be funded a total of $160,000 (at $8,000 per staff unit).

Again, I would express my support for the further development of this concept as an alternative means of funding the Act.

COMMITTEE ON EDUCATION

BILL 28

A BILL FOR AN ACT

CONCERNING FINANCIAL SUPPORT FOR EDUCATIONAL PROGRAMS IN STATE INSTITUTIONS.

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 department of institutions shall receive an amount equal to the average "authorized revenue base", for each qualified resident in an institution, to be expended for educational programs which are to be monitored by the departments of education and institutions.

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

SECTION 1. 27-1-103, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

27-1-103. Duties of executive director - governor acquire water rights - educational program support. (3) With respect to any Colorado resident who is a resident in any institution administered by the department of institutions, is under the age of twenty-one years, and is of at least such an age that, but for his residence in a state institution, he would be eligible for enrollment in the public schools, the department of institutions shall receive from moneys appropriated by the general assembly,

for each such resident receiving an educational program in a state institution, an amount equal to the statewide weighted average "authorized revenue base per pupil of attendance entitlement", as defined in section 22-50-106, C.R.S. 1973. Funds received by the department of institutions pursuant to this subsection (3) shall be expended for educational programs in each state institution in which school-age pupils reside. The amount expended for educational programs shall not be limited to the amounts provided by this subsection (3) but may be supplemented by other funds appropriated or otherwise received by the department of institutions. The department of education, in cooperation with the department of institutions, shall have the responsibility to monitor the educational programs in state institutions required by this subsection (3).

SECTION 2. Effective date. This act shall take effect July 1, 1977.

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

COMMITTEE ON EDUCATION

BILL 29

A BILL FOR AN ACT

CONCERNING THE EDUCATION OF HANDICAPPED CHILDREN, AND RELATING TO THE PROVISION OF SERVICES THEREFOR.

Bill Summary

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

Authorizes administrative units to employ certain personnel or to contract for approved services with approved agencies to carry out specified functions relating to special educational programs. Requires submission of such contracts to the department of education for review and approval prior to qualification for reimbursable costs under the "Handicapped Children's Educational Act".

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

SECTION 1. 22-20-106 (6), Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

22-20-106. Special educational programs. (6) By July 1, 1977, and thereafter, each administrative unit shall employ a sufficient number of school psychologists, school social workers, and other personnel certified by the department, pursuant to article 60 of this title, or contract for department-approved services with department-approved agencies to adequately carry out those functions that provide for case finding and assessment of children who may be handicapped, staffing of the special

committee as provided in section 22-20-108, teacher and parent counseling and consultation, in-service education for school staff and volunteers, and necessary supporting services approved by the department. The department shall require administrative units to submit such a contract for services to the department for review and approval before such contract qualifies for reimbursements pursuant to section 22-20-114 (1) (b) (VII).

SECTION 2. 22-20-114 (1) (b), Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

22-20-114. Reimbursable costs of programs. (1) (b) (VII) Any contract for services which meets the requirements of section 22-20-106 (6) and which would be reimbursable if such services were provided by the administrative unit.

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

COMMITTEE ON EDUCATION

BILL 30

A BILL FOR AN ACT

CONCERNING THE COSTS OF TUITION FOR THE EDUCATION OF HANDICAPPED CHILDREN.

Bill Summary

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

Includes the "authorized revenue base" in certain specified deductions before the school district of a handicapped child's residence reimburses the administrative unit of attendance for the costs of an approved contractual special educational program, places such costs or tuition in the eighty percent rather than the one hundred percent category for reimbursable costs, and provides that such reimbursements are to be prorated on the basis of total claims submitted in proportion to funds available.

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

SECTION 1. 22-20-109, Colorado Revised Statutes 1973, is amended to read:

22-20-109. Tuition. If an administrative unit cannot provide an educational program for a handicapped child because of the uniqueness of the handicap, the administrative unit may contract with another administrative unit to provide the needed program, upon approval by the department. In such an instance the administrative unit of the child's residence shall reimburse

the administrative unit of the child's attendance in an amount equal to the cost of educating that child after applicable revenues from federal funds, ~~state--equalization--funds~~ THE AUTHORIZED REVENUE BASE, PER PUPIL OF ATTENDANCE ENTITLEMENT, AS DETERMINED IN ACCORDANCE WITH SECTION 22-50-106, OF THE SCHOOL DISTRICT OF THE CHILD'S RESIDENCE, and reimbursements under the provisions of this article have been deducted. ~~Reimbursement--by the--department--under--this--section--shall--not--be--subject-to proration-under-the-provisions-of-section-22-20-114-(3).~~

SECTION 2. 22-20-114 (1) (b) (V) and (3), Colorado Revised Statutes 1973, are amended to read:

22-20-114. Reimbursable costs of programs. (1) (b) (V) For each child so accepted, the average cost per pupil of educating children with similar handicaps in any unit which accepts a child from another administrative unit in one or more of its special education programs, such reimbursement to be made to the administrative unit of the child's residence. THE COST OF TUITION SHALL BE AS DETERMINED BY THE PROVISIONS OF SECTION 22-20-109.

(3) In the event appropriations shall be insufficient to cover reimbursements provided for in subsection (1) of this section, all approved reimbursements, except ~~those-for-tuition~~ and for maintenance in a family care home, which shall always be fully reimbursed, shall be prorated on the basis of total claims submitted in proportion to funds available for reimbursement.

SECTION 3. 22-20-114 (1) (e), Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

22-20-114. Reimbursable costs of programs. (1) (e) One hundred percent of the costs of maintenance of a child in a licensed family care home.

SECTION 4. Effective date. This act shall take effect July 1, 1977.

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

COMMITTEE ON EDUCATION

BILL 31

A BILL FOR AN ACT

AMENDING ARTICLE 20 OF TITLE 22, COLORADO REVISED STATUTES 1973, AS AMENDED, CONCERNING THE EDUCATION OF HANDICAPPED CHILDREN.

Bill Summary

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

Amends the "Handicapped Children's Educational Act" to provide that handicapped children shall be educated in the least restrictive environment and places at least one handicapped adult on the state special education advisory committee and allows reimbursable costs for a specified portion of counselors' salaries and mileage expenses incurred by itinerant, approved personnel.

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

SECTION 1. 22-20-102, Colorado Revised Statutes 1973, is amended to read:

22-20-102. Legislative declaration. The general assembly, recognizing the obligation of the state of Colorado to provide educational opportunities to all children which will enable them to lead fulfilling and productive lives, declares that the purpose of this article is to provide means for educating those children who are handicapped. It is the intent of the general

assembly, in keeping with accepted educational principles, that handicapped children shall be educated in ~~regular classrooms, insofar as practicable, and should be assigned to special education classrooms only when the nature of a child's handicap makes the inclusion of the child in a regular classroom impractical~~ THE LEAST RESTRICTIVE ENVIRONMENT. To this end, the services of special education personnel shall be utilized within the regular school programs to the maximum extent permitted by good educational practices, both in rendering services directly to children and in providing consultative services to regular classroom teachers.

SECTION 2. 22-20-104(2), Colorado Revised Statutes 1973, is amended to read:

22-20-104. Administration. (2) In order to assist the state board in the performance of its responsibilities for the implementation of this article, a state special education advisory committee of an appropriate size shall be appointed by the state board. The members of the advisory committee shall include at least two special education teachers, at least two administrators with experience in special education, at least two parents of children presently or formerly enrolled in special education programs, and one representative from the department of institutions, AND AT LEAST ONE HANDICAPPED ADULT, EIGHTEEN YEARS OF AGE OR OLDER. Members shall be appointed for one-year or two-year terms.

SECTION 3. 22-20-114 (1) (a), Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

22-20-114. Reimbursable costs of programs. (1) (a) (XVII) Counselors;

SECTION 4. 22-20-114(1)(b)(VI), Colorado Revised Statutes 1973, as amended, is amended to read:

22-20-114. Reimbursable costs of programs. (1)(b)(VI) Mileage expenses incurred by psychiatrists, psychologists, speech therapists, and social workers, AND ITINERANT, APPROVED PERSONNEL in traveling from their base of operations to other attendance centers in the course of fulfilling job requirements.

SECTION 5. Effective date. This act shall take effect July 1, 1977.

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

COMMITTEE ON EDUCATION

BILL 32

A BILL FOR AN ACT

CONCERNING THE COUNTING OF HANDICAPPED CHILDREN FOR THE PURPOSES OF GENERAL STATE SCHOOL AID.

Bill Summary

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

Deletes the provision that handicapped children in an education and training program, provided by a school district under contract with an institution of higher education or a community center board, shall not be counted as regularly enrolled for the purposes of general state school aid.

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

SECTION 1. 22-20-107 (2), Colorado Revised Statutes 1973, is amended to read:

22-20-107. Authority to contract with community center boards. (2) The two agencies shall agree to an amount per child that the institution of higher education or community center board shall pay to the administrative unit for providing such services. ~~No school district providing an education and training program for handicapped children under contract with an institution of higher education or a community center board shall count such children as regularly enrolled for the purposes of the~~

~~general-state-school-aid-as-provided-by-law.~~ The institution of higher education or community center board shall pay to the administrative unit providing the program an amount per child as agreed upon by the institution or board and the administrative unit, but such amount shall not be less than the amount per child provided to the institution or board by the department of institutions for educational purposes pursuant to section 27-11-103 (1), C.R.S. 1973. Any school district providing an education and training program for handicapped children domiciled in that district shall not be required to provide to an institution of higher education or a community center board the amount required by section 27-11-103 (3), C.R.S. 1973, on behalf of those children; but each such school district shall expend out of its own funds at least the amount required by the said section 27-11-103 (3), C.R.S. 1973, in providing the program.

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

COMMITTEE ON EDUCATION

BILL 33

A BILL FOR AN ACT

CONCERNING PUPIL TRANSPORTATION, AND PROVIDING FOR TRANSPORTATION TO AND FROM COMMUNITY CENTERS.

Bill Summary

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

Expands the definition of "pupil transportation" to include persons between the ages of three and twenty-one who are enrolled in community centers for the mentally retarded and seriously handicapped.

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

SECTION 1. 22-51-102 (3), Colorado Revised Statutes 1973, as amended, is amended to read:

22-51-102. Definitions. (3) "Pupil transportation" means the transportation of pupils regularly enrolled in the public schools through grade twelve OR OF PERSONS BETWEEN THE AGES OF THREE AND TWENTY-ONE WHO ARE ENROLLED IN COMMUNITY CENTERS FOR THE MENTALLY RETARDED AND SERIOUSLY HANDICAPPED, AS PROVIDED FOR IN ARTICLE 11 OF TITLE 27, C.R.S. 1973, to and from their places of residence and the public schools OR COMMUNITY CENTERS in which enrolled and to and from one school of attendance and another in

vehicles owned or rented and operated by a school district or under contract with a school district.

SECTION 2. Effective date. This act shall take effect July 1, 1977.

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

COMMITTEE ON EDUCATION

BILL 34

A BILL FOR AN ACT

CONCERNING THE DUTIES OF THE COMMISSION ON HIGHER EDUCATION, AND REGARDING THE ADMINISTRATION OF FUNDS IN RELATION THERETO.

Bill Summary

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

Authorizes the commission on higher education to extend the administration of certain federal programs to all post-high school institutions in the state and provides that certain contributions which the commission is empowered to accept and receive may, rather than shall, be used by the commission in furtherance of the guarantee loan program.

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

SECTION 1. 23-1-102 (1), Colorado Revised Statutes 1973, is amended to read:

23-1-102. Commission established. (1) There is hereby established a Colorado commission on higher education, referred to in this article as the "commission". The duties delegated to the commission by this article shall apply to all post-high school institutions in the state supported in whole or in part by state funds, including junior colleges and community colleges, and extension programs of the state-supported universities and

colleges. The commission shall perform those duties and functions specifically delegated to it by this article, EXCEPT THAT DUTIES DELEGATED TO THE COMMISSION BY SECTION 23-1-110 MAY APPLY TO ALL POST-HIGH SCHOOL INSTITUTIONS IN THE STATE WHETHER OR NOT SUPPORTED IN WHOLE OR IN PART BY STATE FUNDS.

SECTION 2. 23-3-106 (2), Colorado Revised Statutes 1973, is amended to read:

23-3-106. Contributions to commission. (2) Such contributions or the proceeds thereof ~~shall~~ MAY be used by the commission in furtherance of the guarantee loan program.

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

LEGISLATIVE COUNCIL

COMMITTEE ON TRANSPORTATION

Members of the Committee

Sen. Robert Johnson, Chairman
Rep. Gerard Frank, Vice-Chairman
Sen. Tilman Bishop
Sen. Fay DeBerard
Sen. Robert Smedley
Sen. Ruth Stockton
Sen. Christian Wunsch

Rep. Paul Brown
Rep. Nancy Dick
Rep. John Hamlin
Rep. William Hilsmeier
Rep. Steve Hogan
Rep. Kay Munson
Rep. Betty Neale*
Rep. Robert Ore
Rep. David Sprague

Council Staff

Larry Thompson
Research Associate

Brian Mitchell
Research Assistant

*Resigned November 13, 1976, due to appointment to the Joint Budget Committee.

COMMITTEE ON TRANSPORTATION

The Committee on Transportation was directed by House Joint Resolution 1047, 1976 session, to study the regulation of the siting of energy facilities that convert energy or generate energy and to review the activities, duties, functions, problems, new developments, and budgets of the Department of Highways and the Motor Vehicle Division of the Department of Revenue.

The committee submits no recommendation on the siting of energy facilities. Concerning the activities and functions of the Department of Highways, Bills 35 through 44 are recommended. To alleviate the problem of rising administrative costs of the Motor Vehicle Division of the Department of Revenue, the committee recommends Bills 45 through 49. Bills 50 through 54 are recommended which would enable the Department of Revenue to perform its motor vehicle-related functions in a more efficient and less costly manner. Bills 55 through 57, which would revise the penalties for certain motor vehicle offenses, are also recommended by the committee.

Energy Facilities Siting

Numerous state and local agencies have jurisdiction over energy facility siting and construction. A variety of permits are issued at the state, county, and municipal levels, as well as by federal agencies, for the siting and construction of energy facilities.

Different types of energy related structures are categorized as "energy facilities" and a variety of definitions for "energy facilities" are provided in state statutes. Generally, "energy facilities" could include the following: electric power plants; any facility which produces synthetic gas; any in situ gasification or liquification of coal; any electric transmission line; any facility designed for, or capable of producing liquid hydrocarbon products; any pipeline designed for, or capable of, transporting gas, coal slurry, or liquid hydrocarbon products; nuclear fuel fabricating or reprocessing plants; and oil refineries.

The following is a listing of several state and local agencies which have jurisdiction over energy facilities:

Agency	Agency Jurisdiction
1) Public Utilities Commission	Issues certificate of public convenience and necessity Regulates rate structure which controls demand

Agency	Agency Jurisdiction
2) Air Pollution Control Commission	Issues air pollution permits
3) Water Quality Control Commission	Regulates discharges into waterways
4) Mined Land Reclamation Board	Regulates surface effects of mining operations
5) State Engineer	Regulates non-federal reservoirs
6) Ground Water Commission	Approves use of underground water resources
7) District Courts	Adjudicates surface water uses
8) County Commissioners	Solid waste disposal permits
	Regulation of subdivisions
	Zoning and building codes and regulations
	Land use planning
9) Counties and municipalities	Authorizes development by means of the Planned Unit Development (P.U.D.)

Representatives of agencies involved in energy facility siting and construction, as well as persons concerned with the energy facility permit process, offered a variety of opinions as to the effectiveness of the permit and review process for energy facilities. A number of persons advised the committee that no legislation be considered to amend the present permit and review system. These persons maintained that, while there might be some shortcomings in the present system, any difficulties could be resolved administratively. Other persons advocated a total or partial overhaul of current regulations for energy facility siting.

Criticisms of the permit and review process. Persons suggesting that new legislation on energy siting is necessary cited numerous problems which they believe are inherent in the present permit and review process for energy facilities. Testimony given by the Colorado Land Use Commission indicated that there is no consolidated application procedure for the many regulatory agencies now charged with the review of facilities and there is inadequate coordination among those

agencies. Representatives of the Colorado Open Space Council (COSC) stated that no single agency has the authority to evaluate cumulative impacts of energy facility proposals. In addition, Mr. James Monaghan, Office of the Governor, emphasized that local governments do not have the means to study impacts and lack jurisdiction over facilities outside their boundaries which still may affect them.

Representatives of COSC observed that under the present permit and review process there is confusion and arbitrariness which can lead to unnecessary delay. There is no mechanism for the evaluation of alternatives for the siting of energy facilities. Finally, they argued that there is not sufficient opportunity for hearings and other forms of public participation in the energy facility siting and construction process.

Testimony in support of the existing permit and review process. Considerable testimony was received that the present permit and review system is adequate. Representatives from Colorado Association of Commerce and Industry (CACI) and Colorado-Ute Electric Association, Inc. emphasized that there already exist a substantial number of agencies at the state and local level which are responsible for issuing permits. Testimony by CACI suggested that such agencies should better coordinate and communicate on their respective roles relating to energy siting. The necessary coordination and communication needs to be done administratively.

Persons advocating no legislative changes in the process stated that no additional siting permits should be required for an energy facility and no additional agencies should become involved in energy siting. Mr. Howard Scott, Land Use Administrator, Rio Blanco County, urged that local government decision-making powers on energy facilities not be altered. It was contended that the involvement of additional agencies in the process would only result in creation of additional layers of bureaucracy and would cause unnecessary delays in energy facility siting and construction.

Testimony given by Colorado Counties Incorporated suggested that any substantial change in the energy facility permit and review process would result in dilution of the powers of local governments over the siting and construction of energy facilities. Fear was expressed that if a new state agency were created and given certain decision-making powers on energy facility siting and construction, it could be possible for the entire site selection process to be completed, and the necessary local government permits granted, only to have such actions overridden by the state agency. Representatives of Colorado Counties Incorporated concluded that additional legislation is not necessary in order for state agencies to give policy and technical assistance to local governments when such assistance is requested by the local governments.

Committee Conclusions -- Energy Facility Siting

The committee's conclusion is that energy facility siting legislation is not necessary. It was found that the present permit and review process provides an in depth review of all aspects of energy siting. A reliable supply of energy, maintained at a level consistent with the need for such energy, needs to be ensured. Adding to or deleting from the powers of agencies now concerned with energy siting, or the involvement of more agencies in energy siting, might hinder necessary energy development and would only duplicate safeguards which already exist in the present permit system.

Local governments should continue to have decision-making authority on energy facilities, and it is recommended that, wherever possible, state agencies provide technical assistance to local governments concerning the siting of energy facilities.

The "Report to the Morgan County Board of County Commissioners -- Proposed Pawnee Generating Station", which was coordinated and directed by the Governor's Energy Policy Council with the assistance of the Colorado Land Use Commission, is an example of how various state agencies can combine their talents and produce significant energy siting information useful to local governments. In this case, the Public Service Company of Colorado made application to Morgan County to rezone approximately 1,650 acres of land near Brush as a proposed site for a 500 megawatt coal-fired steam electric generating plant. That report which was requested by the Morgan County Commissioners, provided technical data helpful to the commissioners in evaluating reports and other material submitted by the Public Service Company of Colorado in support of its application. The committee suggests that the appropriate state agencies continue to provide information helpful to local governments to assist in the making of policy decisions on siting and construction of energy facilities.

Activities and Functions of Department of Highways

The responsibilities of and problems faced by the Colorado Highway Department were reviewed by the committee. Certain statutory changes are needed in order to maximize the efficiency of the department and to provide clearer, updated, and more uniform highway statutes. Thus, Bills 35 through 42 are recommended to accomplish these purposes.

Implementation of Bill 43 would be useful to the travelling public in providing information of specific interest through the authorization of the erection of information sites in highway rest areas. The committee recommends Bill 44 which would be helpful in standardizing the use of emergency signals on special-purpose vehicles.

Deadline and Grace Periods for Local Government Reports -- Bill 35

The Highway Department is experiencing problems in obtaining from local governments, in a timely manner, the required annual reports dealing with expenditures from the Highway User's Tax Fund (HUTF). Consequently, Bill 35 is recommended containing provisions which would replace the present May 1 deadline and 90 day grace period, with a June 30 deadline and no grace period. This new deadline would guarantee the timely submission of expenditure reports so that the Division of Highways can process the data and file its annual report with the State Treasurer by the beginning of the fiscal year, July 1.

The bill would also revise the deadlines for both the annual filing of county maps relating to changes in the mileage, location, or surface classification of county roads, and the filing of annual municipal reports describing any changes made in total or arterial mileage. In both cases, a new deadline of March 1, with no grace period, would replace the present May 1 deadline and 90 day grace period.

Duties of the State Highway Commission Relating to Traffic Regulation -- Bill 36

Representatives of the Department of Highways indicated that certain highway policy decisions do not presently require Highway Commission approval. Bill 36 is recommended which would add requirements for Highway Commission approval of certain matters the committee considers to be policy-making in nature. The bill would provide that commission approval would be needed on certain decisions involving the model municipal traffic code, state driveway standards, state standards for warning lamps on road equipment, and state policy on transporting hazardous materials.

It was also determined that policy decisions for municipalities on right turn on red or left turn on red on a one-way street into a one-way street should be made administratively rather than by local elected officials (through ordinances) or by the Highway Commission (through resolution). Therefore, section 4 of Bill 36 would provide that such turns, in those cases where they are now permitted, would continue to be permitted unless the state or local road authority determines, based upon traffic analyses, that such turns are incompatible with the safe movement of traffic.

Interest Earned on State Highway Funds -- Bill 37

The committee learned that the Highway Department could receive approximately $1,500,000 of additional revenue if interest earned on monies deposited in the State Highway Fund or State Highway Supplementary Fund were not removed prematurely from such funds. Bill 37 would allow interest earned on these funds to remain in and be part of those funds.

Regulation of Bicycles -- Bill 38

Bill 38 would update and upgrade existing statutes governing bicycles. The term "bicycle" would be redefined by naming the types of devices excluded from the statutory meaning of the word, instead of the present method of restricting the meaning by limiting wheel diameter. Regulations would be prescribed on brakes, lights, reflectors, and audible devices which could be equipped on a bicycle. This bill would also provide safety rules for riding on bicycles and operating bicycles on roadways and bike paths, and would subject bicycle operators to the same traffic laws as motor vehicle operators.

Method of Giving Notices from the Revenue and Highway Departments -- Bill 39

A standard method of mailing notices from the Highway and Revenue Departments would be established under Bill 39 for those cases in which the statutes do not specify a particular method to be utilized. This procedure would save money, in certain instances, by replacing the more costly use of certified postage with the sending of notices by first-class mail. The giving of notice by first-class mail would be complete ten days after such a notice is mailed.

Regulation of Vehicles and Traffic -- Bill 40

Certain statutory provisions dealing with pedestrians on highways and motorist reaction to the approach of emergency vehicles need to be updated and clarified. Bill 40 is recommended to require a person driving upon a one-way street or roadway to pull over to either the right or left-hand edge of the road, whichever is most practicable, when an authorized emergency vehicle using audible and visual signals or a police vehicle using audible signals approaches. The bill provides that pedestrians would also have to leave the roadway and yield the right-of-way upon the approach of either an authorized emergency vehicle or a police vehicle using these types of signals.

Hitchhiking regulations would be altered by the bill. The "walk on left side" rule would be applicable to two-way roadways only. Hitchhikers would be allowed to solicit rides from either side of a two-way roadway, provided they stand where there is a view of traffic coming from both directions.

Increase in Permit Fees for Outdoor Advertising Devices -- Bill 41

To raise more revenue to administer the roadside beautification program, the committee recommends Bill 41 which would increase permit fees for outdoor advertising devices. The bill would raise from $5 to $10 the permit fee for each outdoor advertising device, and the annual renewal fee would be $10 rather than the present charge of $2.50.

Overtime Compensation for State Patrol Employees -- Bill 42

Testimony was given by the Department of Highways that employees of the Colorado State Patrol do not receive compensation for time worked over 40 hours. In the interest of fairness, the committee submits Bill 42 which would repeal the statute exempting State Patrol employees from inclusion in the overtime compensation provisions for state employees. A fiscal note is to be prepared for this bill before it is introduced in the 1977 session.

Informational Sites Along State Highways -- Bill 43

Bill 43 would authorize the Division of Highways to erect, administer, and maintain informational sites for the display of advertising and information of interest to the travelling public. The informational sites would be established at highway rest areas.

Highway billboards have been prohibited in certain areas under the Outdoor Advertising Act (section 43-1-401 et seq., C.R.S., 1973) but informational sites would be a useful method of informing the public of the availability of commercial services and such points of interest as state parks, publicly and privately owned recreation areas, museums, and historic places within the state. For a fee to be determined by the Division of Highways, but not to exceed $100, initial and renewal permits would be issued to allow advertising and informational plaques to be erected and maintained on the informational sites.

Audible and Visual Signal Equipment on Special Purpose Vehicles -- Bill 44

Statewide standards should be established to govern the use of emergency signals on special-purpose vehicles. Bill 44 incorporates the ideas of a task force consisting of representatives from the Highway Department and from organizations utilizing emergency signals.

Testimony was given by representative of police departments, fire departments and other concerned groups on the lack of uniformity in the use of audible and visual signals on special-purpose vehicles. This situation tends to confuse drivers and makes it difficult for them to determine the type of special-purpose vehicle which is approaching them. Proper recognition of the emergency or service vehicle is necessary so that drivers and pedestrians can make the proper response.

Proponents of emergency signal legislation also suggested that the conditions under which audible and visual signals may be used should be clearly delineated.

This bill would establish procedures governing the use of audible and visual signals on emergency vehicles. A police officer, for

example, would be required to give the standard audible and visual signal when directing a driver to pull over and stop.

Section 3 would prohibit local regulations in conflict with the established vehicle equipment requirements. The visual and signal equipment requirements for various emergency vehicles are set forth in section 4. For example, police vehicles would have to be equipped with lamps capable of displaying to the front and rear one or more flashing, oscillating, or rotating signal lights. The lights would have to display red alone, or red in combination with white, in combination with blue, or in combination with both white and blue. The horn or siren on a police vehicle would have to emit a sound audible from a distance of at least 500 feet.

A uniform standard for warning lights on service vehicles would be established in section 5 of the bill. An authorized service vehicle would be required to have one or more warning lamps capable of displaying to the front and rear one or more flashing, oscillating, or rotating yellow lights. This section would also prescribe the conditions under which such lights may be used and the duty of drivers encountering vehicles utilizing such lights.

Section 8 would change the required warning lights on snowplows from blue to yellow.

Sections 9 and 11 are included to give drivers and pedestrians a clearer understanding of their responsibilities in reacting to the approach of an emergency vehicle. Section 9 would require drivers to immediately clear the farthest left-hand lane of a roadway when an emergency vehicle approaches using audible or visual signals. Section 11 would require pedestrians to yield the right-of-way to an approaching emergency vehicle using audible or visual signals and to remain off the roadway until the emergency vehicle has passed.

Duties and Functions of Department of Revenue

Problems of administrative costs of the Motor Vehicle Division of the Department of Revenue were studied this interim. Of primary concern was the increasing gap between income from fees charged for various licenses and permits and the higher actual costs of processing the required forms. Testimony was given that if fees do not adequately cover the costs of operation, the deficit is made up with monies appropriated from the Highway Users Tax Fund. Fees should be made commensurate with administrative costs and the revenue raising measures (Bills 45 through 49) listed below are recommended.

Methods by which the motor vehicle-related functions of the Revenue Department could be made more efficient and less costly were also studied. Recommendations include Bill 50, providing that certified drivers' records are admissible in courts; Bill 51, relating to

the scheduling of hearings on suspension of drivers' licenses; Bill 52, repealing the statute requiring reflectorized plates; and Bill 53, relating to motor vehicle accident reports.

The final part of this year's study dealt with violators of motor vehicle laws. Various "loopholes" in the law were pointed out, which could allow traffic offenders to evade the legislative intent of penalties prescribed by statute. To correct these problems, the committee recommends Bill 54, repealing provisions concerning certain persons entitled to probationary licenses; Bill 55, broadening the habitual offender statute; Bill 56, expanding conditions under which drivers' licenses are mandatorily revoked; and Bill 57, revising penalties imposed under the implied consent statute.

Drivers' Licenses - Extension of the Validity Period and Fee Increase -- Bill 45

Bill 45 would extend from three to four years the time period for which drivers' licenses are valid. This extension would result in lower administrative costs for the Motor Vehicle Division because fewer new employees would be needed. This bill would also increase fees for a driver's license, or a minor or a provisional driver's license, from $2.25 to $7.50. The fee for duplicate copies of a certificate, an instruction permit, or a driver's license would also be increased from the fee of $1.25 to $3.00 for the first duplicate, and to $5.00 for any subsequent duplicate.

Bill 45 would also change the distribution of revenues collected from driver's license fees. The county clerk and recorder would receive $3.00, instead of their present share of $1.50. The Department of Revenue's share of the driver's license fee, which is deposited in the State Treasury to the credit of the Highway Users Tax Fund, would be increased from 75 cents to $4.50.

Fee for Motor Vehicle Temporary Registration Permits -- Bill 46

Fees for temporary registration permits for motor vehicles would be increased under the provisions of Bill 46 from $1.25 to $2.25. The fee for blocks of 25 temporary registration permits issued to motor vehicle dealers would be raised from $12.50 to $37.50.

Motor Vehicle Title Fee Increase -- Bill 47

Bill 47 would increase the fee for a certificate of title for a motor vehicle from $1.50 to $3.00. The cost for a duplicate title certificate would likewise be increased from $1.50 to $3.00.

Driver's License Restoration Fee Increase -- Bill 48

This bill would increase the restoration fee from $13 to $25 for the issuance of a new driver's license or the restoration of such license in those cases in which the license has been suspended, cancelled, or revoked.

Identification Card Fees -- Bill 49

An increase in the fee for an identification card (a card which is issued to a person who has no valid Colorado driver's license) from $2 to $5 is recommended. However, the bill would also provide that the charge on identification cards for applicants 60 years of age and over be eliminated.

Providing that Certified Drivers' Records Are Admissible in Courts -- Bill 50

The Department of Revenue now has to respond to over 7,000 subpoenas per year which request the appearance of representatives of the department in court with certified drivers' records. A personal response to these subpoenas is costly and is unnecessary in those situations where the same information can be provided by mail. Bill 50 would provide that certified copies of drivers' records would be admissible in all courts of record. Enactment of this legislation could reduce the number of court appearances required of personnel of the Department of Revenue.

Hearings on the Suspension of Drivers' Licenses -- Bill 51

A representative of the Department of Revenue explained that, because of the limited number of hearing officers to handle the large workload, the department is experiencing difficulty in holding hearings on driver's license suspensions within the period of time designated by statute. Consequently, the committee recommends Bill 51 which would extend the time period for holding these hearings.

In the case of the original hearing on the suspension of a driver's license, the bill would provide that the hearing be held within 20 days of the date of the hearing notice, rather than within the present ten day requirement. If the original hearing is delayed, a new hearing would have to be scheduled within 60 days, instead of 30 days, of the date of the original hearing. If a driver failed to appear at the original hearing and was not granted a delay, the license of such driver would be suspended or revoked and a new hearing would be held within 60 days after an application is made to the Revenue Department, rather than 30 days as the present law provides.

Reflectorized Plates - Repeal 42-4-114(4), C.R.S. 1973 -- Bill 52

The committee recommends Bill 52 which would repeal subsection 42-4-114(4), C.R.S. 1973, which requires that license plates be reflectorized. The committee concluded that this requirement is expensive to the state and is unnecessary for the promotion of the public's health and safety.

Damage Amount Requiring a Motor Vehicle Accident Report -- Bill 53

The owner or operator of a motor vehicle now must file an accident report with the Executive Director of the Department of Revenue if he is involved in an accident causing property damage of more than $100 to any one person. This minimum damage figure is unrealistic and contributes to an increasing burden of paperwork for the department. Therefore, the committee recommends Bill 53 which would increase the minimum dollar amount of damage requiring an accident report from $100 to $250.

Concerning Certain Persons Entitled to Probationary Licenses -- Bill 54

Bill 54 would repeal statutes which entitle persons to a hearing for a probationary license upon the satisfactory completion of a course of alcohol treatment in an approved program. (Subsections 42-2-122(4) and 42-2-123(13), C.R.S. 1973, as amended.)

A person found guilty of driving while intoxicated may now have the usual license revocation or suspension period shortened by completing an alcohol treatment program approved by the Division of Highways. Testimony indicated, however, that some persons may be taking such a course for the purpose of early restoration of their driving privileges rather than the purpose for which the course is intended, the treatment of a drinking problem. It was concluded that the statutory provisions which provide for mandatory revocation or suspension of driving privileges for periods of time ranging from six months up to two years are appropriate for those persons convicted of driving while intoxicated or while their ability is impaired by alcoholic consumption. Therefore, the committee recommends repeal of subsections 42-2-122 (4) and 42-2-123 (13) which would lessen the possibility that a driver's license would be restored to a person convicted of a drinking violation prior to the time specified in statute for such restoration.

Concerning Habitual Offenders -- Bill 55

The habitual offender statute would be extended under Bill 55 by stating that serious moving violations, such as engaging in speed contests, eluding a police officer, driving while having been denied a license, reckless endangerment, and vehicular eluding which results in bodily injury to another person, would be added to the list of offenses which establish a person as an "habitual offender". The

committee concluded that these offenses are serious enough to warrant their inclusion in the habitual offender statute.

The bill also provides that when a person, within a five year period, accumulates eighteen or more convictions of offenses involving moving violations he shall be considered an "habitual offender".

The effective date for the bill is July 1, 1977, and would apply to offenses occurring on or after that date.

Addition of New Offenses Requiring Mandatory Revocation of Drivers' Licenses -- Bill 56

The list of offenses requiring the mandatory revocation of an individual driver's license would be increased by Bill 56. The bill would provide that a person's driver's license be mandatorily revoked by the Department of Revenue when said person has been convicted of vehicular assault, criminally negligent homicide, or reckless endangerment while driving a motor vehicle. The committee concluded that conviction of any of these offenses represents sufficient grounds for a driver license revocation.

Amendment to Implied Consent Statute -- Bill 57

Changes are recommended in the length of time for which driving privileges may be revoked under the implied consent statute. The changes in revocation periods would apply to nonresident drivers with or without a license, and resident drivers without a license, who, without medical cause, refuse to take a chemical test for determining the alcohol content of their blood.

In the case of a nonresident driver, his privilege to operate a motor vehicle within Colorado would be revoked for a period of three months for the first such revocation, and twelve months for the second and subsequent revocations. These provisions would replace the present revocation period of six months.

A resident driver who does not possess a license and who refuses to take the chemical test for alcohol would be denied the issuance of a license for a period of three months for the first such violation and for twelve months for the second and subsequent violations. The present denial period is six months.

It was the committee's conclusion that a first time offender deserves the opportunity to have his driving privileges restored at an earlier date than does a repeat offender. The lessening of the suspension period from six to three months for first time offenders might also reduce the number of appeals on license suspensions which need to be heard by the appropriate state courts.

The bill states that all periods of revocation or denial of driving privileges would commence on the date of the hearing.

COMMITTEE ON TRANSPORTATION

BILL 35

A BILL FOR AN ACT

CONCERNING LOCAL GOVERNMENT REPORTS REQUIRED IN CONNECTION WITH ALLOCATIONS FOR EXPENDITURES FROM THE HIGHWAY USERS TAX FUND.

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 dates of filing by local government of expenditure reports and maps with the division of highways, and deletes the grace period for such reports.

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

SECTION 1. 43-2-115, Colorado Revised Statutes 1973, is amended to read:

43-2-115. Allocations - reports - grace period. The state treasurer or any other state officer so designated shall make complete allocations from highway user revenues to only those counties which have complied with all the requirements of this part 1. The state agency or department designated in this part 1 to receive county reports shall inform the counties in writing, by registered mail, of any delinquencies in reporting and shall forward a copy of such notice to the state treasurer ~~Delinquent~~

~~counties shall be allowed a grace period of ninety days after date of notice in which to rectify the delinquency. If the required reports have not been received at the end of the ninety-day grace period, the state treasurer~~ WHO shall withhold the moneys due to such counties until he has been informed that the required reports have been received. Payments withheld will be paid to the counties upon receipt of the delinquent reports.

SECTION 2. 43-2-120 (1) and (5), Colorado Revised Statutes 1973, are amended to read:

43-2-120. Annual county reports. (1) On or before the ~~first~~ THIRTIETH day of ~~May~~ JUNE of each year, the board of county commissioners of each county shall cause to be made and filed with the division of highways a complete report of the expenditures of all moneys applied to county road systems during the calendar year ending on the thirty-first day of December next preceding. The division of highways shall prescribe the form and contents of such report.

(5) ~~At the same time the reports of expenditures required by this section are filed with the division of highways~~ ON OR BEFORE THE FIRST DAY OF MARCH OF EACH YEAR, the board of county commissioners of each county shall submit to the state department of highways a map which indicates any changes in the mileage or location of any road within the county system of roads, together with any changes in the surface classification of any roads within the county system which have been made during the calendar year ending on the thirty-first day of December next preceding.

SECTION 3. 43-2-131, Colorado Revised Statutes 1973, is

amended to read:

43-2-131. Municipal allocations - delinquent reports - grace period. The state treasurer or any other state officer so designated shall make complete allocations from highway user revenues to only those cities, cities and counties, or towns which have complied with all the requirements of this part 1. The state agency or department designated in this part 1 to receive reports shall inform the cities, cities and counties, or towns in writing, by registered mail, of any delinquencies in reporting and shall forward a copy of such notice to the state treasurer ~~Delinquent-cities,-cities-and-counties,-or-towns-shall be-allowed-a-grace-period-of-ninety-days-after-date-in--which--to rectify--the--delinquency.--If-the-required-reports-have-not-been received,-at-the-end-of-the-ninety-day-grace--period,--the--state treasurer~~ WHO shall withhold the moneys due to such cities, cities and counties, or towns until he has been informed that the required reports have been received. Payments withheld will be paid to the cities, cities and counties, or towns upon receipt of the delinquent reports.

SECTION 4. 43-2-132 (1) and (5), Colorado Revised Statutes 1973, are amended to read:

43-2-132. Annual municipal reports. (1) On or before the ~~first~~ THIRTIETH day of ~~May~~ JUNE of each year, every city, city and county, and incorporated town shall cause to be made and filed with the division of highways a complete report of the expenditures of all moneys applied to city street systems during the calendar year ending on the thirty-first day of December next

preceding. The division of highways shall prescribe the form and contents of such report.

(5) ~~At the same time as the reports of expenditures required by this section are filed with the division of highways~~ ON OR BEFORE THE FIRST DAY OF MARCH OF EACH YEAR, each city, city and county, and incorporated town shall submit to the state department of highways the certification prepared as provided by section 43-2-125 showing all changes in total mileage and arterial mileage having been made during the calendar year ending on the thirty-first day of December next preceding.

SECTION 5. Effective date. This act shall take effect July 1, 1977.

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

COMMITTEE ON TRANSPORTATION

BILL 36

A BILL FOR AN ACT

CONCERNING CERTAIN DUTIES OF THE STATE HIGHWAY COMMISSION RELATING TO TRAFFIC REGULATION.

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 state highway commission shall approve model municipal traffic codes adopted by municipalities and that it shall approve the state driveway code, the state standards on identification lamps on certain vehicles, and the state regulations describing "hazardous materials" adopted by the state department of highways. Requires that new prohibitions on turns at stop lights be based upon a traffic analysis.

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

SECTION 1. 42-4-108 (1) (b), Colorado Revised Statutes 1973, as amended, is amended to read:

42-4-108. Provisions uniform throughout state. (1) (b) All local authorities may, in the manner prescribed in article 16 of title 31, C.R.S. 1973, adopt by reference all or any part of a model municipal traffic code APPROVED BY THE STATE HIGHWAY COMMISSION which embodies the rules of the road and vehicle requirements set forth in this article and such additional regulations as are provided for in section 42-4-109.

~~except--that;--in-the-case-of-state-highways;-any-such-additional regulations~~ ANY AMENDMENTS OR ADDITIONS TO THE APPROVED MODEL MUNICIPAL TRAFFIC CODE APPLICABLE TO STATE HIGHWAYS AND ANY OTHER REGULATIONS ADOPTED PURSUANT TO SECTION 42-4-109 APPLICABLE TO STATE HIGHWAYS shall have the approval of the state department of highways.

SECTION 2. 42-4-115 (2), Colorado Revised Statutes 1973, is amended to read:

42-4-115. Regulation of driveways. (2) The state department of highways shall prescribe and issue a STATE code APPROVED BY THE STATE HIGHWAY COMMISSION of reasonable standards for the design and location of driveways and may require that driveways shall be hard-surfaced. Such driveway code shall be consistent with the public safety and shall be based upon considerations of traffic volumes, drainage requirements, the character and use of land adjoining the highway, the type of traffic to use the driveway, and other operational aspects.

SECTION 3. 42-4-221 (4), Colorado Revised Statutes 1973, as amended, is amended to read:

42-4-221. Horns or warning devices. (4) The state department of highways shall adopt standards and specifications APPROVED BY THE STATE HIGHWAY COMMISSION applicable to identification lamps on vehicles engaged in highway construction, maintenance operations, or road studies or on vehicles escorting equipment under terms of a permit when operated on the highways of this state in addition to the lamps otherwise required on motor vehicles by this article. Such standards and

specifications may permit the use of one or more flashing lights on such equipment consistent with the provisions of this article and not in conflict with section 42-4-218 (3) (c) for purposes of identification and warning when in service upon the highways; except that snowplows and other snow-removal equipment, authorized to operate on the highway, shall display a flashing blue light as a warning to drivers when such equipment is in service on the highway. No such blue light shall be authorized for use on any other type of vehicle or equipment on the highway; except that such blue light shall be authorized for use on police vehicles when used in combination with one or more red flashing lights.

SECTION 4. 42-4-505 (4) (a) (I) and (4) (a) (II), Colorado Revised Statutes 1973, are amended to read:

42-4-505. Traffic control signal legend. (4) (a) (I) Such vehicular traffic, after coming to a stop and yielding the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection, may make a right turn, unless state or local road authorities within their respective jurisdictions ~~have--by---ordinance---or---resolution prohibited--any-such-right-turn-and-have-erected-an-official-sign at-each-intersection-where-such-right-turn-is--prohibited~~ ERECT AN OFFICIAL SIGN AT THE INTERSECTION GIVING NOTICE THAT SUCH RIGHT TURN IS PROHIBITED. EFFECTIVE JULY 1, 1977, PROHIBITIONS ON RIGHT TURNS AT STOP LIGHTS SHALL NOT BE IMPOSED AT INTERSECTIONS NOT PREVIOUSLY SO MARKED UNLESS THE STATE OR LOCAL ROAD AUTHORITY DETERMINES ON THE BASIS OF A TRAFFIC ANALYSIS THAT SUCH RIGHT

TURN IS INCOMPATIBLE WITH THE SAFE MOVEMENT OF TRAFFIC.

(II) Such vehicular traffic, when proceeding on a one-way street and after coming to a stop, may make a left turn onto a one-way street upon which traffic is moving to the left of the driver. Such turn shall be made only after yielding the right-of-way to pedestrians and other traffic proceeding as directed. No turn shall be made pursuant to this subparagraph (II) if STATE OR local authorities ~~have by ordinance prohibited any such left turn and erected a sign giving notice of any such prohibition at each intersection where such left turn is prohibited~~ ERECT AN OFFICIAL SIGN AT THE INTERSECTION GIVING NOTICE THAT SUCH LEFT TURN IS PROHIBITED. EFFECTIVE JULY 1, 1977, PROHIBITIONS ON LEFT TURNS AT STOP LIGHTS SHALL NOT BE IMPOSED AT INTERSECTIONS NOT PREVIOUSLY SO MARKED UNLESS THE STATE OR LOCAL ROAD AUTHORITY DETERMINES ON THE BASIS OF A TRAFFIC ANALYSIS THAT SUCH LEFT TURN IS INCOMPATIBLE WITH THE SAFE MOVEMENT OF TRAFFIC.

SECTION 5. 42-4-608 (5.5), Colorado Revised Statutes 1973, as amended, is amended to read:

42-4-608. Certain vehicles must stop at railroad grade crossings. (5.5) For purposes of this section, the state department of highways shall adopt and publicize such instructions and regulations APPROVED BY THE STATE HIGHWAY COMMISSION as may be necessary ~~describing~~ TO DESCRIBE what constitutes "hazardous materials". Such regulations shall correlate with and so far as possible conform to the most recent regulations of the United States department of transportation.

SECTION 6. Effective date. This act shall take effect July

1, 1977.

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

COMMITTEE ON TRANSPORTATION

BILL 37

A BILL FOR AN ACT

CONCERNING INTEREST EARNED ON STATE HIGHWAY FUNDS.

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 all interest earned on moneys in the highway users tax fund, the state highway fund, or the state highway supplementary fund shall remain in such funds and be used for the same purposes as other moneys in such funds.

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

SECTION 1. 43-1-219, Colorado Revised Statutes 1973, is amended to read:

43-1-219. Funds created. (1) There are hereby created two separate funds, one to be known as the state highway fund and the other to be known as the state highway supplementary fund. All moneys paid into either of said funds shall be available immediately, without further appropriation, for the purposes of such fund as provided by law. Any sums paid into the state treasury, which by law belong to the state highway fund or to the state highway supplementary fund, shall be immediately placed by the state treasurer to the credit of the appropriate fund. Upon

request of the commission or of the chief engineer, it is the duty of the state treasurer to report to the commission or to the chief engineer the amount of money on hand in each of said two funds and the amounts derived from each source from which each such fund is accumulated. All accounts and expenditures from each of said two funds shall be certified by the chief engineer and paid by the state treasurer upon warrants drawn by the controller. The controller is authorized as directed to draw warrants payable out of the specified fund upon such vouchers properly certified and audited. Nothing in this part 2 shall operate to alter the manner of the execution and issuance of highway anticipation warrants provided in part 3 of article 4 of this title.

(2) ALL INTEREST EARNED ON MONEYS DEPOSITED IN THE STATE HIGHWAY FUND OR THE STATE HIGHWAY SUPPLEMENTARY FUND SHALL REMAIN IN AND BE A PART OF SUCH FUND AND SHALL BE AVAILABLE IN THE SAME MANNER AND USED FOR THE SAME PURPOSES AS MONEYS DEPOSITED THEREIN.

SECTION 2. Part 2 of article 4 of title 43, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

43-4-217. Interest earned to remain in fund. All interest earned on moneys deposited in the highway users tax fund shall remain in and be a part of said fund and shall be allocated in the same manner and used for the same purposes as moneys deposited therein.

SECTION 3. Effective date. This act shall take effect July

1, 1977.

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

COMMITTEE ON TRANSPORTATION

BILL 38

A BILL FOR AN ACT

CONCERNING THE REGULATION OF BICYCLES.

Bill Summary

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

Rewrites provisions concerning the operation of bicycles and equipment requirements therefor.

Modifies provisions concerning the use of lighting and reflecting equipment, audible devices, and brakes on bicycles. Requires bicycles to comply with all traffic laws which are applicable and with special bicycle rules concerning the riding upon, turning, and parking of bicycles and for their operation upon roads and bicycle paths and lanes. Provides penalties for violations.

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

SECTION 1. 42-1-102 (6), Colorado Revised Statutes 1973, is amended to read:

42-1-102. Definitions. (6) "Bicycle" means a device propelled by human power upon which any person may ride and which has two **tandem** wheels ~~either--of--which-is-more-than-fourteen inches-in-diameter~~ IN TANDEM. THE TERM DOES NOT INCLUDE SCOOTERS AND SIMILAR DEVICES.

SECTION 2. 42-4-107 (10), Colorado Revised Statutes 1973, is amended to read:

42-4-107. Animals, skis, skates, and toy vehicles on highways. (10) No person shall use the highways for traveling on skis, toboggans, coasting sleds, skates, or similar devices. NO PERSON RIDING UPON ANY COASTER, ROLLER SKATES, SLED, TOY VEHICLE, OR SIMILAR DEVICE SHALL ATTACH THE SAME OR HIMSELF TO ANY VEHICLE UPON A ROADWAY. It is unlawful for any person to use any roadway of this state as a sled or ski course for the purpose of coasting on sleds, skis, or similar devices. It is also unlawful for any person upon roller skates or riding in or by means of any coaster, toy vehicle, or similar device to go upon any roadway except while crossing a highway in a crosswalk, and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This subsection (10) does not apply to any public way which is set aside by proper authority as a play street and which is adequately roped off or otherwise marked for such purpose.

SECTION 3. 42-4-218 (1), Colorado Revised Statutes 1973, is amended to read:

42-4-218. Bicycles - motor-driven cycles - lighting equipment - department control - use and operation. (1) (a) Every bicycle when in use at the times specified in section 42-4-203 shall ~~be equipped with~~ DISPLAY a lamp ~~on~~ TO the front, which shall emit a white light visible from a distance of at least five hundred feet to the front, and SHALL BE EQUIPPED with a red reflector on the rear, of a type approved by the department, which shall be visible from all distances from fifty

feet to three hundred feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. ~~A--lamp emitting-a-red-light-visible-from-a-distance-of-five-hundred-feet to--the--rear--may--be--used--in-addition-to-the-red-reflector.~~ A BICYCLE OR ITS OPERATOR AND RIDER MAY BE EQUIPPED WITH ADDITIONAL LIGHTS, REFLECTORS, OR REFLECTIVE MATERIAL WHICH RENDER SUCH BICYCLE OR RIDER MORE VISIBLE, BUT ANY ADDITIONAL LAMP OR REFLECTOR VISIBLE TO THE SIDES OR REAR SHALL DISPLAY AN AMBER OR RED COLOR.

(b) No person shall operate a bicycle unless it is equipped with ~~a--bell,-or-other-device-capable-of-giving-a-signal-audible for-a-distance-of-at-least-one-hundred-feet~~ AN AUDIBLE DEVICE; except that a bicycle shall not be equipped with nor shall any person use upon a bicycle a siren or whistle.

(c) Every bicycle shall be equipped with a brake OR BRAKES which will enable the operator to ~~make-the-braked-wheels-skid~~ STOP THE BICYCLE WITHIN TWENTY-FIVE FEET FROM A SPEED OF TEN MILES PER HOUR on dry, level, clean pavement.

SECTION 4. Article 4 of title 42, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW PART to read:

PART 16

BICYCLES

42-4-1601. Applicability of traffic laws to persons operating bicycles and other human-powered devices. Every person riding a bicycle or operating another human-powered device upon a roadway where travel is permitted shall have all of the rights

and duties applicable to the driver of a vehicle as set forth in this article, except as to special rights and duties in this article which, by their very nature, can have no application. Said persons shall also comply with special rules set forth in this part 16 and in section 42-4-218 (1) (b) and (1) (c) and, when using streets and highways within incorporated cities and towns, shall be subject to local ordinances regulating the operation of bicycles as provided in section 42-4-109. Whenever the word "vehicle" is used in any of the driving rules set forth in this article that are applicable to bicycle riders, such term shall include bicycles.

42-4-1602. Riding on bicycles. (1) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped; except that an adult rider may carry a child securely attached to his person.

(2) No person riding upon any bicycle shall attach the same or himself to any vehicle upon a roadway. This subsection (2) shall not be construed so as to prohibit attaching a bicycle trailer or bicycle semitrailer to a bicycle if such trailer or semitrailer has been designed for such attachment.

(3) No person riding a bicycle shall carry any package, bundle, or article which prevents the use of both hands in the control and operation of the bicycle. A person riding a bicycle shall keep at least one hand on the handlebars at all times.

(4) Unless otherwise permitted by local ordinance, no person shall ride a bicycle upon a sidewalk or within a crosswalk, but when walking a bicycle upon or within such places

said person shall have all the rights and duties applicable to a pedestrian.

42-4-1603. Operation of bicycles on roadways and bike paths - parking. (1) Every person riding a bicycle upon a roadway where bicycle travel is permitted shall ride as close to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction; but, when so riding, said bicyclist shall be granted sufficient space to use a roadway by any driver of a vehicle.

(2) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.

(3) A person riding a bicycle and intending to make a left turn shall follow a course prescribed in section 42-4-801 or shall proceed as follows: The approach for the left turn shall be made as close as practicable to the right curb or edge of the roadway. After proceeding across the intersecting roadway, the turn shall be made as close as practicable to the curb or edge of the roadway on the far side of the intersection. After turning, such person shall comply with any official traffic control device or police officer regulating traffic on the highway along which he intends to proceed.

(4) A person riding a bicycle shall comply with the provisions of section 42-4-803 to signal an intention to turn right or left or to stop; except that a signal by hand and arm

need not be given continuously if the hand is needed in the control or operation of the bicycle.

(5) Wherever a usable path for bicycles has been provided adjacent to a roadway under the provisions of section 42-4-107 (12), bicycle riders shall use such path and shall not use the roadway, except for purposes of access to such path.

(6) On those highways where a clearly marked and posted bicycle lane has been established under the provisions of section 42-4-107 (12), such lane shall be used by every person riding a bicycle on such highway rather than any other portion of the roadway. It is unlawful for any driver of a motor vehicle to travel or stop on any portion of such bicycle lane except at intersections and when entering or emerging from alleyways and driveways where said driver may turn across such lanes after yielding the right-of-way to operators of bicycles.

(7) Bicycles shall be parked in conformance with the provisions of sections 42-4-1101 to 42-4-1105; except that incorporated cities and towns may by ordinance provide a different method or manner of parking where permitted within their respective jurisdictions.

(8) All signs, markings, signals, and other traffic control devices that are erected by state and local authorities to regulate, warn, or guide bicycle traffic shall be uniform as to type and shall conform to the state manual and specifications as provided by sections 42-4-502 and 42-4-503.

42-4-1604. Distribution of bicycle rules. For the sake of uniformity and bicycle safety throughout the state, the

department in cooperation with the state department of highways shall prepare and make available to all local jurisdictions for distribution to bicycle riders therein a digest of state regulations explaining and illustrating the rules of the road, equipment requirements, and traffic control devices that are applicable to such riders and their bicycles. Local authorities may supplement this digest with a leaflet describing any additional regulations of a local nature that are applicable within their respective jurisdictions.

42-4-1605. Violations. Any person who violates any provision of this part 16 commits a class 4 traffic offense. Any person riding a bicycle or operating another human-powered device who violates any other applicable section of this article shall be subject to the penalty prescribed for such violation. The department has no authority to assess any points against any person under section 42-4-123 for the conviction of any violation of this article incurred while riding a bicycle or operating another human-powered device.

SECTION 5. Repeal. 42-4-107 (1) to (8), Colorado Revised Statutes 1973, are repealed.

SECTION 6. Effective date. This act shall take effect July 1, 1977.

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

COMMITTEE ON TRANSPORTATION

BILL 39

A BILL FOR AN ACT

CONCERNING THE METHOD OF GIVING CERTAIN WRITTEN NOTICES BY THE DEPARTMENT OF REVENUE AND THE STATE DEPARTMENT OF HIGHWAYS.

Bill Summary

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

Authorizes the department of revenue and the state department of highways to give certain written notices by first-class mail unless a different method of giving notice is provided by statute.

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

SECTION 1. Part 2 of article 1 of title 42, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

42-1-219. Method of giving written notice. (1) Except as provided in section 42-2-117 (2) or as otherwise provided by statute, the department is authorized to give written notice pursuant to this title either by personal delivery thereof to the person to be so notified or by first-class mail, with postage prepaid, addressed to such person at his address as shown by the records of the department. The giving of notice by mail is

complete upon the expiration of ten days after such deposit of said notice. Proof of the giving of notice in either such manner may be made by the certified statement of the officer or employee of the department who gave such notice or by affidavit of any person over eighteen years of age who gave such notice, naming the person to whom such notice was given and specifying the time, place, and manner of the giving thereof.

SECTION 2. 42-2-117 (2), Colorado Revised Statutes 1973, is amended to read:

42-2-117. Notices - change of address or name. (2) All notices required to be given to any licensee or registered owner under ~~the provisions~~ SECTION 42-2-119 (3), 42-2-122 (2), OR 42-4-1202 (3) (e) of the motor vehicle laws shall be in writing; and, if mailed postpaid by registered mail, return receipt requested, to him at the last known address shown by the records in the motor vehicle division, such mailing shall be sufficient notice in accord with the motor vehicle laws. Evidence of a registered return receipt of a notice mailed to the last known address of the licensee, or evidence of a copy of the notice mailed to the last known address of the licensee, or evidence of delivery of notice in person to the last known address of the licensee, or evidence of personal service upon the licensee of the order of denial, cancellation, suspension, or revocation of the license by the executive director of the department, or by his duly authorized representative, is prima facie proof of said denial, cancellation, suspension, or revocation.

SECTION 3. Part 1 of article 1 of title 43, Colorado

Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

43-1-112. Method of giving written notice. Except in cases where a different method of giving written notice is otherwise provided by statute, the state department of highways or the commission is authorized to give written notice pursuant to this title either by personal delivery thereof to the person to be so notified or by first-class mail, with postage prepaid, addressed to such person at his address as shown by the records of said department or the commission. The giving of notice by mail is complete upon the expiration of ten days after such deposit of said notice. Proof of the giving of notice in either such manner may be made by the certified statement of the officer or employee of said department or the commission who gave such notice or by affidavit of any person over eighteen years of age who gave such notice, naming the person to whom such notice was given and specifying the time, place, and manner of the giving thereof.

SECTION 4. Effective date. This act shall take effect July 1, 1977.

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

COMMITTEE ON TRANSPORTATION

BILL 40

A BILL FOR AN ACT

CONCERNING THE REGULATION OF VEHICLES AND TRAFFIC.

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 person driving on a one-way street may yield to an emergency vehicle by driving to either the right-or left-hand edge of the street, whichever is practicable. Revises and clarifies the law concerning pedestrians on highways and requires them to yield the right-of-way to emergency vehicles.

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

SECTION 1. 42-4-605, Colorado Revised Statutes 1973, as amended, is amended to read:

42-4-605. Operation on approach of emergency vehicles. Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of section 42-4-212 or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of a ~~highway~~ ROADWAY clear of any intersection, OR, IN THE CASE OF A ONE-WAY STREET OR ROADWAY, TO

EITHER THE RIGHT-HAND OR LEFT-HAND EDGE OR CURB OF SAID STREET OR ROADWAY, WHICHEVER IS PRACTICABLE, CLEAR OF ANY INTERSECTION, and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. Any person who violates any provision of this section commits a class 2 traffic offense.

SECTION 2. 42-4-705 (1), Colorado Revised Statutes 1973, as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

42-4-705. Pedestrians on highways. (1) Pedestrians walking along and upon highways where sidewalks are not provided shall walk only on a road shoulder, as far as practicable from the edge of the roadway. Where neither a sidewalk nor road shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, in the case of a two-way roadway, shall walk only on the left side of the roadway facing traffic that may approach from the opposite direction; except that any person lawfully soliciting a ride may stand on either side of such two-way roadway where there is a view of traffic approaching from both directions.

SECTION 3. 42-4-705 (5.5), Colorado Revised Statutes 1973, as amended, is amended, and the said 42-4-705 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

42-4-705. Pedestrians on highways. (5.5) No person shall solicit a ride on any highway included in the interstate system, as defined in section 43-2-101 (2), C.R.S. 1973, except at an entrance to or exit from such highway, at places specifically

designated by the STATE department OF HIGHWAYS, or in an emergency AFFECTING A VEHICLE OR ITS OPERATION.

(6.5) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of section 42-4-212 or of a police vehicle properly and lawfully making use of an audible signal only, every pedestrian shall yield the right-of-way to the authorized emergency vehicle and shall leave the roadway and remain off the same until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. This subsection (6.5) shall not relieve the driver of an authorized emergency vehicle from the duty to use due care as provided in sections 42-4-106 (4) and 42-4-707.

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

COMMITTEE ON TRANSPORTATION

BILL 41

A BILL FOR AN ACT

CONCERNING PERMITS FOR OUTDOOR ADVERTISING DEVICES.

Bill Summary

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

Increases fees for permits, and removal of permits, for outdoor advertising devices.

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

SECTION 1. ~~43-1-415 (1) (b) and (2) (b)~~, Colorado Revised Statutes 1973, are amended to read:

43-1-415. Permit term - renewal - fees. (1) (b) Each application for a permit shall be accompanied by a permit fee of ~~five~~ TEN dollars for each advertising device.

(2) (b) Application for renewal of a permit shall be accompanied by a fee of ~~two-dollars-and-fifty-cents~~ TEN DOLLARS per advertising device.

SECTION 2. Repeal. 43-1-413 (2) (c), Colorado Revised Statutes 1973, as amended, is repealed.

SECTION 3. Effective date. This act shall take effect July 1, 1977.

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

COMMITTEE ON TRANSPORTATION

BILL 42

A BILL FOR AN ACT

REPEALING 24-30-202 (18) (p), COLORADO REVISED STATUTES 1973, CONCERNING THE EXEMPTION OF EMPLOYEES OF THE COLORADO STATE PATROL FROM PROVISIONS FOR THE COMPENSATION OF STATE EMPLOYEES FOR OVERTIME.

Bill Summary

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

Repeals the exemption of employees of the Colorado state patrol from hours of work and overtime compensation provisions applicable to other state employees.

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

SECTION 1. Repeal. 24-30-202 (18) (p), Colorado Revised Statutes 1973, is repealed.

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

COMMITTEE ON TRANSPORTATION

BILL 43

A BILL FOR AN ACT

AUTHORIZING INFORMATIONAL SITES ALONG STATE HIGHWAYS.

Bill Summary

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

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

SECTION 1. 43-1-402, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

43-1-402. Definitions. (5.5) "Informational site" means an area established and maintained within a highway rest area wherein panels for the display of advertising and informational plaques may be erected and maintained.

SECTION 2. 43-1-408 (1), Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

43-1-408. Advertising devices prohibited - exceptions. (1) (c) Informational sites authorized under section 43-1-425.

SECTION 3. Part 4 of article 1 of title 43, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

43-1-425. Informational sites authorized. (1) The general assembly hereby finds and declares that:

(a) A large and increasing number of tourists have been coming to Colorado, and, as a result, the tourist industry is one of the largest sources of income for Coloradoans, with an increasing number of persons directly or indirectly dependent upon the industry for their livelihoods;

(b) Very few convenient facilities exist in the state to provide information on available public accommodations, commercial services for the travelling public, and other lawful businesses and points of scenic, historic, cultural, educational, and religious interest, and provision of those facilities can be a major factor in encouraging the development of the tourist industry in Colorado;

(c) Scenic resources of great value are distributed throughout the state and have contributed greatly to its economic development by attracting tourists, permanent and part-time residents, and new industries and cultural facilities;

(d) The scattering of outdoor advertising throughout the state is detrimental to the preservation of those scenic resources and to the economic base of the state and is ineffective in providing information to tourists about available facilities; and

(e) The proliferation of outdoor advertising is hazardous to highway users.

(2) The division of highways may erect, administer, and maintain informational sites for the display of advertising and

information of interest to the travelling public.

(3) The division of highways may issue permits for plaques in informational sites.

(4) Permits shall be issued for a period of one year, beginning each January 1, without proration for periods less than a year. Each application for an initial permit or for a renewal of an existing permit shall be accompanied by a fee determined by the division of highways, not to exceed one hundred dollars.

(5) The state department of highways shall promulgate and enforce rules, regulations, and standards necessary for the implementation of this section.

SECTION 4. 42-4-507, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

42-4-507. Display of unauthorized signs or devices. (4) The provisions of this section shall not be applicable to informational sites authorized under section 43-1-425, C.R.S. 1973.

SECTION 5. Effective date. This act shall take effect July 1, 1977.

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

COMMITTEE ON TRANSPORTATION

BILL 44

A BILL FOR AN ACT

CONCERNING EQUIPMENT ON MOTOR VEHICLES, AND PROVIDING FOR THE USE OF AUDIBLE AND VISUAL SIGNAL EQUIPMENT ON SPECIAL-PURPOSE VEHICLES.

Bill Summary

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

WHEREAS, The use of emergency vehicles and certain other special-purpose vehicles on streets and highways often creates very hazardous traffic situations; and

WHEREAS, A great variety of visual and audible signals are being used on such vehicles throughout the state, creating doubt about their regulatory or warning significance and thereby tending to confuse road users who confront them; and

WHEREAS, This multiplicity of signals necessitates reasonable regulation and standardization to achieve a desirable level of uniformity within the state for the protection of the traveling public and for proper driver and pedestrian recognition and response; and

WHEREAS, It is the intent of the general assembly to take appropriate initial steps toward bringing about the desired uniformity in the use of visual and audible signals on emergency vehicles and other special-purpose vehicles; now, therefore,

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

SECTION 1. 42-1-102 (5), Colorado Revised Statutes 1973, is amended, and the said 42-1-102, as amended, is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

42-1-102. Definitions. (5) "Authorized emergency vehicle" means such vehicles of the fire department, police vehicles, and ambulances, AND OTHER SPECIAL-PURPOSE VEHICLES as are publicly owned and OPERATED BY OR FOR A GOVERNMENTAL AGENCY TO PROTECT AND PRESERVE LIFE AND PROPERTY IN ACCORDANCE WITH STATE LAWS REGULATING EMERGENCY VEHICLES; SAID TERM SHALL ALSO MEAN such ~~other-publicly-or~~ privately owned vehicles as are designated by the state motor vehicle licensing agency, as provided under section 42-4-106 (5), TO BE EQUIPPED AND TO OPERATE AS EMERGENCY VEHICLES IN THE MANNER PRESCRIBED BY STATE LAW.

(5.5) "Authorized service vehicle" means such highway or traffic maintenance vehicles as are publicly owned and operated on a highway by or for a governmental agency the function of which requires the use of service vehicle warning lights as prescribed by state law and such other vehicles having a public service function, including, but not limited to, public utility vehicles and tow trucks, as determined by the state department of highways under section 42-4-212.5 (5).

(74.5) "State motor vehicle licensing agency" means the

motor vehicle division of the department of revenue.

SECTION 2. 42-4-106 (3) and (5), Colorado Revised Statutes 1973, are amended to read:

42-4-106. Public officers to obey provisions - exceptions for emergency vehicles. (3) The exemptions granted in this section to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of section 42-4-212; except that an authorized emergency vehicle being operated as a police vehicle while RESPONDING TO A SUSPECTED CRIME IN PROGRESS OR WHILE in actual pursuit of a suspected violator of any provision of this title need not display or make use of audible ~~and~~ OR visual signals so long as such RESPONSE OR pursuit is being made to obtain verification of or evidence of the guilt of the suspected violator. HOWEVER, ANY DIRECTION FROM A POLICE OFFICER THAT A DRIVER PULL OVER OR STOP SHALL ALWAYS BE GIVEN BY AUDIBLE OR VISUAL SIGNALS CONFORMING TO SECTION 42-4-212.

(5) The state motor vehicle licensing agency shall designate AS AN AUTHORIZED EMERGENCY VEHICLE any particular vehicle, ~~as-an-authorized-emergency-vehicle~~ OTHER THAN VEHICLES OF THE FIRE DEPARTMENT, POLICE VEHICLES, AMBULANCES, AND OTHER SPECIAL-PURPOSE VEHICLES WHICH ARE PUBLICLY OWNED AND OPERATED BY OR FOR A GOVERNMENTAL AGENCY, upon a finding that the designation of that vehicle is necessary to the preservation of life or property. ~~or---to---the--execution--of--emergency--governmental functions.~~ Such designation shall be in writing and ~~the--written designation~~ shall be carried in the vehicle at all times, but

failure to carry the written designation shall not affect the status of the vehicle as an authorized emergency vehicle.

SECTION 3. 42-4-108 (1) (d), Colorado Revised Statutes 1973, is amended to read:

42-4-108. Provisions uniform throughout state. (1) (d) In no event shall local authorities have the power to enact by ordinance regulations governing the driving of vehicles by persons under the influence of intoxicating liquor or narcotic drugs or whose ability to operate a vehicle is impaired by the consumption of alcohol, the registration of vehicles and the licensing of drivers, and the duties and obligations of persons involved in traffic accidents, AND VEHICLE EQUIPMENT REQUIREMENTS IN CONFLICT WITH THE PROVISIONS OF THIS ARTICLE; but said local authorities within their respective jurisdictions shall enforce the state laws pertaining to these subjects, and in every charge of violation the complaint shall specify the section of state law under which the charge is made and the state court having jurisdiction.

SECTION 4. 42-4-212 (1), (2), and (3), Colorado Revised Statutes 1973, are amended to read:

42-4-212. Audible and visual signals on emergency vehicles. (1) Except as otherwise provided in this section or in section 42-4-219 IN THE CASE OF VOLUNTEER FIRE VEHICLES AND VOLUNTEER AMBULANCES, every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this article, be equipped with a siren AND, IN ADDITION, MAY BE EQUIPPED WITH AN exhaust whistle, or bell, OR HORN. SUCH DEVICES SHALL BE capable of ~~giving an audible signal~~ EMITTING A SOUND

AUDIBLE UNDER NORMAL CONDITIONS FROM A DISTANCE OF NOT LESS THAN FIVE HUNDRED FEET.

(2) Every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this article, be equipped with at least one signal lamp mounted as high as practicable, which shall be capable of displaying a red light to the front and to the rear and having sufficient intensity to be visible at five hundred feet in normal sunlight; EXCEPT THAT ON OR AFTER JANUARY 1, 1978, EVERY AUTHORIZED EMERGENCY VEHICLE, INCLUDING EVERY NEW VEHICLE TO BE OPERATED AS SUCH, SHALL, IN ADDITION TO ANY OTHER EQUIPMENT AND DISTINCTIVE MARKINGS REQUIRED BY THIS ARTICLE AND EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, SECTION 42-4-106 (3), AND SECTION 42-4-219, BE EQUIPPED WITH SIGNAL LAMPS MOUNTED AS HIGH AND AS WIDELY SPACED LATERALLY AS PRACTICABLE. SUCH LAMPS SHALL BE CAPABLE OF DISPLAYING TO THE FRONT AND TO THE REAR ONE OR MORE FLASHING, OSCILLATING, OR ROTATING SIGNAL LIGHTS AS FOLLOWS:

(a) POLICE VEHICLES USING VISUAL SIGNAL LIGHTS SHALL DISPLAY RED ALONE OR RED IN COMBINATION WITH WHITE, BLUE, OR WHITE AND BLUE AND SHALL NOT USE ANY OTHER COLORS FOR SUCH SIGNALS EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (2);

(b) ALL AUTHORIZED EMERGENCY VEHICLES THAT ARE NOT POLICE VEHICLES SHALL DISPLAY RED ALONE OR RED IN COMBINATION WITH WHITE AND SHALL NOT USE ANY OTHER COLORS FOR SUCH SIGNAL LIGHTS EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (2);

(c) ANY AUTHORIZED EMERGENCY VEHICLE MAY BE EQUIPPED WITH YELLOW LIGHTS FACING TO THE REAR OF THE VEHICLE ONLY;

(d) ANY SIGNAL LIGHTS AUTHORIZED IN THIS SUBSECTION (2) SHALL HAVE SUFFICIENT INTENSITY SO AS TO BE VISIBLE AT FIVE HUNDRED FEET IN NORMAL SUNLIGHT.

(3) A police vehicle AND A FIRE VEHICLE, when used as an uthorized emergency vehicle, may but need not be equipped with the red lights specified in this section.

SECTION 5. Part 2 of article 4 of title 42, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-212.5. Visual signals on service vehicles. (1) Except as otherwise provided in this section, on or after January 1, 1978, every authorized service vehicle shall, in addition to any other equipment required by this article, be equipped with one or more warning lamps mounted as high as practicable, which shall be capable of displaying to the front and to the rear one or more flashing, oscillating, or rotating yellow lights. Such lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight.

(2) The warning lamps authorized in subsection (1) of this section shall be activated by the operator of an authorized service vehicle only when the vehicle is operating upon the roadway so as to create a hazard to other traffic. The use of such lamps shall not relieve the operator from his duty of using due care for the safety of others or from the obligation of using any other safety equipment or protective devices that are required by this article. Service vehicles authorized to operate also as emergency vehicles shall be equipped to comply with signal requirements for emergency vehicles.

(3) Whenever an authorized service vehicle is performing its service function and is displaying lights as authorized in subsection (1) of this section, drivers of all other vehicles shall exercise more than ordinary care and caution in approaching, overtaking, or passing such service vehicle and, in the case of highway and traffic maintenance equipment engaged in work upon the highway, shall comply with the instructions of section 42-4-614.

(4) On or after January 1, 1978, only authorized service vehicles shall be equipped with the warning lights authorized in subsection (1) of this section.

(5) On or before October 1, 1977, the state department of highways shall determine by rule and regulation which types of vehicles render an essential public service when operating on or along a roadway and warrant designation as authorized service vehicles under specified conditions.

(6) Any person who violates any provision of this section commits a class 4 traffic offense.

SECTION 6. 42-4-218 (3) (b) and (3) (c), Colorado Revised Statutes 1973, are amended, and the said 42-4-218 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

42-4-218. Bicycles - motor-driven cycles - lighting equipment - department control - use and operation. (3) (b) No person shall EQUIP, drive, or move any vehicle or equipment upon any highway with any lamp or device thereon CAPABLE OF displaying a red, COMBINATION RED AND WHITE, COMBINATION RED AND BLUE, OR COMBINATION RED AND WHITE AND BLUE light visible from directly in

front of the center thereof. This section shall not apply to any vehicle upon which ~~a-red-light~~ SUCH LIGHTS visible from the front ~~is~~ ARE expressly authorized or required by this article.

(c) Flashing lights OF ANY KIND on any vehicle are prohibited, except ~~where-expressly~~ AS authorized OR REQUIRED in this article.

(d) This subsection (3) shall not be construed to prohibit the use on any vehicle of simultaneously flashing hazard warning lights as provided by section 42-4-213 (7).

SECTION 7. 42-4-219 (1), Colorado Revised Statutes 1973, as amended, is amended to read:

42-4-219. Volunteer firemen - volunteer ambulance attendants - special lights and alarm systems. (1) All members of volunteer fire departments regularly attached to the fire departments organized within incorporated towns and cities and fire protection districts may have their private automobiles identified by red lights installed, two in number, in the front portion of said automobiles so that they can be readily seen by the public. Such lights may have a red glass lens with the word "Fire" across the face, and said word "Fire" shall be cast into the glass; or said automobiles may be equipped with a red light temporarily mounted on the top of the automobile while going to, attending, or returning from a fire or other emergency or a light permanently mounted on the top of the automobile. ~~and-lights used-only-while-going-to,-attending,-or-returning-from-a-fire--or other--emergency,--as--defined--by--the--chief--of-the-local-fire department.~~ Said automobiles may be equipped with audible signal

systems such as sirens, whistles, or bells. Said lights, together with any signal systems authorized by this subsection (1), may be used only when a member of any such department is responding to OR ATTENDING a fire ~~alarm~~ or other emergency. Neither such lights nor such signals shall be used for any other purpose than as those set forth in this subsection (1). If used for any other purpose, such use shall constitute a violation of this subsection (1), and the violator is guilty of a class 3 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1-106, C.R.S. 1973.

SECTION 8. 42-4-221 (1), (2), (4), and (4.5), Colorado Revised Statutes 1973, as amended, are amended to read:

42-4-221. Horns or warning devices. (1) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound, ~~or a whistle~~ EXCEPT AS PROVIDED IN SECTION 42-4-212 (1) IN THE CASE OF AUTHORIZED EMERGENCY VEHICLES. The driver of a motor vehicle, when reasonably necessary to insure safe operation, shall give audible warning with his horn but shall not otherwise use such horn when upon a highway.

(2) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section. It is permissible but not required that any ~~commercial~~ vehicle be equipped with a theft

alarm signal device which is so arranged that it cannot be used by the driver as ~~an--ordinary~~ A warning signal. SUCH A THEFT ALARM SIGNAL SHALL NOT USE A SIREN AS PROVIDED IN SECTION 42-4-212 (1), BUT MAY USE A WHISTLE, BELL, HORN, OR OTHER AUDIBLE SIGNAL. Any authorized emergency vehicle may be equipped with a ~~siren,-whistle,-or-bell-capable-of-emitting-sound--audible--under normal--conditions--from-a-distance-of-not-less-than-five-hundred feet~~ AN AUDIBLE SIGNAL DEVICE UNDER SECTION 42-4-212 (1), but such ~~siren~~ DEVICE shall not be used except when such vehicle is operated in response to an emergency call or in the ~~immediate~~ ACTUAL pursuit of ~~an-actual-or~~ A suspected violator of the law. ~~in-which-latter-events-the-driver-of--such--vehicle--shall--sound said--siren--when-necessary-to-warn-pedestrians-and-other-drivers of-the-approach-thereof.~~

~~(4) The-state-department-of-highways-shall-adopt--standards and-specifications-applicable-to-identification-lamps-on-vehicles engaged--in-highway-construction,-maintenance-operations,-or-road studies-or-on-vehicles--escorting--equipment--under--terms--of--a permit-when-operated-on-the-highways-of-this-state-in-addition-to the--lamps--otherwise-required-on-motor-vehicles-by-this-article. Such-standards-and-specifications-may-permit-the-use--of--one--or more--flashing--lights--on--such--equipment--consistent--with-the provisions-of-this-article--and--not--in--conflict--with--section 42-4-218--(3)-(c)-for-purposes-of-identification-and-warning-when in-service-upon-the-highways;-except--that~~ Snowplows and other snow-removal equipment ~~authorized--to--operate--on-the-highway;~~ shall display ~~a--flashing--blue--light~~ FLASHING YELLOW LIGHTS

MEETING THE REQUIREMENTS OF SECTION 42-4-212.5 as a warning to drivers when such equipment is in service on the highway. ~~No such blue light shall be authorized for use on any other type of vehicle or equipment on the highway; except that such blue light shall be authorized for use on police vehicles when used in combination with one or more red flashing lights.~~

(4.5) (a) When any snowplow or other snow-removal equipment displaying a flashing ~~blue light~~ YELLOW LIGHTS is engaged in snow and ice removal or control, all other vehicles shall exercise caution and care in approaching or passing said snowplow or equipment, and in no case shall any vehicle behind a snowplow or equipment displaying a flashing ~~blue light~~ YELLOW LIGHTS and engaged in snow or ice removal or control follow it at a distance less than is reasonable and prudent, except when passing.

(b) The driver of a snowplow, while engaged in the removal or control of snow and ice on any highway open to traffic and while displaying the required flashing ~~blue~~ YELLOW warning ~~light~~ LIGHTS AS PROVIDED BY SECTION 42-4-212.5, shall not be charged with any violation of the provisions of this article relating to parking or standing, turning, backing, or yielding the right-of-way. These exemptions shall not relieve the driver of a snowplow from the duty to drive with due regard for the safety of all persons, nor shall these exemptions protect the driver of a snowplow from the consequences of a reckless or careless disregard for the safety of others.

SECTION 9. 42-4-605, Colorado Revised Statutes 1973, as amended, is amended to read:

42-4-605. Operation on approach of emergency vehicles. Upon the immediate approach of an authorized emergency vehicle making use of audible ~~and~~ OR visual signals meeting the requirements of section 42-4-212 ~~or of a police vehicle--properly and--lawfully--making--use-of-an-audible-signal-only~~ OR 42-4-219, the driver of every other vehicle shall yield the right-of-way and WHERE POSSIBLE SHALL IMMEDIATELY CLEAR THE FARTHEST LEFT-HAND LANE LAWFULLY AVAILABLE TO THROUGH TRAFFIC AND shall ~~immediately~~ drive to a position parallel to, and as close as possible to, the right-hand edge or curb of a ~~highway~~ ROADWAY clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. Any person who violates any provision of this section commits a class 2 traffic offense.

SECTION 10. 42-4-614 (2), Colorado Revised Statutes 1973, as amended, is amended to read:

42-4-614. Driving in highway work area. (2) The driver of a vehicle shall yield the right-of-way to any authorized SERVICE vehicle engaged in work upon a highway whenever such vehicle displays flashing lights meeting the requirements of ~~section 42-4-221-(4)~~ SECTION 42-4-212.5.

SECTION 11. Part 7 of article 4 of title 42, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-708. Pedestrians to yield to emergency vehicles. Upon the immediate approach of an authorized emergency vehicle making use of audible or visual signals meeting the requirements of

section 42-4-212, every pedestrian shall yield the right-of-way to the authorized emergency vehicle and shall leave the roadway and remain off the same until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. This section shall not relieve the driver of an authorized emergency vehicle from the duty of using due care as provided in sections 42-4-106 (4) and 42-4-707.

SECTION 12. 42-4-1512, Colorado Revised Statutes 1973, as amended, is amended to read:

42-4-1512. Eluding or attempting to elude a police officer. Any operator of a motor vehicle who ~~the~~ A POLICE officer has reasonable grounds to believe has violated a state law or municipal ordinance, who, ~~has received a visual or audible signal such as a red light or a siren from a police officer driving a marked vehicle showing the same to be an official police, sheriff, or Colorado state patrol car directing the operator to bring his vehicle to a stop; and who~~ WHEN GIVEN AUDIBLE OR VISUAL SIGNALS CONFORMING TO SECTION 42-4-212, BY A UNIFORMED POLICE OFFICER IN A VEHICLE DIRECTING SAID OPERATOR TO BRING HIS VEHICLE TO A STOP, willfully increases his speed or extinguishes his lights in an attempt to elude such police officer, or willfully attempts in any other manner to elude the police officer, or does elude such police officer commits a class 2 traffic offense. THIS SECTION SHALL APPLY WHETHER OR NOT THE POLICE OFFICER IS USING A VEHICLE BEARING OFFICIAL POLICE INSIGNIA. A POLICE OFFICER MAY, IN ADDITION TO THE REQUIRED VEHICLE SIGNALS, ALSO IDENTIFY HIMSELF AS A POLICE OFFICER BY VOICE.

SECTION 13. Effective date. This act shall take effect July 1, 1977.

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

COMMITTEE ON TRANSPORTATION

BILL 45

A BILL FOR AN ACT

CONCERNING DRIVERS' LICENSES, AND RELATING TO THE FEES AND VALIDITY PERIOD THEREFOR.

Bill Summary

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

Increases the fees for drivers' licenses and duplicate drivers' licenses and extends the period of time for which drivers' licenses are valid.

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

SECTION 1. 42-2-112 (2) and (3), Colorado Revised Statutes 1973, are amended to read:

42-2-112. License issued - period of validity - fees. (2) The fee for the issuance of a driver's ~~and~~ OR A provisional driver's license shall be ~~two~~ SEVEN dollars and ~~twenty-five~~ FIFTY cents, which license shall expire on the birthday of the applicant in the ~~third~~ FOURTH year after THE issuance thereof or when the applicant reaches age twenty-one, whichever occurs first; except that, in THE case of a provisional driver's or driver's license issued by the office of the county clerk and recorder in each county, the office of the county clerk and

recorder shall retain the sum of ~~one-dollar-and-fifty-cents~~ THREE DOLLARS, and ~~seventy-five~~ FOUR DOLLARS AND FIFTY cents shall be forwarded to the department for deposit in the state treasury to the credit of the highway users tax fund, and the general assembly shall make appropriations therefrom for the expenses of the administration of parts 1 to 3 of this article.

(3) The fee for the issuance of a minor driver's license shall be ~~two~~ SEVEN dollars and ~~twenty-five~~ FIFTY cents, which license shall expire twenty days after the eighteenth birthday of the licensee. In THE case of THE issuance of such minor driver's license by the office of the county clerk and recorder, the fee therefor shall be apportioned in the same manner as for THE issuance of a driver's license.

SECTION 2. 42-2-115, Colorado Revised Statutes 1973, is amended to read:

42-2-115. Duplicate certificates. In the event that an instruction permit, a driver's license, or a certificate issued under the provisions of this article is lost, stolen, or destroyed, the person to whom the same was issued, upon request and the payment of a fee of ~~one-dollar-and-twenty-five-cents~~ THREE DOLLARS FOR THE FIRST DUPLICATE AND A FEE OF FIVE DOLLARS FOR ANY SUBSEQUENT DUPLICATE to the department, may obtain a duplicate or substitute therefor upon furnishing satisfactory proof to the department that such permit, license, or certificate had been lost, stolen, or destroyed and that the applicant is qualified to have such a license.

SECTION 3. Effective date. This act shall take effect

January 1, 1978.

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

COMMITTEE ON TRANSPORTATION

BILL 46

A BILL FOR AN ACT

INCREASING TEMPORARY REGISTRATION PERMIT FEES FOR MOTOR VEHICLES.

Bill Summary

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

Increases the fees for motor vehicle temporary registration permits.

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

SECTION 1. 42-3-114 (3), Colorado Revised Statutes 1973, is amended to read:

42-3-114. Expiration - temporary, new, and old plates - reflectorized plates. (3) (a) The department is authorized to issue individual temporary registration number plates, tags, or certificates good for a period not to exceed thirty days upon the filing of an application by any owner or his agent, dealer, salesman, or chauffeur and the payment of a registration fee of ~~one dollar~~ TWO DOLLARS and twenty-five cents, one dollar thereof to be retained by the county clerk and recorder issuing the plates, tags, or certificates and the remainder to be remitted monthly to the department to be deposited with the state

treasurer to the credit of the highway users tax fund. It is unlawful for any person to make use of such number plate, tag, or certificate after the expiration of the period for which the same was issued.

(b) The department is further authorized to issue to licensed motor vehicle dealers temporary registration number plates, tags, or certificates in blocks of twenty-five upon payment of a fee of ~~twelve~~ THIRTY-SEVEN dollars and fifty cents for each block of twenty-five, ~~fifty-percent~~ SIX DOLLARS AND TWENTY-FIVE CENTS thereof to be retained by the county clerk and recorder and the remainder to be remitted monthly to the department to be deposited with the state treasurer to the credit of the highway users tax fund.

SECTION 2. Effective date. This act shall take effect July 1, 1977.

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

COMMITTEE ON TRANSPORTATION

BILL 47

A BILL FOR AN ACT

INCREASING MOTOR VEHICLE CERTIFICATE OF TITLE FEES.

Bill Summary

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

Increases the fees for motor vehicle certificates of title.

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

SECTION 1. 42-6-135, Colorado Revised Statutes 1973, is amended to read:

42-6-135. Fees. (1) Upon filing with the authorized agent any application for a certificate of title, the applicant shall pay to the agent a fee of ~~one-dollar-and-fifty-cents~~ THREE DOLLARS, which charge shall be in addition to the fees provided by law for the registration of such motor vehicle.

(2) Upon the receipt by the authorized agent of any mortgage for filing under the provisions of section 42-6-120, he shall be paid such fees as are prescribed by law for the filing of like instruments in the office of the county clerk and recorder in the county or city and county wherein such mortgage is filed and shall receive, in addition thereto, a fee of ~~one~~

~~dollar--and--fifty--cents~~ THREE DOLLARS for the issuance of the certificate of title and the notation thereon of the existence of said mortgage.

(3) Upon application to the authorized agent to have noted on a certificate of title the extension of any mortgage therein described and noted thereon, such authorized agent shall receive a fee of ~~one-dollar-and-fifty-cents~~ THREE DOLLARS.

(4) Upon the release and satisfaction of any mortgage and upon application to the authorized agent for the notation thereof on the certificate of title in the manner prescribed in section 42-6-124, such authorized agent shall be paid a fee of ~~one-dollar and-fifty-cents~~ THREE DOLLARS.

(5) For the issuance of any duplicate certificate of title, except as may be otherwise provided in this part 1, the agent shall be paid a fee of ~~one-dollar-and-fifty-cents~~ THREE DOLLARS, and, in all cases wherein the department assigns a new identifying number to any motor vehicle, the fee charged for such assignment shall be ~~one-dollar-and-fifty-cents~~ THREE DOLLARS.

SECTION 2. Effective date. This act shall take effect July 1, 1977.

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

COMMITTEE ON TRANSPORTATION

BILL 48

A BILL FOR AN ACT

INCREASING RESTORATION FEES FOR DRIVERS' LICENSES.

Bill Summary

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

For any person whose license has been suspended, cancelled, or revoked, increases the restoration fee for the issuance of a new license or the restoration of a license.

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

SECTION 1. 42-2-124 (3), Colorado Revised Statutes 1973, as amended, is amended to read:

42-2-124. Period of suspension or revocation. (3) Any person whose license or other privilege to operate a motor vehicle in this state has been suspended, cancelled, or revoked, pursuant to either this article or article 7 of this title, shall pay a restoration fee of ~~thirteen~~ TWENTY-FIVE dollars to the executive director of the department prior to the issuance to such person of a new license or the restoration of such license or privilege.

SECTION 2. Effective date. This act shall take effect July 1, 1977.

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

COMMITTEE ON TRANSPORTATION

BILL 49

A BILL FOR AN ACT

CONCERNING FEES FOR THE ISSUANCE OF IDENTIFICATION CARDS TO PERSONS WITHOUT DRIVERS' LICENSES.

Bill Summary

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

Raises the fee for the issuance of identification cards to persons without drivers' licenses and imposes a fee for the provision of duplicates of such cards. Provides that, for persons sixty years of age or over, there is no fee for the issuance of such a card or duplicate card.

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

SECTION 1. 42-2-406 (1), Colorado Revised Statutes 1973, as amended, is amended to read:

42-2-406. Fees - disposition. (1) The department shall charge and collect a fee of ~~two~~ FIVE dollars at the time of application for an identification card or TWO DOLLARS FOR A duplicate CARD; except that, for applicants sixty years of age and over, ~~the fee shall be one dollar~~ THERE SHALL BE NO FEE.

SECTION 2. Effective date. This act shall take effect July 1, 1977.

SECTION 3. Safety clause. The general assembly hereby

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

COMMITTEE ON TRANSPORTATION

BILL 50

A BILL FOR AN ACT

CONCERNING DRIVERS' RECORDS KEPT BY THE DEPARTMENT OF REVENUE, AND PROVIDING FOR THEIR ADMISSION AS EVIDENCE IN COURTS.

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 properly certified copies of certain drivers' records, including drivers' histories, shall be admissible in courts of record as prima facie proof of the information they contain.

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

SECTION 1. 42-2-118 (2), Colorado Revised Statutes 1973, as amended, is amended to read:

42-2-118. Records to be kept by the department. (2) The department shall also file all accident reports, abstracts of court records of convictions received by it under the laws of this state, departmental actions, suspensions, restrictions, revocations, reinstatements, and other permanent records and, in connection therewith, maintain a driver's history by making suitable notations in order that an individual record of each licensee showing the convictions of such licensee, the

departmental actions, and the traffic accidents in which he has been involved, except those accidents not resulting in his conviction, shall be readily ascertainable and available for the consideration of the department upon any application for renewal of license and at other suitable times. SUCH RECORDS SHALL BE OFFICIAL RECORDS OF THE STATE OF COLORADO; AND COPIES THEREOF, ATTESTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE OR HIS DEPUTY AND ACCOMPANIED BY A CERTIFICATE BEARING THE OFFICIAL SEAL FOR THE DEPARTMENT THAT THE EXECUTIVE DIRECTOR OR HIS DEPUTY HAS CUSTODY OF SAID RECORDS, SHALL BE ADMISSABLE IN ALL COURTS OF RECORD AND SHALL CONSTITUTE PRIMA FACIE PROOF OF THE INFORMATION CONTAINED THEREIN.

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

COMMITTEE ON TRANSPORTATION

BILL 51

A BILL FOR AN ACT

CONCERNING SUSPENSION OF DRIVERS' LICENSES AND RELATING TO HEARINGS THEREFOR.

Bill Summary

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

Extends the period of time within which a hearing is held by the department of revenue to determine whether a driver's license should be suspended, and makes related amendments.

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

SECTION 1. 42-2-123 (8), (9), and (12), Colorado Revised Statutes 1973, are amended to read:

42-2-123. Authority to suspend license - to deny license - type of conviction - points. (8) Whenever the department's records show that a licensee has accumulated a sufficient number of points to be subject to license suspension, the department shall notify such licensee that ~~within ten days after the date of such notice;~~ a hearing will be held NOT LESS THAN TWENTY DAYS AFTER THE DATE OF SUCH NOTICE to determine whether his driver's license should be suspended. Such notification shall be given to the licensee in writing by regular mail, addressed to the address

of the licensee as shown by the records of the department.

(9) Suspension hearings when ordered by the department shall be held at the district office of the department closest to the residence of the licensee. A hearing delay shall be granted by the department only if the ~~license~~ LICENSEE presents the department with good cause for such delay. Good cause shall include absence from the state or county of residence, personal illness, or any other circumstance which, in the department's discretion, constitutes sufficient reason for delay. In the event that a suspension hearing is delayed, the department shall set a new date for such hearing no later than ~~thirty~~ SIXTY days after the date of the original hearing.

(12) If the driver fails to appear at such hearing after proper notification as provided in subsections (7) and (8) of this section and a delay or continuance has not been requested and granted as provided in subsection (9) of this section, the department shall immediately suspend the license of such driver, but such suspension or revocation shall not be effective until twenty days after notification of such action has been mailed to such licensee by registered or certified mail, return receipt requested, at his last known address as shown by the records of the department. Proof of such mailing is sufficient notice under this section. The notification of suspension or revocation shall recite therein that the licensee may apply for a hearing at any time within twenty days after the date of mailing of the order of suspension or revocation, and the licensee shall be advised that, if a hearing is applied for, the effective date of the order will

be extended until after the hearing is held. Such hearing shall be held within ~~thirty~~ SIXTY days after application is made, and at said hearing it shall be determined whether the order of suspension or revocation shall be entered in the same manner as if the licensee had originally appeared after first notice.

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

COMMITTEE ON TRANSPORTATION

BILL 52

A BILL FOR AN ACT

REPEALING 42-3-114 (4), COLORADO REVISED STATUTES 1973, CONCERNING THE REQUIREMENT THAT LICENSE PLATES BE COATED WITH A REFLECTIVE MATERIAL.

Bill Summary

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

Repeals the provision in the motor vehicle registration and taxation statutes which requires that all or part of the face of license plates to be coated with a reflective material.

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

SECTION 1. Repeal. 42-3-114 (4), Colorado Revised Statutes 1973, is repealed.

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

COMMITTEE ON TRANSPORTATION

BILL 53

A BILL FOR AN ACT

CONCERNING MOTOR VEHICLE ACCIDENT REPORTS, AND INCREASING THE MINIMUM DAMAGE AMOUNT REQUIRING A REPORT.

Bill Summary

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

Increases the minimum dollar amount of damage resulting from a motor vehicle accident which requires an accident report to be filed with the executive director of the department of revenue.

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

SECTION 1. 42-7-202 (1), Colorado Revised Statutes 1973, is amended to read:

42-7-202. Report of accident required. (1) The operator or owner of every motor vehicle which is in any manner involved in an accident in which any person is killed or injured or in which damage to the property of any one person in excess of ~~one-hundred dollars~~ TWO HUNDRED FIFTY DOLLARS is sustained, within ten days after such accident, shall report the matter in writing to the director. If such operator is physically incapable of making such report and is not the owner of the motor vehicle involved, the owner of the motor vehicle involved in the accident shall,

within ten days after learning of the accident, make such report. If the operator and owner are the same person and such person is physically incapable of making such report within the required ten-day period, such person may designate some other person to make the report on his behalf or shall file the report as soon as he is able to do so.

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

COMMITTEE ON TRANSPORTATION

BILL 54

A BILL FOR AN ACT

REPEALING 42-2-122(4) AND 42-2-123(13), COLORADO REVISED STATUTES 1973, AS AMENDED, CONCERNING CERTAIN PERSONS ENTITLED TO PROBATIONARY LICENSES.

Bill Summary

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

Repeals provisions entitling persons to hearing for a probationary license upon the satisfactory completion of a course of alcohol treatment in an approved program.

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

SECTION 1. Repeal. 42-2-122(4) and 42-2-123 (13), Colorado Revised Statutes 1973, as amended, are repealed.

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

COMMITTEE ON TRANSPORTATION

BILL 55

A BILL FOR AN ACT

CONCERNING HABITUAL OFFENDERS.

Bill Summary

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

Adds new offenses to those which establish a person as a habitual offender, including speed contests, eluding a police officer, and vehicular eluding, and makes miscellaneous other amendments.

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

SECTION 1. 42-2-202 (2) (a) (II), (2) (a) (III), and (2) (a) (V) and (3), Colorado Revised Statutes 1973, are amended to read:

42-2-202. Habitual offenders - frequency and type of violations. (2) (a) (II) (A) Operating a motor vehicle in a reckless manner, in violation of section 42-4-1203;

(B) ENGAGING IN ANY MOTOR VEHICLE SPEED OR ACCELERATION CONTEST OR EXHIBITION OF SPEED OR ACCELERATION, IN VIOLATION OF SECTION 42-4-1005;

(C) ELUDING OR ATTEMPTING TO ELUDE A POLICE OFFICER, IN VIOLATION OF SECTION 42-4-1512;

(III) Operating a motor vehicle while his license or privilege to drive a motor vehicle has been suspended, ~~or~~ revoked, OR DENIED, in violation of section 42-2-130;

(V) ~~Vehicular-assault-or-vehicular-homicide-as-described-in section-42-4-1209;~~ Vehicular assault, ~~or~~ vehicular homicide, RECKLESS ENDANGERMENT, OR VEHICULAR ELUDING WHICH RESULTS IN BODILY INJURY TO ANOTHER PERSON as described in title 18, C.R.S. 1973; manslaughter, criminally negligent homicide, and joyriding;

(3) A person is also an habitual offender if he has, within any five-year period or portion thereof, ten or more convictions of separate and distinct offenses involving moving violations which provide for an assessment of four or more points each or eighteen or more convictions of separate and distinct offenses involving moving violations which provide for an assessment of ~~three-or-less~~ points ~~each~~ in the operation of a motor vehicle, which convictions are required to be reported to the department and result in the assessment of points under section 42-2-123, including any violations specified in subsection (2) of this section.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 1977, and shall apply to offenses occurring on or after said date.

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

COMMITTEE ON TRANSPORTATION

BILL 56

A BILL FOR AN ACT

CONCERNING MANDATORY REVOCATION OF DRIVERS' LICENSES, AND ADDING NEW OFFENSES REQUIRING THAT SANCTION.

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 department of revenue to forthwith revoke the license of any driver convicted of vehicular assault, criminally negligent homicide, or reckless endangerment while driving a motor vehicle.

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

SECTION 1. 42-2-122 (1) (a), Colorado Revised Statutes 1973, is amended to read:

42-2-122. Mandatory revocation of license. (1) (a) Been convicted of vehicular homicide, VEHICULAR ASSAULT, CRIMINALLY NEGLIGENT HOMICIDE, OR RECKLESS ENDANGERMENT AS DESCRIBED IN TITLE 18, C.R.S. 1973, WHILE DRIVING A MOTOR VEHICLE;

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

COMMITTEE ON TRANSPORTATION

BILL 57

A BILL FOR AN ACT

CONCERNING DRIVERS' IMPLIED CONSENT TO CHEMICAL TESTS, AND RELATING TO PENALTIES FOR THE REFUSAL TO SUBMIT THERETO.

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 nonresident drivers and resident drivers without a license who without medical cause refuse to take a chemical test for determining the alcoholic content of their blood shall have their privilege of driving in this state or eligibility to obtain a license, as the case may be, denied for a shorter period of time for the first revocation, and for a greater period of time for the second and each subsequent revocation. Provides that the revocation or denial period commences from the date of the hearing.

Repeals a similar revocation provision to eliminate procedural disparities and makes conforming amendments.

SECTION 1. 42-2-103 (3) (c), Colorado Revised Statutes 1973, is amended to read:

42-2-103. Licenses issued - denied. (3) (c) Any person whose license is subject to suspension or revocation or who does not have a license but would be subject to suspension or revocation for violations prescribed in ~~sections~~ SECTION 42-2-122, ~~and~~ 42-2-123, OR 42-4-1202.

SECTION 2. 42-2-124 (3), Colorado Revised Statutes 1973, as

amended, is amended to read:

42-2-124. Period of suspension or revocation. (3) Any person whose license or other privilege to operate a motor vehicle in this state has been suspended, cancelled, or revoked, pursuant to either this article or article 4 OR 7 of this title, shall pay a restoration fee of thirteen dollars to the executive director of the department prior to the issuance to such person of a new license or the restoration of such license or privilege.

SECTION 3. 42-4-1202 (3) (c) Colorado Revised Statutes 1973, is amended to read:

42-4-1202. Driving under the influence - driving while impaired - implied consent to chemical tests - penalties. (3) (c) The department, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving a motor vehicle while under the influence of, or impaired by, alcohol and that the person had refused to submit to the test upon the request of the law enforcement officer, shall, as soon as possible, serve notice upon said person, in the manner provided in section 42-2-117, to appear before the department and show cause why his license to operate a motor vehicle or, if said person is a nonresident, his privilege to operate a motor vehicle within this state should not be revoked. The hearing held in accordance with the order to show cause shall not be continued unless the arrested person, or his representative, can establish to the hearing officer that there has been a recent death in the arrested person's immediate family, that the arrested person or a member of his immediate

family has recently been hospitalized, or that his attorney or a witness is unable to appear, or that a similar good cause exists which prevents the arrested person from appearing at a hearing. When such good cause is established, such hearing shall be held at the earliest possible date. Nothing in this paragraph (e) shall be construed to prohibit the department from rescheduling such hearing if good cause exists which prevents the hearing from being held at the time scheduled. At such hearing, it shall first be determined whether the officer had reasonable grounds to believe that the said person was driving a motor vehicle while under the influence of, or impaired by, alcohol. If reasonable grounds are not established by a preponderance of the evidence, the hearing shall terminate, and no further action shall be taken. If reasonable grounds are established and said person is unable to submit evidence that his physical condition was such that, according to competent medical advice, such test would have been inadvisable or that the administration of the test would not have been in conformity with the rules and regulations of the state board of health or in conformity with the provisions of this section, or, if said person fails to attend THE HEARING without good cause shown, the department shall forthwith revoke said person's license to operate a motor vehicle or, if said person is a nonresident, his privilege to operate a motor vehicle within this state for a period of ~~six~~ THREE months FOR THE FIRST SUCH REVOCATION AND FOR A PERIOD OF TWELVE MONTHS FOR THE SECOND AND EACH SUBSEQUENT REVOCATION; or, if the person is a resident without such license, the department shall deny to such person

the issuance of a license for a period of ~~six~~ THREE months ~~after the date of the alleged violation~~. FOR THE FIRST SUCH REVOCATION AND FOR A PERIOD OF TWELVE MONTHS FOR THE SECOND AND EACH SUBSEQUENT REVOCATION. ALL SUCH PERIODS OF REVOCATION OR DENIAL SHALL COMMENCE ON THE DATE OF HEARING. The revocation action provided for in this subsection (3) shall be in addition to any and all other suspensions, revocations, cancellations, or denials which may be provided by law, and any revocation taken under this subsection (3) shall not preclude other actions which the department is required to take in the administration of the provisions of this title. The hearings held by the department under this subsection (3) shall be at the district office of the department nearest the jurisdiction wherein the person was arrested.

SECTION 4. 42-7-406 (1), Colorado Revised Statutes 1973, is amended to read:

42-7-406. Proof required under certain conditions. (1) Whenever the director revokes the license of any person under section 42-2-122 OR 42-4-1202 or cancels any license under section 42-2-119 because of the licensee's inability to operate a motor vehicle because of physical or mental incompetence, or cancels any probationary license under section 42-2-123, the director shall not issue to or continue in effect for any such person any new or renewal of license until permitted under the motor vehicle laws of this state, and not then until and unless such person files or has filed and maintains proof of financial responsibility as provided in this article.

SECTION 5. Repeal. 42-2-122 (1) (j), Colorado Revised Statutes 1973, is repealed.

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

LEGISLATIVE COUNCIL

COMMITTEE ON LEGISLATIVE PROCEDURES

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During the 1976 interim, the Committee on Legislative Procedures studied and made recommendations in the following areas:

1) Immediate and Long-Range Office Space Needs for the Legislative Department;

2) Implementation of the Sunset Law; and

3) Public Meetings and Regulation of Lobbyists under the Sunshine Act.

Immediate and Long-Range Office Space Needs for the Legislative Department

In the 1976 interim, the Committee on Legislative Procedures directed attention toward resolving both the immediate and long-range space needs of the Legislative Department. The committee has taken action and submits recommendations with the hope of satisfying those needs.

Background Information Relating to Immediate and Long-Range Office Space Plans

The legislative appropriation bill for the 1976 session (H.B. 1261) was the impetus for the study directive concerning the planned use of space in the Capitol Building. A footnote to the bill allocated $35,000 from the appropriation for the House of Representatives and Senate to be used for planning for the use of space in the State Capitol. The footnote further allocated $50,000 to be used: (1) to provide furniture and fixtures for members of the General Assembly in a quantity limited to space available; and (2) to plan for increased efficiency in the use of personnel and space available. These funds were to be expended as the Legislative Council Committee on Legislative Procedures directed.

The appointment of a Task Force on Legislative Office Space, consisting of Senators Don MacManus and Harold McCormick and Representatives John Hamlin and Wellington Webb, was the initial step taken by the committee to evaluate the space needs of the Legislative Department. In its report to the full committee, the Task Force recommended both an immediate and a long-range plan to meet those space needs.

Following the recommendations of the Task Force, the committee proceeded to recommend a long-range office space plan for the Legis-

lative Department and to formulate a plan of action within the scope of those long-range objectives to meet the immediate space needs of the Department.

Long-Range Office Space Plan for the Legislative Department

A cursory examination of the State Capitol Building, with the planned July, 1977, move of the Judicial Department to its new quarters in the Judicial/Heritage Center in mind, suggests that there would be sufficient space within the building to meet the long-range office needs of the Legislative Department. Upon closer inspection, however, it becomes apparent that the long-range office needs of the members of the General Assembly, and its research, administrative, and secretarial staffs, cannot be satisfied unless the historical integrity of the Capitol Building is altered significantly and other modifications are undertaken at considerable expense. This situation is particularly apparent if it is assumed, as the committee did, that members of the General Assembly in the future will occupy private offices.

Historical integrity of the Capitol Building. The committee believes that the State Capitol Building is of considerable historical significance, and is of the opinion that any major alterations of the basic structure would lessen its historical value. It was concluded that a long-range space plan for the Capitol Building, providing individual office space for members of the General Assembly and adequate work space for its staff, would necessitate just such major alterations.

Costs to renovate the Capitol Building. The departure of the Judicial Department from the building will make available to the Legislative Department the second and third floors of the Capitol Building. In addition, the west corridor in the basement of the Capitol Building will still be available. It is the opinion of the committee that if all of the square footage available in these areas were designed differently or located differently, perhaps the square footage would be adequate. But the fact that the space is divided into rooms of widely varying size, with walls ranging between 18 and 24 inches in width, and based upon the costs of previous remodeling projects in the Capitol Building, it would appear that any major redesign would be completed only at substantial cost. Even if these areas were redesigned, the space is still insufficient to fully meet the anticipated long-range needs of the Legislative Department.

The committee concluded that alterations should not be made which would change the historical character of the building for the purpose of providing increased office space. Furthermore, it concluded that the current design of the building for offices should not be modified to better utilize the space through perhaps excessively expensive remodeling. Therefore, the committee reviewed options that could supplement the amount of usable space in the Capitol Building to meet the long-range needs of the Legislative Department.

State Museum Building. Among the options considered was the possible use of the State Museum Building located directly south of the Capitol Building on Fourteenth Street. That building will become available when the State Historical Society moves to the Judicial/Heritage Center, which move is planned to be accomplished in 1977.

There is approximately 25,000 square feet of space in the Museum Building available for redesign, and the committee was advised that the building is structurally sound. Much of the building is open space and the present dividing walls apparently could be removed without extreme difficulty or expense.

Committee recommendations and actions -- Bill 58 The committee recommends the utilization of all available space in the basement and on the second and third floors of the Capitol Building, as well as the space in the Museum Building, to meet the long-range space needs of the Legislative Department. It is recommended that the space be ready for use by the General Assembly at the beginning of the 1979 session.

As a prerequisite to implementing the long-range plan for the Museum Building, Bill 58 is recommended. This bill would give the General Assembly the power to assign space and to provide furnishings and equipment in the Museum Building.

Pursuant to the provisions of H.B. 1261, the committee has expended the $35,000 planning appropriation by selecting an architect, Pahl and Associates, to proceed with preliminary planning for the long-range project. The hiring of Pahl and Associates was based upon a recommendation to the committee by the Task Force after the Task Force had interviewed three architectural firms.

The committee directed the architect to have preliminary plans at a point by February 1, 1977, so that the General Assembly could appropriate the necessary funds for final planning and construction.

To aid the architect in developing plans for both buildings, the committee has recommended several broad guidelines. In the Capitol Building (in addition to the legislative facilities currently located in the building), space should be allocated for: expanded offices for leadership; offices for the members of the Joint Budget Committee and for the chairmen of the standing committees of reference of both houses of the General Assembly; and expanded facilities for administrative personnel. Space in the Museum Building should be reserved for the offices of the remaining members of the General Assembly and their support personnel. Both buildings should include storage space for janitorial supplies and other maintenance equipment.

The committee designated the Directors of the Legislative Council and Legislative Drafting Office, the Secretary to the Senate, and the Chief Clerk of the House of Representatives to work with the architect and to keep the General Assembly informed as the project proceeds.

Immediate Space Plan for the Legislative Department

For the period of time prior to the availability of the space in the Museum Building and the permanent utilization of the additional Capitol Building space, the committee formulated a plan to alleviate some of the immediate space needs of the Legislative Department by temporarily utilizing 6,600 usable square feet currently available in the Capitol Building.

To meet each space needs, the committee recommended a formula for the allocation of space and expended funds authorized under H.B. 1261 for necessary remodeling and the purchase of necessary furniture and fixtures.

Allocation of space. Effective for the 1977 session, the political party having the largest number of members in the House of Representatives and in the Senate combined shall be assigned the first floor Capitol Building space formerly occupied by the Attorney General, excluding the first room on the north corridor which is to serve temporarily as a lounge for legislators. The political party having the lesser number of members in the two houses shall be assigned space in the west end of the Capitol Building basement and in the present third floor legislative lounge. Further, two rooms in the basement and two rooms on the first floor are to be set aside as conference rooms.

According to the plan, members of the General Assembly will share 27 work stations on the first floor, seven on the third floor, and twelve in the basement, with the specific assignments to be made by the leadership. A work station will consist of a desk and a telephone. In order to provide phone answering and stenographic services, three secretaries will be available in the basement, seven will be on the first floor, and two will be assigned on the third floor. A switchboard system has been installed for telephone service.

Renovation of space. The immediate plan does not provide for any renovation on the first and third floors, with the exception of minor plaster repairs and minimal painting on the first floor. In the west end of the basement, renovation of a limited and temporary nature -- carpeting, painting, and placing movable partitions into position --has taken place. Also, the telephone switchboard is located in the basement in the entry area to the Legislative Council Print Room. To lessen the noise for the proper operation of the switchboard, it was necessary to erect soundproof walls in the print room and to carpet part of the area where the switchboard is located.

Pahl and Associates was retained as the architectural firm for the project. This firm was the only firm considered for this project, since the committee believed that their experience with other Capitol Building projects would guarantee that the renovation would be completed within a short period of time, as required under the terms of the immediate space plan.

The decisions relating to renovation were made to coordinate with the long-range plan to develop the west end of the basement as a legislative library and eventually to reclaim the third floor space as a legislative lounge. The first floor space was not renovated, since it is not within the long-range plan. According to state statute (H.B. 1135, 1976 session), the designation and assignment of space on the first floor is under the control of the Executive Department. Based upon the request of the committee, the Executive Department has agreed to permit the temporary use of that space by the Legislative Department.

Implementation of the Sunset Law -- Bill 59

In addressing the question of implementing the Sunset Law, the committee submits recommendations in the following areas:

(1) Issuance or renewal of licenses during an agency's "wind-up" period;

(2) Disposition of powers, duties, and functions created by the State Constitution which are vested in an agency or officer which is terminated;

(3) Legislative procedures and agency reviews;

(4) Agencies scheduled for termination in even-numbered years; and

(5) Status of legal claims or rights by, against, or through terminated agencies.

Except for a recommendation as to the assignment of agency reviews to standing committees, the committee recommendations concerning the Sunset Law are embodied in Bill 59.

Issuance or Renewal of Licenses During an Agency's Wind-up Period

The Sunset Law gives an agency which is terminated a one-year grace period in which to wind up its affairs. Some ambiguities as to the powers and functions of agencies during this period were raised during the interim, including whether the various licensing authorities should continue to issue licenses and permits during the wind-up year. Specifically, the questions involve agencies which continue to issue licenses during their wind-up year, and whether a one-year license, for example, should be issued to someone three months before the agency's wind-up year is over. In this example, the licensee would have paid a one-year's fee for three months of a license, whereas other persons had paid the same fee for a full year's license. Similar situations would arise in cases in which licenses, which are valid for more than one year, are issued prior to termination.

To alleviate this potential problem, the committee recommends, in Bill 59, a provision that every license issued or renewed during the wind-up period would expire at the end of the period and the original license and renewal fees would be prorated accordingly (section 24-34-104(5)). Further, the agency would be required to refund that portion of the fee for the period after the wind-up in cases in which a license was issued or renewed prior to termination and it is scheduled to expire at a date subsequent to the conclusion of the wind-up period. In the latter case, a license would expire at the conclusion of the wind-up period.

Another licensing problem may arise when an agency ceases its operations but the provisions of the statutes are retained which set forth a penalty for a person who conducts a business or profession without a license. To avoid this potential problem, the committee recommends in Bill 59 that any penalty for engaging in any profession or activity without being licensed would not be enforceable to any activities which occur after the conclusion of the agency's wind-up period.

Disposition of Powers, Duties, and Functions Created by the State Constitution which are Vested in a Terminated Agency or Officer

Pursuant to Article XXV of the State Constitution, the General Assembly is given the power to designate, by law, an agency to regulate public utilities. Article XXV further states that such authority is to be vested in the Public Utilities Commission until such time as the General Assembly may otherwise designate. The Sunset Law is silent on the question of another agency being designated to assume the role of public utility regulation if the PUC is terminated and if the General Assembly does not act to designate another agency.

To alleviate any potential problem in this area, the committee recommends that, if any agency or officer is terminated which has such constitutionally directed powers, duties, and functions and if the General Assembly does not designate another agency or officer to assume them, those powers, duties, and functions would continue at the conclusion of the wind-up period under the principal department of the agency or officer as a type 2 transfer. The General Assembly could make the designation at any time subsequent and remove the authority from the principal department. (Section 24-34-104(5.5) in Bill 59)

Under a type 2 transfer, the agency or officer would operate under the complete authority of the Executive Director. The Executive Director would have the final authority in policy-making, in rule-making, and in adjudicatory proceedings, but the Executive Director could delegate, at his discretion, some of the authority back to an agency.

Although the PUC is presently the only agency within the scope of this bill, the language in Bill 59 is broad enough to cover all agencies or offices created or given duties by the State Constitution,

if the scope of the Sunset Law is ever expanded.

Legislative Procedures and Agency Reviews

Discussion of legislative procedures and agency reviews centered on the assignment of agency reviews to standing committees and the deadlines for performance audits.

Assignment to standing committees. The assignment of agency reviews should be conducted in as consistent and balanced a way as practicable. To accomplish this objective, the committee recommends that: (a) committee assignments be made so as to balance committee workloads; (b) assignments be as consistent between houses as possible; (c) the General Assembly, immediately upon convening, begin consideration of agency reviews that will have had their audits completed at that time; and (d) the affected agencies be notified in advance of the General Assembly's immediate consideration of their reviews.

Date of performance audits. The due date for the completion of the Legislative Audit Committee's performance audit of an agency is an important factor in contributing to the efficiency of the legislative process regarding the Sunset Law.

The Sunset Law provides that the performance audit report is due at least three months prior to the July 1 statutory date of termination. The co-chairmen of the Legislative Procedures Committee requested the Legislative Audit Committee to complete the performance audits for the thirteen agencies scheduled for termination in 1977 at an earlier date. The information received indicated that six audits will be completed by December 31, 1976, and the remaining seven will be finished by February 28, 1977. The committee recommends in Bill 59 that the due date for the completion of the performance audit reports be changed from three months prior (March 31) to six months prior (December 31) to the agencies' termination date (section 24-34-104(7) in Bill 59).

Agencies Scheduled for Termination in Even-Numbered Years

The Sunset Law provides that if an agency was subject to termination in an even-numbered year and was not included as a call item, the question of termination, continuation, or reestablishment would be extended to the next odd-numbered year legislative session (section 24-34-104(9), C.R.S. 1973, as amended). For the immediate future, this provision will not be applicable since all agencies currently listed in the Sunset Law are scheduled for termination in odd-numbered years, but the amendatory language is recommended to clarify the intent of this subsection.

Status of Claims or Rights By, Against, or Through Terminated Agencies

Under the Sunset Law, if a citizen has a claim or right against a terminated agency or if a terminated agency has a claim or right subject to litigation, such claims and rights are to be assumed by the Department of Regulatory Agencies (section 24-34-104(11)). The claims or rights a citizen may have against a licensee, based upon the existence of an agency, are not necessarily protected under the Sunset Law if such agency is terminated.

For example, prior to the issuance of any license by the Collection Agency Board, a collection agency is required to file a bond, which is to run to the Collection Agency Board for the use of the people of the State of Colorado. A person may file with the board a duly verified claim as to money due him for money collected by a licensee or collection agency. However, it could be contended that a claimant's right to recover money from a licensee would not be protected if the Collection Agency Board was terminated.

The committee recommends amendatory language to cover this type of situation, which language would provide that a claimant could pursue his claim through the Department of Regulatory Agencies.

In addition, two additional technical changes are recommended in the Sunset Law. The current law refers to a "citizen" having a right or claim; however, the committee recommends changing "citizen" to "person" since the definition of "citizen" is not broad enough. For example, it would not include a corporation. Also, subsection (11) refers to claims or rights involving a "terminated agency". This wording is recommended to be changed to "an agency which has ceased its activities" to reflect the fact that an agency will continue to operate through the wind-up period.

Sunshine Act

Public Meetings under the Sunshine Act -- Bill 60

The present law. Part 4 of the present Colorado Sunshine Law, officially entitled the "Open Meetings Law", declares that the formulation of public policy is public business and, therefore, may not be conducted in secret. **It specifies in subsection (1) that:**

> All meetings of two or more members of any board, committee, commission, or other policy-making or rule-making body of any state agency or authority or of the legislature at which any public business is discussed or at which any formal action is taken by such board, committee, commission, or other policy-making or rule-making body are declared to be public meetings open to the public at all times, except as may be otherwise provided in the constitution.

It requires that any such meetings at which the discussion or adoption of a proposed formal action is undertaken may only be held after "full and timely notice" to the public. The secretary or clerk of the public policy-making body is directed to maintain a list of those persons requesting notification of all or certain of its meetings, and to provide them with such.

Any formal action taken by any public policy-making body is invalid if accomplished in violation of the above open meeting and notice requirements. Injunctive power is granted the courts in order to enforce the terms of the law. The law requires that the minutes of meetings of the affected public policy-making bodies be promptly recorded and open to the public.

Committee deliberations. The major concerns of the committee regarding the Open Meetings Law, were the following:

(1) The criteria for determining whether a meeting requires that "full and timely notice" be given to the public were thought to be overly-inclusive. The specific language of subsection (2) reads as follows:

> Any meetings at which the discussion or adoption of any proposed resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance shall be held only after "full and timely notice" to the public.

It was argued that, while the informal, "chance" meetings of small numbers of legislators or members of other public policy-making bodies should be open to the press and public, such occasions should not require "full and timely notice", and often do not permit such notice. The brief and unplanned floor conference between two legislators, the informal luncheon of committee members, and the accidental meeting of board members on a public sidewalk were cited as examples of such occasions. The importance of such informal contacts to the process of formulating public policy, particularly legislative policy, was emphasized by many. Enforcement of the current Open Meetings Law, it was argued, would encumber that very process.

(2) It was further argued that the current law is harmful by not allowing public policy-making bodies to hold closed or executive sessions in those instances when public exposure might be inappropriate to the subject under consideration or injurious to the public weal. The meetings of public bodies which involve the discussion of personnel, legal strategy, or possible real estate transactions were mentioned as appropriate matters for exemption from the open meetings requirement.

(3) Several members indicated that the Act's penalty provision is inappropriate. The specific language of subsection (4) reads as follows:

> No resolution, rule, regulation, ordinance, or formal action of a board, committee, commission, or other policy-making body, shall be valid unless taken or made at a meeting that meets the requirements of subsections (1) and (2) of this section.

Subsections (1) and (2) refer to requirements for open meetings and "full and timely notice".

It was suggested that any piece of legislation enacted since the Sunshine Act became effective could be invalidated if it can be proven that two legislators held a closed meeting at which they discussed the bill or that they held an open or a closed meeting on the bill without "full and timely notice". Chances of invalidation are significant due to the frequent failure of legislators to give proper public notice with respect to their informal or chance meetings. It was suggested that a bill could be vulnerable to sabotage by its legislative opponents if those in opposition would purposely hold a closed meeting or purposely fail to give "full and timely" public notice.

Though the committee addressed three primary areas of the Open Meetings Law, it submits recommendations only on "full and timely notice" and penalty issues. Bill 60 incorporates these changes.

Committee recommendations. Bill 60 would retain subsection (1) of the present statute without substantive amendment. Only technical changes are made, with the only possible exception being the addition of "caucus" to the list of meetings which must be open to the public at all times.

The following are the other, substantive changes proposed in Bill 60:

(1) Full and timely notice: The proposal would amend subsection (2) of the law as shown:

> Any meetings at which the discussion or adoption of any proposed POLICY, POSITION, resolution, rule, regulation, or formal action occurs ~~or~~ AND at which a majority or quorum of the body is EXPECTED TO BE in attendance shall be held only after full and timely notice to the public.

Bill 60 would not alter the Sunshine Act requirement that meetings of two or more members of any board, committee, commission, or any other policy-making or rule-making body must be open if public business is discussed. It would, change, however, the "full and timely notice" requirement presently applicable to such meetings. "Full and timely notice" would need to be given only if there is to be a discussion of public business and if a majority or a quorum of the body is expected to be in attendance.

The substitution of "and" for the "or" of the present statute

and the insertion of "expected to be" would exempt the informal, impromptu meetings of public-policy makers from the notice requirement. As noted previously, these changes would not exempt such meetings from the requirement that they be open.

(2) Penalty provision. The proposed bill would strike the existing penalty language, which provides that any resolution, rule, regulation, ordinance, or formal action of any of the affected policy-making bodies shall be invalid if made or taken in violation of the law's open meeting and notice requirements. In its place, Bill 60 would provide a penalty applicable to the individuals who commit the violation. Such violations would be Class 2 misdemeanor offenses, carrying a penalty of from three to twelve months imprisonment, a fine of from $250 to $1,000, or any combination of the fine and imprisonment.

Regulation of Lobbyists Under the Sunshine Act -- Bill 61

Part 3 of the "Colorado Sunshine Act" requires those involved in lobbying activities before the General Assembly or any rule-making state agency to register and to make certain disclosures. The Act also contains provisions relating to penalties and to contingency agreements for payment. The Secretary of State has the duty and responsibility to administer this portion of the Sunshine Act.

Within the last year, a number of questions have been raised as to the interpretation and subsequent administration of the Act by the Secretary of State. Currently, an action brought by a group of lobbyists is pending in court which seeks to answer some of these questions.

The Legislative Procedures Committee reviewed the myriad of issues involved and sought to arrive at a legislative, rather than a judicial, solution to the problems by recommending Bill 61. Before discussing the major issues contained in Bill 61, it may be helpful to review the essential background information.

Guidelines issued by the Secretary of State. To properly administer Part 3 of the Act, the Secretary of State believed that several provisions needed clarification and some questions were raised in 1975 to the Attorney General concerning the scope, application, and interpretation of Part 3. The Attorney General issued Opinion 75-0006 on September 15, 1975, which attempted to clarify the provisions of the Act which had been the source of confusion for the Secretary of State. It should be noted that a previous Attorney General issued an opinion in early 1973 (Opinion 73-0003, January 18, 1973) relating to the regulation of lobbyists, and the 1975 opinion did conflict with the 1973 opinion in terms of who should register as a lobbyist and what is lobbying.

After the receipt of the opinion, the Secretary of State issued a set of Guidelines for Lobbyist Disclosure under the Colorado

Sunshine Act. The guidelines, which went into effect in January, 1976, are an interpretation of the Act by the Secretary of State.

Lobbyist's suit. The issuance of the guidelines precipitated a suit, still pending, brought by a group of lobbyists raising a number of questions concerning Part 3 of the Sunshine Act. In brief, it is contended in the lobbyist's suit that Part 3 of the Act is unconstitutional because it is "vague, confusing, overbroad and indefinite on its face". Also, there are several arguments relating to the guidelines themselves.

The suit questions the authority of the Secretary of State to issue any type of rules, regulations, or guidelines and contends that procedural requirements were not followed in promulgating the guidelines. It is also pointed out that some of the provisions of the guidelines go beyond the scope of the Act, such as the definition of lobbying and disclosure requirements.

Another contention is that the Sunshine Act impedes the constitutional power of each house of the General Assembly to make rules to regulate its own affairs. Finally, it is argued that the Act places an invalid restriction on an attorney's right to practice law in that before he represents a client before a board or commission, an attorney must register as a lobbyist and that this requirement conflicts with the constitutional power of the judiciary to regulate and control the practice of law.

Committee deliberations. As a basis for committee discussion, the Attorney General's office was requested to prepare a draft bill envisioning what that office believed should be in a revised lobbyist regulation statute. Also, the Secretary of State, a representative of the lobbyist group, and Colorado Project-Common Cause were requested to comment on the draft and to propose revisions.

This initial draft was revised considerably before being recommended as Bill 61. Those participants have reached agreement on a majority of the contents of Bill 61; however, the Attorney General's office, the lobbyist group representative, and Common Cause have indicated that there are several areas of Bill 61 on which they did not reach agreement. Those parties indicated that they will attempt to amend the bill during the 1977 session.

Major Provisions of Bill 61

The reorganization of the regulation of lobbyists portion of the Sunshine Act was a significant factor in more clearly defining the points of controversy. The major areas referred to in Bill 61 are as follows:

(a) Definition of lobbying;

(b) Exemptions from the definition of lobbying;

(c) Registration and disclosure requirements;

(d) Disclosure statements; and

(e) Administration of the law.

(a) Definition of lobbying

Part 3 of the Sunshine Act does not define lobbying; however, the 1975 Attorney General's Opinion attempted to interpret the Act as to the types of activities that would require disclosure and registration as a lobbyist. The 1975 Opinion does conflict with the former Opinion on this matter, and the 1973 opinion is superseded on those points of conflict. The lack of a definition and the conflict in the opinions of the Attorneys General has created some concern. Therefore, to clarify the questions in this area, the committee recommends a definition of lobbying in Bill 61.

Recommended definition. Bill 61 would define lobbying as communicating directly, or soliciting others to communicate, with a "covered official" for the purposes of aiding in or influencing:

(1) The official action by a covered official on any type of matter pending or proposed by any person for consideration by either house of the General Assembly, or any of its committees, whether or not the legislature is in session;

(2) The designation of the subjects on the Governor's Call;

(3) The convening of a special session and the items which may be considered; and

(4) The official action by a covered official on action taken by a state agency having rule-making authority.

The definition of "covered official" under number (4) means a member of the rule-making board or agency, while in the first three instances, "covered official" means a member of the General Assembly or the Governor. The official action of a legislator or the Governor would include, in part, drafting, introducing, amending, passing, debating, or voting on bills, resolutions, nominations, as the case may be.

A key to the definition of lobbying is the actual communication, or solicitation of others to communicate, with the covered official. The communication must take place to trigger the act of lobbying. Communication would be defined to include, in part, a transmittal of information, data, ideas, opinions, or anything of a similar nature, to a covered official, whether it is oral, written, or by any other means.

Once lobbying has been triggered through communication, Bill 61

would require that expenditures leading to that communication must be reported in disclosure statements by those persons who are required to make such disclosures. For reporting purposes, lobbying would include activities undertaken by the person engaging in lobbying and persons acting at his request to prepare for lobbying which in fact occurs.

Current interpretation of lobbying activities. Part 3 was interpreted in the 1975 Attorney General's Opinion to mean that, in order for a person to be required to register as a lobbyist, there must be a direct communication. All contributions received or money expended which relate, even indirectly, to the communication must be reported. The communication does not have to be in the form of a personal contact. Thus, any form of communication, including letters, phone calls, and telegrams, is sufficient to trigger the registration and disclosure requirements if the activity results in a communication to the officials subject to the Act. This interpretation from the 1975 Attorney General's opinion superseded the 1973 opinion which could be interpreted to require only personal contact.

(b) Exemptions from the lobbying definition

The committee recommends that certain types of communications be exempted from the lobbying definition. Bill 61 would provide an exemption for persons who communicate as expert witnesses and for those persons who communicate in response to a statute, rule, or regulation requiring such a communication.

Regarding expert witnesses, a person who appears before a committee of the General Assembly or a rule-making board or commission would not be considered to be communicating for lobbying purposes if he was requested to testify as a result of an affirmative vote by such a committee, board, or commission. However, any person who makes more than one such appearance during a calendar year would be considered to be communicating for lobbying purposes for each of those additional appearances. This provision would apply whether or not a person is reimbursed for his expenses by the official body.

(c) Registration and disclosure requirements

Bill 61 attempts to clarify the current statute by differentiating between persons who must register as lobbyists and disclose contributions and expenditures, those who must only disclose, and those who neither register nor disclose.

To accomplish this purpose, Bill 61 would define a "professional" lobbyist and a "volunteer" lobbyist. The latter need not register nor disclose, while the former must do both. Also, the bill would require that a multi-purpose organization need only disclose as an organization.

"Professional" and "volunteer" lobbyists defined. A "professional" lobbyist would be defined as an individual who engages himself or is engaged by any other person, for pay or for any consideration, for lobbying. Not included as a "professional" lobbyist are "volunteer" lobbyists, state officials or employees acting in their official capacities, elected public officials acting in their official capacities, or persons who appear as legal counsel in an adjudicatory proceeding.

The "volunteer" lobbyist would include any individual who engages in lobbying and whose only receipt of money or other thing of value consists of nothing more than reimbursement for actual and reasonable expenses incurred for personal needs while engaging in lobbying, and for actual expenses incurred while informing the organization or its members who reimburse him as to his lobbying activities.

Multi-purpose organizations. A multi-purpose organization would include organizations such as public interest groups, chambers of commerce, and trade associations engaged in a range of activities, of which only one activity is lobbying. In reference to registration and disclosure, a distinction would be made between the organization itself and those individuals working for the organization.

Since the employee, and not the organization itself, is receiving pay or compensation for lobbying, the organization would not be required to register for the reason that the registration requirements would refer only to those receiving pay. However, the organization would need to file a statement disclosing contributions, including the pro rata portion of dues used in lobbying.

Any individual receiving money or other consideration from such an organization for engaging in lobbying activities would be required to register as a lobbyist, plus disclose. Whether the individual is an employee of the organization or an independent contractor, the individual must register and disclose.

Therefore, if a multi-purpose organization employs an individual to engage in covered lobbying activities, the organization must file disclosure statements and the individual must register and disclose. If the individual is not paid, as in the case of a "volunteer" lobbyist, the individual need not register or disclose. However, if the individual is reimbursed for expenses other than personal needs, the individual must disclose that reimbursement only. The organization would report all expenses and expenditures for covered lobbying activities, including moneys reimbursed to the individual.

Exemptions to registration as a lobbyist. An individual would be exempt from registering as a "professional" lobbyist if he appears as a witness in not more than three proceedings involving rules, standards, or rate-making during any calendar year. However, the individual would be required to file a sworn statement with the Secretary of State within 20 days after his appearance, disclosing the following information:

(1) His name and address;

(2) The name and address of his employer or of his business;

(3) How much he was paid or will be paid for his appearance;

(4) How much he was paid or will be paid for expenses and what expenses were or are to be included;

(5) The name and address of any person who has paid or will pay him for his appearance and expenses;

(6) The rule, standard, or rate to which his appearance related; and

(7) The date of his appearance.

This provision would not apply to appearances relating to the General Assembly.

(d) Disclosure statements

There are two disclosure reporting sections under the Sunshine Act. Section 24-6-302 requires a person to disclose, but not register, whereas section 24-6-304 requires a person to register and to disclose. Although both sections have similarities, each has its own reporting requirements. However, under the 1975 Opinion of the Attorney General a person registering is required to report all of the information listed in both sections, and that reporting can be best accomplished through a single form containing the requirements of both sections.

The Sunshine Act requires a monthly disclosure of contributions received and a disclosure of the name and address and prorated amount of each person who has made a cumulative contribution of $25 or more for registered lobbyists. The 1975 Attorney General's opinion requires the same disclosure for nonregistered lobbyists as is required for registered lobbyists.

Also, under the interpretation of the current law, all expenditures of $25 or more must be itemized as to person, place, or a particular measure. This provision applies to all expenditures cumulatively during a calendar year.

To clarify any problems in the interpretation of this portion of the Act, Bill 61 would provide that there would be a single disclosure statement for all persons required to disclose. Under the new statement, disclosure of all contributions received would be required, including disclosure of the name, address, and prorated amount of all persons making a contribution of $25 or more.

A significant change from current practice would relate to the reporting of expenditures. Bill 61 would require that the reporting

of expenditures for gifts and entertainment be separated from other types of expenditures. Also, any single non-gift or entertainment expenditure of $25 or more per month would be disclosed as to whom it was paid and for what purpose. For example, if $80 were spent on telegrams in support of S.B. 1, it would have to be reported that $80 were paid to Western Union for this purpose. Other types of expenditures in this category would be reported in the aggregate.

Bill 61 would require that all expenditures cumulating to $25 or more on an individual in any single month would be itemized as to who paid, while others under the $25 threshhold would be reported in the aggregate. For example, if during the month of January, lobbyist X spent $25 on Senator A, $20 on Representative B, and $15 on Senator C, lobbyist X would be required to itemize how he spent the total $25 on Senator A, but the remaining $35 expenditure would be reported in the aggregate. If during the month of February, the same lobbyist would expend $20 on Senator A, and $25 each on Representative B and Senator C, lobbyist X would be required to itemize the $25 amount spent on both Representative B and Senator C. As to the $20 expended on Senator A, lobbyist X would report the $20 expenditure in the aggregate.

Discussion was held on the reporting of expenditures by professional lobbyists to the mass and printed media. Bill 61 would exempt from reporting the regular and routine publications sent primarily to the members of the professional lobbyist's organization, which publications contain information relating to his lobbying.

Exemptions to filing statements. It is recommended in Bill 61 that the Secretary of State prescribe disclosure forms and that there be provision in the form so that a person could indicate that no change has occurred since the last statement. Also, it would be possible for a person to indicate that contributions are not expected to be received for the remainder of the year, and filing would not be required unless that financial condition changes.

(e) Administration of the law

Regarding the administration of the law, two of the more significant changes recommended refer to the power of the Secretary of State to adopt rules and regulations to enforce the provision of Part 3 and to revoke or suspend a certificate of registration or bar a person from registration.

The Secretary of State does not now have authority to promulgate rules and regulations. The only power which the Secretary of State has is the power to revoke a license. Bill 61 would permit this officer to suspend a license up to a one year maximum or to bar a person from registration for a maximum period of one year or for the remainder of the legislative biennium, whichever is longer.

COMMITTEE ON LEGISLATIVE PROCEDURES

BILL 58

A BILL FOR AN ACT

CONCERNING THE LEGISLATIVE DEPARTMENT, AND PROVIDING FOR ITS POWERS WITH RESPECT TO SPACE, FURNISHINGS, AND EQUIPMENT FOR THE GENERAL ASSEMBLY, FOR THE MEMBERS AND STAFF THEREOF, AND FOR LEGISLATIVE SERVICE AGENCIES.

Bill Summary

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

Provides for the designation and assignment of space and for the providing of furnishings and equipment by the general assembly for its members, staff, and service agencies in the state museum building.

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

SECTION 1. 2-2-321, Colorado Revised Statutes 1973, as amended, is amended to read:

2-2-321. Designation and assignment of space in capitol buildings group and on the grounds thereof. The general assembly, by joint resolution, shall designate and assign such space in the capitol building (except for space on the first floor, which shall be designated and assigned by the executive department for the use of elected officials) and on the grounds

surrounding the capitol, which is necessary for the use of the legislative department, including, but not limited to, parking space on the grounds and streets surrounding the capitol building. IN ADDITION, THE GENERAL ASSEMBLY SHALL DESIGNATE AND ASSIGN SUCH SPACE IN THE STATE MUSEUM BUILDING AT FOURTEENTH AVENUE AND SHERMAN STREET AND MAY PROVIDE FOR THE FURNISHING AND EQUIPPING THEREOF, AS MAY BE NECESSARY FOR THE USE OF THE LEGISLATIVE DEPARTMENT.

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

COMMITTEE ON LEGISLATIVE PROCEDURES

BILL 59

A BILL FOR AN ACT

AMENDING 24-34-104, COLORADO REVISED STATUTES 1973, AS AMENDED, CONCERNING LEGISLATIVE REVIEW OF REGULATORY AGENCIES.

Bill Summary

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

Clarifies the "Sunset Law" with respect to: Licenses issued or renewed during an agency's wind-up period; disposition of powers, duties, and functions created by the state constitution and vested in an agency or officer which is terminated; time for completion of performance audits; treatment of agencies scheduled to terminate in even-numbered years; and claims by, against, or through terminated agencies.

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

SECTION 1. 24-34-104 (5), (7), (9), and (11), Colorado Revised Statutes 1973, as amended, are amended, and the said 24-34-104 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-34-104. General assembly review of regulatory agencies for termination, continuation, or reestablishment. (5) Upon termination, each division, board, or agency shall continue in existence until July 1 of the next succeeding year for the purpose of winding up its affairs. During the wind-up period, termination shall not reduce or otherwise limit the powers or

authority of each respective agency; EXCEPT THAT EVERY LICENSE ISSUED OR RENEWED DURING THE WIND-UP PERIOD SHALL EXPIRE AT THE END OF SAID PERIOD, AND ORIGINAL LICENSE AND RENEWAL FEES SHALL BE PRORATED ACCORDINGLY. Upon the expiration of the one year after termination, each respective agency shall cease all activities. WHEN A LICENSE ISSUED OR RENEWED PRIOR TO TERMINATION IS SCHEDULED TO EXPIRE AFTER THE CESSATION OF ACTIVITIES, THE LICENSE SHALL EXPIRE AT THE END OF THE WIND-UP PERIOD AND THE AGENCY SHALL REFUND THE PORTION OF THE LICENSE FEE PAID WHICH IS ATTRIBUTABLE TO THE PERIOD FOLLOWING THE CESSATION OF ACTIVITIES. ANY CRIMINAL PENALTY FOR ENGAGING IN ANY PROFESSION OR ACTIVITY WITHOUT BEING LICENSED THEREFOR SHALL NOT BE ENFORCEABLE WITH RESPECT TO ACTIVITIES OCCURRING AFTER AN AGENCY HAS CEASED ITS ACTIVITIES PURSUANT TO THIS SECTION.

(5.5) Whenever the state constitution imposes any powers, duties, or functions on an agency or officer subject to the provisions of this section and such agency or officer is terminated and the general assembly does not designate another agency or officer to exercise such powers or perform such duties and functions, such agency or officer shall continue in existence, after the one-year wind-up period, under the principal department as if the agency or officer were transferred to the department by a type 2 transfer, as defined in section 24-1-105, until the general assembly shall otherwise designate.

(7) The legislative audit committee shall cause to be conducted a performance audit of each division, board, or agency scheduled for termination under this section. The performance

audit shall be completed at least ~~three~~ SIX months prior to the date established by this section for termination. In conducting the audit, the legislative audit committee shall take into consideration, but not be limited to considering, the factors listed in paragraph (b) of subsection (8) of this section. Upon completion of the audit report, the legislative audit committee shall hold a public hearing for purposes of review of the report. A copy of the report shall be made available to each member of the general assembly.

(9) If no action has been taken to extend the life of an agency SCHEDULED TO BE TERMINATED ON JULY 1 OF AN EVEN-NUMBERED YEAR because the subject was not designated in writing by the governor during the first ten days of the legislative session, pursuant to section 7 of article V of the state constitution, the agency shall ~~continue-in-existence~~ NOT BE TERMINATED until JULY 1 OF the next subsequent odd-numbered year, ~~legislative-session;-at~~ PRIOR TO which time the general assembly ~~shall~~ MAY reconsider the termination, ~~If-terminated;-in-no-case-shall-an-agency-have-less than--one--year--to--wind--up--its--affairs.~~ CONTINUATION, OR REESTABLISHMENT OF SUCH AGENCY.

(11) This section shall not cause the dismissal of any claim or right of a ~~citizen~~ PERSON THROUGH OR against any such agency or any claim or right of an agency ~~terminated~~ WHICH HAS CEASED ITS ACTIVITIES pursuant to this section which is OR MAY BE subject to litigation. ANY PERSON MAY PURSUE SAID CLAIMS OR RIGHTS THROUGH OR AGAINST THE DEPARTMENT OF REGULATORY AGENCIES, AND said claims and rights OF AN AGENCY WHICH HAS CEASED ITS

ACTIVITIES shall be assumed by the department of regulatory agencies. Nothing in this section shall interfere with the general assembly otherwise considering legislation on any division, board, agency, or similar body existing within the department of regulatory agencies.

(12) When an agency is terminated pursuant to the provisions of this section and the general assembly reestablishes the agency during its wind-up period with substantially the same powers, duties, and functions, the agency shall be deemed to have been continued.

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

COMMITTEE ON LEGISLATIVE PROCEDURES

BILL 60

A BILL FOR AN ACT

CONCERNING PUBLIC MEETINGS.

Bill Summary

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

Specifies the kinds of meetings to which the notice provisions of the Sunshine Act apply. Imposes a criminal penalty for violations of the open meetings law, and deletes the provision which provided that actions taken at meetings which violate the law are void.

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

SECTION 1. 24-6-402 (1), (2), and (4), Colorado Revised Statutes 1973, are amended, and the said 24-6-402 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-6-402. Meetings - open to public. (1) All meetings of two or more members of any board, committee, commission, CAUCUS, or other policy-making or rule-making body of any state agency or authority or of the ~~legislature~~ GENERAL ASSEMBLY at which any public business is discussed or at which any formal action is taken by such board, committee, commission, CAUCUS, or other policy-making or rule-making body are declared to be public meetings open to the public at all times, except as may be

otherwise provided in the STATE constitution.

(2) Any meetings at which the discussion or adoption of any proposed POLICY, POSITION, resolution, rule, regulation, or formal action occurs ~~or~~ AND at which a majority or quorum of the body is EXPECTED TO BE in attendance shall be held only after full and timely notice to the public.

(2.5) This part 4 does not apply to any chance meeting or social gathering at which discussion of public business is not or does not become the central purpose. No chance meeting, social gathering, or electronic communication shall be used in circumvention of the spirit or requirements of this part 4.

(4) ~~No resolution, rule, regulation, ordinance, or formal action of a board, committee, commission, or other policy-making body shall be valid unless taken or made at a meeting that meets the requirements of subsection (1) and (2) of this section~~ ANY PERSON WHO WILLFULLY VIOLATES SUBSECTION (1) OR (2) OF THIS SECTION COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S. 1973.

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

COMMITTEE ON LEGISLATIVE PROCEDURES

BILL 61

A BILL FOR AN ACT

CONCERNING THE REGULATION OF LOBBYISTS.

Bill Summary

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

Rewrites the portion of the Sunshine Act dealing with lobbyist regulation. Defines "lobbying", and specifies what activities undertaken prior to a lobbying communication must be reported. Exempts certain expert witnesses from registration. Sets forth what must be included in a disclosure statement, and requires separate reporting of gift and entertainment expenditures. Allows a lobbyist who will not engage in further lobbying during a calendar year to file a final cumulative disclosure statement and be exempt from future monthly statement. Grants the secretary of state rule-making and investigatory powers.

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

SECTION 1. 24-6-301 (1), Colorado Revised Statutes 1973, is amended, and the said 24-6-301 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-6-301. Definitions. (1) "COMMUNICATION" INCLUDES BUT IS NOT LIMITED TO A TRANSMITTAL OF INFORMATION, DATA, IDEAS, OPINIONS, OR ANYTHING OF A SIMILAR NATURE, EITHER ORAL, WRITTEN, OR BY ANY OTHER MEANS, TO A COVERED OFFICIAL.

(1.5) "Contribution" means a gift, subscription, loan,

advance, OR deposit ~~or gift~~ of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution. "CONTRIBUTION" ALSO INCLUDES THE COMPENSATION AND REIMBURSEMENT FOR EXPENSES OF A PERSON REQUIRED TO FILE A STATEMENT UNDER SECTION 24-6-302.

(1.3) "Covered official" means:

(a) For the type of lobbying defined in subsection (3.5) (a) (I), (II), and (III) of this section, the governor or a member of the general assembly;

(b) For the type of lobbying defined in subsection (3.5) (a) (IV) of this section, a member of a rule-making board or commission or a rule-making official of a state agency which has jurisdiction over the subject matter of a rule, standard, or rate.

(1.5) (a) "Disclosure statement" means a written statement given under oath which shall contain:

(I) The name and address of each person who has made a contribution totaling twenty-five dollars or more to or for the disclosing person for lobbying since the last disclosure statement required by this part 3, together with the amount thereof;

(II) The total sum of the contributions made to or for the disclosing person for lobbying since the last disclosure statement which are not stated under subparagraph (I) of this paragraph (a);

(III) The total sum of all contributions made to or for the disclosing person for lobbying since the last disclosure

statement and during the calendar year;

(IV) The name of any covered official to or for whom expenditures of twenty-five dollars or more have been made by or on behalf of the disclosing person to a covered official for gift or entertainment purposes in connection with lobbying since the last disclosure statement and the amount, date, and principal purpose of the gift or entertainment;

(V) The total sum of all expenditures made by or on behalf of the disclosing person to covered officials for gift or entertainment purposes in connection with lobbying since the last disclosure statement which are not stated under subparagraph (IV) of this paragraph (a);

(VI) The name and address of each person to whom an expenditure of twenty-five dollars or more has been made by or on behalf of the disclosing person in connection with lobbying, other than gift or entertainment expenditures, since the last disclosure statement and the amount, date, and principal purpose of the expenditure;

(VII) The total sum of all expenditures made by or on behalf of the disclosing person in connection with lobbying, other than gift and entertainment expenditures, since the last disclosure statement which are not stated under subparagraph (VI) of this paragraph (a);

(VIII) The total sum of all expenditures made by or on behalf of the disclosing person in connection with lobbying since the last disclosure statement and during the calendar year;

(IX) A statement, which shall only be given by a

professional lobbyist, which contains the names of, and the amounts of any expenditures or contributions made to, any papers, periodicals, magazines, radio or television stations, or other media of mass communication to whom expenditures or contributions were made in which the professional lobbyist or his employer or agent has caused to be published any advertisements, articles, or editorials relating to lobbying; except that this information is not required for regular or routine publications sent primarily to the members of the professional lobbyist's organization, which publications contain information relating to his lobbying;

(X) The nature of the legislation, standards, rules, or rates for which the disclosing person is receiving contributions or making expenditures for lobbying and, where known, the specific legislation, standards, rules, or rates.

(b) The secretary of state shall prescribe a form for disclosure statements, which shall contain:

(I) A statement which the disclosing person may adopt, if true, that no change has occurred since the prior month's disclosure statement, in which case the information required by paragraph (a) of this subsection (1.5) may be omitted;

(II) A statement which the disclosing person may adopt, if true, that no unreported contributions for lobbying are receivable and that no unreported expenditures for lobbying will be made during the remainder of the calendar year.

(c) Whenever a person required to file a disclosure statement under this part 3 solicits, collects, or receives contributions which are used for lobbying as well as for other

purposes, or makes an expenditure which is attributable to lobbying as well as to other purposes, such contributions and expenditures shall be allocated between lobbying and other purposes, and the disclosure statement shall contain that portion allocated to lobbying.

(3.5) (a) "Lobbying" means communicating directly, or soliciting others to communicate, with a covered official for the purpose of aiding in or influencing:

(I) The drafting, introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, or veto of, or any other official action by any covered official on, any bill, resolution, amendment, nomination, appointment, report, or other matter pending or proposed by any person for consideration by either house of the general assembly or a committee thereof, whether or not the general assembly is in session;

(II) The designation of any subject by the governor for consideration during a regular session of the general assembly in an even-numbered year;

(III) The convening of a special session of the general assembly or the specification of business to be transacted at such special session;

(IV) The drafting, consideration, amendment, adoption, or defeat of, or any other official action by any covered official on, any rule, standard, or rate of any state agency having rule-making authority.

(b) For the purpose of determining contributions and expenditures reportable in disclosure statements, "lobbying"

includes activities undertaken by the person engaging in lobbying and persons acting at his request to prepare for lobbying which in fact occurs.

(c) "Lobbying" does not include communications made by a person in response to a statute, rule or regulation requiring such a communication.

(d) "Lobbying" does not include communications by a person who appears before a committee of the general assembly or a rule-making board or commission solely as a result of an affirmative vote by the committee, board, or commission that he appear and testify, whether or not he is reimbursed by the committee, board, or commission for his expenses incurred in making such appearance; but "lobbying" does include such communications by any person who makes more than one such appearance before any one committee, board, or commission in a calendar year.

(6) "Professional lobbyist" means any individual who engages himself or is engaged by any other person for pay or for any consideration for lobbying. "Professional lobbyist" does not include any volunteer lobbyist, any state official or employee acting in his official capacity, any elected public official acting in his official capacity, or any person who appears as legal counsel in an adjudicatory proceeding.

(7) "Volunteer lobbyist" means any individual who engages in lobbying and whose only receipt of money or other thing of value consists of nothing more than reimbursement for actual and reasonable expenses incurred for personal needs, such as meals

and parking, while engaged in lobbying or for actual expenses incurred informing the organization making the reimbursement or the members thereof of his lobbying.

SECTION 2. 24-6-302, Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

24-6-302. Disclosure statements - required. (1) Any person who by himself or through any agent, employee, or other person in any manner, directly or indirectly, solicits, collects, or receives money or any other thing of value at any time during the calendar year to be used for lobbying by any person shall file disclosure statements with the secretary of state in accordance with this section.

(2) Disclosure statements shall be filed within fifteen days after the end of the first calendar month in which any contribution is received or receivable or any expenditure is made or incurred for lobbying and shall be filed within fifteen days after the end of each subsequent month during the calendar year. A cumulative disclosure statement for the entire calendar year shall be filed on or before January 15 of the next year.

(3) If a person adopts the statement set out in section 24-6-301 (1.5) (b) (II), he shall at the same time file a cumulative disclosure statement for the calendar year to date and thereafter shall not have to file monthly disclosure statements unless he subsequently becomes required to do so by virtue of subsection (2) of this section.

(4) This section shall not apply to any political committee, volunteer lobbyist, state official or employee acting

in his official capacity, or elected public official acting in his official capacity.

SECTION 3. 24-6-303, Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

24-6-303. Registration as professional lobbyist - filing of disclosure statements - public inspection - certificate of registration. (1) Any professional lobbyist, before engaging in lobbying, shall register with the secretary of state. The registrant shall file a written registration statement which shall contain his full legal name and business address, the name and address of the person by whom he is employed, all persons for whom he will be lobbying, the expected duration of such lobbying, how much he is to be paid and is to receive for such lobbying, by whom he is paid or is to be paid for such lobbying, how much he is to be paid for expenses, and what expenses are to be included. Any individual who is not engaged solely as a professional lobbyist but whose regular gainful employment includes lobbying shall estimate the proportion of his employed time which he spends or intends to spend lobbying and the percentage of his regular pay that will support lobbying. A professional lobbyist shall file an updated registration statement on or before January 15 of each year unless at that time he is no longer a professional lobbyist. Registration under this section shall be effective until January 15 of the next year.

(2) A registered professional lobbyist shall file disclosure statements as required by section 24-6-302.

(3) All registration statements and disclosure statements

of professional lobbyists shall be compiled by the secretary of state within thirty days after the end of the calendar month for which such information is filed and shall be organized alphabetically according to the names of the professional lobbyists.

(4) No person shall act as a professional lobbyist unless he has received a certificate of registration as provided in section 24-6-305 (1).

(5) This section shall not apply to any individual who is a professional lobbyist solely because of his appearance as a witness in not more than three rule, standard, or rate-making proceedings during any calendar year. However, such an individual shall file a sworn statement with the secretary of state within twenty days after his appearance, containing the following information:

(a) His name and address;

(b) The name and address of his employer or of his business;

(c) How much he was paid or will be paid for his appearance;

(d) How much he was paid or will be paid for expenses and what expenses were or are to be included;

(e) The name and address of any person who has paid or will pay him for his appearance and expenses;

(f) The rule, standard, or rate to which his appearance related;

(g) The date of his appearance.

SECTION 4. 24-6-304, Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

24-6-304. Records - preservation - public inspection. (1) Each person required to file statements or reports under this part 3 shall maintain for a period of five years such records relating to such statements or reports as the secretary of state determines by regulation are necessary for the effective implementation of this part 3.

(2) Any statement required by this part 3 to be filed with the secretary of state shall be preserved by the secretary of state for a period of five years after the date of filing, shall constitute part of the public records of that office, and shall be open and readily accessible for public inspection.

SECTION 5. 24-6-305 (2), Colorado Revised Statutes 1973, is amended to read:

24-6-305. Powers of the secretary of state - granting and revocation of certificates. (2) In addition to any other powers conferred by this section, the secretary of state may:

(a) Revoke, OR SUSPEND FOR A MAXIMUM PERIOD OF ONE YEAR, OR BAR FROM REGISTRATION FOR A MAXIMUM PERIOD OF ONE YEAR OR THE REMAINDER OF THE LEGISLATIVE BIENNIUM, WHICHEVER IS LONGER, the certificate of registration required by section ~~24-6-304--(4)~~ 24-6-303 for failure to file the reports required by section ~~24-6-304-(2)~~ 24-6-303; but no certificate may be revoked OR SUSPENDED within ninety days after the failure to file such a report if, prior to the last day for filing such reports, the secretary of state has been informed in writing of extenuating

circumstances justifying such failure. ANY REVOCATION OR SUSPENSION OF A CERTIFICATE OF REGISTRATION OR BAR FROM REGISTRATION SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 4 OF THIS TITLE.

(b) ADOPT RULES AND REGULATIONS IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 4 OF THIS TITLE TO DEFINE, INTERPRET, IMPLEMENT, AND ENFORCE THE PROVISIONS OF THIS PART 3 AND TO PREVENT THE EVASION OF THE REQUIREMENTS OF THIS PART 3;

(c) ON HIS OWN MOTION OR ON THE VERIFIED COMPLAINT OF ANY PERSON, INVESTIGATE THE ACTIVITIES OF ANY PERSON WHO IS OR WHO HAS ALLEGEDLY BEEN ENGAGED IN LOBBYING AND WHO MAY BE IN VIOLATION OF THE REQUIREMENTS OF THIS PART 3.

SECTION 6. 24-6-306, Colorado Revised Statutes 1973, is amended to read:

24-6-306. Employment of legislators, legislative employees, or state employees - filing of statement. If any person ~~registered--or--required--to-be-registered-under-section-24-6-304~~ WHO ENGAGES IN LOBBYING employs or causes his employer to employ any member of the general assembly, any member of a RULE-MAKING board or commission, ~~designated--in--section--24-6-302--(3);~~ ANY RULE-MAKING OFFICIAL OF A STATE AGENCY, any employee of the general assembly, or any full-time state employee who remains in the partial employ of the state or any agency thereof, the new employer shall file a statement under oath with the secretary of state within ~~ten~~ FIFTEEN days after such employment. The statement shall specify the nature of the employment, the name of the person to be paid thereunder, and the amount of pay or

consideration to be paid thereunder.

SECTION 7. 24-6-307, Colorado Revised Statutes 1973, is amended to read:

24-6-307. Employment of unregistered persons. It is unlawful for any person to employ for pay or any consideration, or pay or agree to pay any consideration to, a person to engage in ~~activities-for-the-purposes-designated-in-section-24-6-302-(3)~~ LOBBYING who is not registered except upon condition that such person register forthwith.

SECTION 8. 24-6-308, Colorado Revised Statutes 1973, is amended to read:

24-6-308. Contingent agreement prohibited. No person may make any agreement under which any compensation or thing of value is to be given, transferred, or paid to any person contingent upon the passage or defeat of any legislation; the making OR DEFEAT of any rule, standard, OR rate ~~or-decision~~ by any ~~board-or-commission-designated-in-section-24-6-302-(3)~~ STATE AGENCY; or the approval or veto of any legislation by the governor of this state.

SECTION 9. 24-6-309 (2), Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

24-6-309. Offenses - penalties - injunctions. (2) Whenever it appears that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this part 3 or any rule or order under this part 3, the secretary of state may bring an action in district court to enjoin the acts or practices and to enforce compliance with this part 3 or any

rule or order under this part 3.

SECTION 10. Repeal. 24-6-301 (3) and 24-6-305 (1) (c) and (1) (d), Colorado Revised Statutes 1973, are repealed.

SECTION 11. Effective date. This act shall take effect _____.

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

LEGISLATIVE COUNCIL

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*Resigned November 13, 1976, due to appointment to the Joint Budget Committee.

Two unrelated study directives from the General Assembly were assigned to the Committee on State Affairs for the 1976 interim. The first topic was a study of city and county jails, including procedures involved in apprehension and pretrial incarceration, evaluation of the need for state supervision of jails, and the setting of minimum standards for facilities, handling of prisoners, and jail personnel.

The second study topic was an examination of the impact on local government of state and federally administered lands in Colorado. This latter topic was first studied during the 1973 interim and reexamined in 1974 and 1975.

City and County Jails

There are some 80 city and county jails in Colorado. In addition, a number of towns and court houses have jail-like, temporary holding facilities. On any given day there are some 1,500 inmates in these facilities. (A recent survey reported that some 53,000 individuals passed through 31 of the state's jails during a twelve month period.)

A city or county jail is generally built as a maximum security facility, but houses primarily petty offenders, including traffic offender, shoplifters, and disorderly persons. Typically a jail's population is made up of several catagories of inmates: two percent of the population are juveniles, 50 percent are arraigned and awaiting trial or in process of trial; 16 percent are awaiting arraignment or transfer to other authorities; 30 percent are serving a sentence; and two percent are awaiting appeals or stays.

County commissioners are charged with the responsibility for funding the operation of the majority of Colorado's jails. Section 27-26-126, C.R.S. 1973, also provides that "it is the duty of the board of county commissioners to make personal examination of the jail of its county, its sufficiency, and the management thereof during each session of the board and to correct all irregularities and improprieties therein found".

The county sheriff is responsible for the operation of a jail. Section 27-26-102, C.R.S. 1973, directs the county sheriff to keep the jail "clean, safe, and wholesome". Section 102 of Article 26 directs the sheriff to "feed all the prisoners kept in confinement by him with good and sufficient food".

The state Department of Health is directed by statute to establish health standards for jails and to inspect jails for compliance with these standards. Another agency at the state level, the Division of Criminal Justice, has the responsibility for reviewing jail construction proposals under provisions of the community corrections program (S.B. 4, 1976 session), as well as developing a model plan with

suggested standards for jail facilities. To a limited degree, the state's Law Enforcement Training Academy is given responsibility for the training of some of the individuals working in local jails.

There is no consensus of opinion on what a jail facility should look like, what kind of correctional philosophy should be exercised, what role the state should play in funding, or the establishment of standards for jail facilities, procedures, and personnel. With strained budgets at the state and local level, jail facilities continue to receive a low priority.

There are compelling reasons for giving this area of governmental concern greater attention. A 1975 survey by the state Department of Health rated the state's jails--county, town, and city, including holding facilities -- as follows: county jails, 35 percent good, 20 percent fair, 24 percent poor, 15 percent very poor, and 7 percent unsatisfactory; town and city facilities, 29 percent good, 8 percent fair, 23 percent poor, 14 percent very poor, and 25 percent unsatisfactory. 1/ Nearly one-third of the county jails were constructed 50 years or more ago; one half are 35 years old or older.

In addition, in Colorado and other jurisdictions throughout the county, the courts have assumed a new willingness to inquire into the administration and operation of jails. Federal courts have ordered jails closed, required that their population be reduced when overcrowding exists, and compelled jail administrators to submit plans for adequate medical, psychiatric, recreational, basic education, and counseling services.

Committee Activities and Recommendations

The committee devoted its agenda of interim meetings to the following activities: (1) hearing the concerns of a variety of organizations and individuals involved with jails in Colorado; (2) reviewing with jail personnel the pre-and-post-trial incarceration procedures and the variety of facilities, programs, and personnel skill levels found in the state's jails; and (3) conducting unannounced on-site visitations to four metropolitan area jails -- the jails for Denver, Arapahoe, Jefferson and Boulder counties. Many ideas were generated and discussed during these meetings, chief among which was the need for an effective training program for jailers.

There presently exists little or no training directed specifically to the needs of a majority of the 450-500 jailers throughout Colorado. The Denver and Boulder jailer training programs are primary examples of the kind of comprehensive programs that do not exist in most other areas of the state.

1/ The Department of Health report noted: "The survey data were based on conformance to the physical, health, and operational aspects of the state jail standards and numerical equivalencies assigned to specific items as to degree of health or safety hazards consistent with appraisal procedures outlined by the U.S. Public Health Service and the American Public Health Association."

Jails generally are staffed by sheriff's deputies. The sheriff often adds the jail keeper duty to several other duties (e.g., dispatcher, peace officer) performed by his deputies. If the local jailer is a sworn peace officer, Colorado law requires that he be certified under standards established by the Colorado Law Enforcement Training Academy (CLETA). Many entities in Colorado have sworn peace officers serving as jailers and correctional officers; however, a significent number of agencies use non-sworn, civilian personnel, who have had little or no training, to perform these duties. The basic training curriculum provided by CLETA emphasizes procedures for the apprehension and initial detention of a suspect, not the long-term handling of prisoners and the subsequent problems of interpersonal relations and rehabilitation.

An additional concern is over the lack of funding for training. The CLETA program for the training of peace officers has generally been given the same low priority by the state that the training of local jailers is given by most county administrators.

In response to the need for a jailer training program directed to the specific problems confronted by jail keepers, and funded from a specific revenue source, the committee reexamined H.B. 1241, a bill introduced during the 1976 legislative session. The bill would create a "law enforcement and correction officers' training fund" in the state treasurer's office to receive monies from a special penalty assessment of $2.00 or 10 percent, whichever is greater, on all fines, penalties, or forfeitures of $10.00 or more imposed and collected by any state or municipal court for violations of municipal ordinances, wildlife and parks and outdoor recreation provisions, and motor vehicle operation and ownership provisions.

Monies from the fund would be appropriated on an annual basis by the General Assembly to: (1) the Department of Local Affairs for the training of law enforcement personnel at the Law Enforcement Training Academy and other facilities certified by the academy's advisory board; (2) the judicial branch for training of probation personnel; and (3) the Department of Institutions for training of correctional personnel.

The executive budget office's fiscal note estimated that the measure, if implemented on July 1, 1976, would have had the following impact:

Revenue per fiscal year		Source of revenue	
FY 77	$ 974,000	Municipal ordinances	6.3%
78	1,042,000	Criminal code	8.2%
79	1,115,000	Fish and game	0.8%
		Traffic	84.7%

The committee endorses this concept and recommends reconsideration of the approach taken in H.B. 1241, 1976 session. The bill is identified in this report as Bill No. 62.

As a companion to this proposal, the committee recommends Bill No. 63 which would authorize CLETA to provide jailer training programs. The content of the program would be determined by the CLETA advisory board but the emphasis might well be on a program similar to that outlined by Denny Schilthuis, Sheriff of La Plata County. Sheriff Schilthuis suggested a 120 hour program of mandated training for jailers in addition to the present basic training offered by CLETA. The suggested course would be divided into six areas:

1. The Mechanics of Detention (47 hours)

   - awareness of the transient nature of the jail population
   - legal rights of inmates and detention officers
   - proper conduct of a search of cells or cell blocks
   - identification and control of contraband
   - drug familiarization
   - internal security
   - supervision of prisoners
   - use of handcuffs, leg irons, body chain and restraining jackets
   - self-defense tactics
   - procedures for fire, escape, and riot
   - legal use of firearms and chemicals

2. Systems and Booking (18 hours)

   - booking procedures (including proper handling of property, forms required, and release procedures)
   - discharge procedures
   - fingerprinting and photographing

3. Records (8 hours)

   - understanding of the records function
   - report writing regarding criminal activities occurring in the jail
   - departmental records

4. Interpersonal Relations and Rehabilitation (20 hours)

   - overview of psychology, sociology and human behavior
   - understanding of minority groups predominant in the local area
   - correctional rehabilitation
   - behavior disorders

5. Administrative Matters (2 hours)

   - jail personnel records and management
   - adminstration of federal inmates

6. First Aid (24 hours)

The committee urges the CLETA board to organize training programs so that the academy's physical facility at Camp George West will not have to be enlarged. The use of a decentralized training program is also encouraged, drawing on the resources of existing facilities at college and university campuses throughout the state, the federal government's training center in Aurora, Colorado, and presently established training facilities in locations such as the Denver and Boulder county jails.

Another area of concern is the amount of inmate idleness in jail facilities throughout the state. The committee recognizes the diversity of jail facilities, size of inmate populations, local financial ability, and the general priority level for jails throughout the state. Nevertheless, whatever the local political situation or geographic location, the fact remains that local jails are the intake point of the criminal justice system and, as such, should provide an opportunity to help inmates at an early stage. The committee urges local authorities to examine their jail facilities and programs to see if there are sufficient recreational facilities, on-site work programs, library facilities, work release programs for sentenced inmates, counseling, and vocational programs. These activities can often be conducted with the assistance of civic or local and state governmental agencies. The committee would also encourage the Division of Corrections within the State's Department of Institutions to actively assist local authorities in the development of facilities and programs to lessen the burden of idleness for inmates. The work which this division has accomplished in correctional institutions at the state level should be shared with persons responsible for programs in local jails.

State and Federal Lands

For the past several years Legislative Council interim committees have studied the impact of state and federally owned lands on the state and local governments. The primary concern has been over the adverse impact on the local tax base caused by the presence of federal lands.

Bills to provide a system of federal payments to local governments to compensate for tax exempt public lands were introduced in the 92nd, 93rd and 94th Congresses. Last year the interim committee followed with interest the progress of H.R. 9719, a measure introduced on September 15, 1975, by Representative Frank Evans of Colorado. Hearings were conducted on the measure in Utah, Nevada, and Washington, D.C. at the end of 1975. (A statement from the interim State and Federal Lands Committee in support of the payment-in-lieu of taxes concept was included in the record of these hearings. The full text of that statement may be found on pp. 207-213, Colorado Legislative Council Research Publication No. 212, Vol. III.)

On March 17, 1976, the Committee on Interior and Insular Affairs of the U. S. House of Representatives ordered that H.R. 9719 be reported favorably, as amended, to the full House and the House

passed the measure on August 5, 1976, on a vote of 270-125. The Senate adopted the House version of the bill on the last day of the 94th Congress, and President Ford signed the measure during the last hour before a pocket veto would have killed the bill.

The committee this year submitted testimony in support of H.R. 9719 to the Senate Subcommittee on the Environment and Land Resources chaired by Colorado Senator Floyd Haskell and also wrote letters in support of the bill to a number of Congresspersons and to President Ford.

H.R. 9719 is a significant bill for Colorado. Although monies will not be available to Colorado counties until an appropriation bill is enacted next year, preliminary estimates show that $7.3 million will be paid annually to all but ten of the state's 63 counties. H.R. 9719 directs the Secretary of the Interior to make annual payments to each unit of local government (counties in Colorado's case) in which there are certain federally-owned lands. 2/ The payments may be used for any governmental purpose.

The amount of these payments is computed by a formula. Under the federal act a county will receive the greater amount of either (a) 75 cents per acre of entitlement lands, less existing payments received by counties under other federal public land reimbursement statutes, or (b) 10 cents per acre in addition to current payments. These payments will be limited to $50 per capita for counties under 5,000 population, with a sliding scale to $20 per capita at 50,000 county population. No county will be credited with a population of greater than 50,000, thus establishing a maximum payment of $1 million.

2/ The lands include Bureau of Land Management and Forest Service lands as well as lands within the National Parks System (548,000 acres in Colorado), National Forests Wilderness Areas (1 million acres in Colorado), and lands which are utilized as reservoirs as a part of water development projects under the Bureau of Reclamation (302,125 acres in Colorado) and Army Corps of Engineers (37,900 acres in Colorado). Several tracts of federal lands are not included in the bill. These include the following for Colorado:

Agricultural Research Service	14,665 acres
Atomic Energy Commission	31,136 acres
National Bureau of Standards	585 acres
General Services Administration	898 acres
Fish and Wildlife Service	47,913 acres
Bureau of Indian Affairs	355 acres
National Science Foundation	646 acres
Federal Aviation Administration	506 acres
Veterans Administration	653 acres
Air Force	29,361 acres
Army	179,788 acres
Navy	56,408 acres

The following is an example of how the formula works using a hypothetical county:

Entitlement lands:
National Forest, BLM, and National Park land.... 650,000 acres
Population..... 10,000
Present payments..... 200,000

The number of acres of entitlement land (650,000) multiplied by 75 cents equals $487,500. The $487,500, however, is subject to a ceiling based on population. For a county of 10,000 population, the ceiling is $35 per capita. Thus, the 75 cents per acre alternative is subject to a ceiling of $350,000.

Next, existing payments are subtracted from the amount computed. In this case a ceiling of $350,000, minus existing payments of $200,000, equals $150,000.

Under the 10¢ per acre alternative, the county would receive $65,000. Since that sum is less than $150,000, the county receives the higher sum. If, however, existing payments to the county exceeded $350,000, then the county would only be eligible for the 10 cent per acre alternative, or $65,000 (10¢ times the entitlement acreage).

To ease the impact on counties of recent federal government acquisitions of private lands for additions to the National Park System and the National Forest Wilderness System, the act provides compensation to affected counties for a five-year period at the rate of one percent of the fair market value of the acquired lands (or not to exceed the actual property taxes assessed and levied on the acquired lands during the last year before acquisition). The provision would apply retroactively to January 1, 1971.

The table on page 178 offers a detail of the distribution of H.R. 9719 monies as currently projected by the staff to Representative Frank Evans.

Areas of continuing concern. H.R. 9719, as well as other measures passed during the last Congressional session, will substantially assist local governments affected by the loss of revenues resulting from federal holdings. However, problem areas still exist. For example, a true payment in-lieu of taxes program would involve payments based on the value (for purposes of assessment) of federal holdings. This method would seem to offer a more accurate and equitable approach to the concern that the federal government compensate for its effect on local governments.

Another continuing concern to local and state governments is that of "mandated costs" -- expenditures made by a local government which would not have been required had the federal government not enacted legislation or promulgated a regulation which necessitates that expenditure. Both these areas -- federal payments to local governments and mandated costs -- will be of continuing interest to the Colorado General Assembly.

SHARED REVENUES DISTRIBUTED TO COLORADO COUNTIES FOR FY 76 AND ESTIMATED NEW REVENUES FROM H.R. 9719

County	(1) Total Acres In County 1/	(2) BLM Acres	(3) Forest Service Acres	(4) Total Columns 2 + 3	Revenue Returned to County, by Program, FY 76 (5) BLM 2/	(6) Forest Service 3/	(7) Total Columns 5 + 6	(8) Increase Over FY 75 Distribution	(9) HR 9719 Estimated Distribution
Adams	793,854	-0-	-0-	-0-	$ 90	$ -0-	$ 90	$ 30	$ -0-
Alamosa	460,224	43,957	28,091	72,048	1,010	904	1,914	206	56,500
Arapahoe	513,679	-0-	-0-	-0-	6,374	-0-	6,374	2,122	-0-
Archuleta	872,640	10,457	423,870	434,327	3,556	51,330	54,886	1,185	119,500
Baca	1,640,448	520	205,131	205,651	12,391	20,691	33,082	4,126	121,900
Bent	972,288	1,576	-0-	1,576	14,968	-0-	14,968	4,931	157
Boulder	478,912	5,074	137,802	142,876	118	4,325	4,443	1	121,700
Chaffee	664,448	53,036	451,013	504,049	1,358	9,757	11,115	-0-	322,000
Cheyenne	1,134,016	300	-0-	300	382	-0-	382	128	-0-
Clear Creek	252,352	22,864	167,384	190,248	65	18,345	18,410	-0-	118,200
Conejos	811,328	185,547	299,274	484,821	4,899	-0-	4,899	1,629	205,100
Costilla	776,064	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Crowley	512,896	4,427	-0-	4,427	3,824	-0-	3,824	1,182	515
Custer	471,936	20,985	163,839	184,824	4,392	3,545	7,937	1,145	42,500
Delta	738,752	205,668	191,650	397,318	48,928	11,068	59,996	16,279	249,200
Denver	55,141	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Dolores	656,576	55,244	353,011	408,255	136,033	-0-	136,033	45,298	40,800
Douglas	539,584	-0-	141,231	141,231	302	4,480	4,782	100	103,100
Eagle	1,076,608	261,702	579,232	840,934	20,927	76,292	97,219	6,936	258,000
Elbert	1,192,896	-0-	-0-	-0-	1,283	-0-	1,283	427	-0-
El Paso	1,380,416	4,719	100,626	105,345	768	3,192	3,960	239	75,700
Fremont	999,296	349,044	99,997	449,041	292	2,163	2,455	11	336,800
Garfield	1,917,888	632,322	514,645	1,146,967	138,594	65,995	204,589	45,781	293,000
Gilpin	94,976	5,894	39,495	45,389	80	2,356	2,436	-0-	31,000
Grand	1,186,304	143,858	553,635	697,493	33,071	63,305	96,376	9,928	82,500
Gunnison	2,071,232	371,856	1,264,875	1,636,731	76,447	63,564	140,011	25,362	210,800
Hinsdale	674,496	114,075	557,677	671,752	130	38,928	39,058	35	10,000
Huerfano	1,007,296	71,373	140,114	211,487	21,191	3,031	24,222	5,906	134,800
Jackson	1,037,824	194,134	333,714	527,848	71,321	28,236	99,557	23,697	52,900
Jefferson	501,774	3,419	100,188	103,607	-0-	3,353	3,353	-0-	76,300
Kiowa	1,131,136	8,201	-0-	8,201	12,400	-0-	12,400	4,072	820
Kit Carson	1,389,440	-0-	-0-	-0-	478	-0-	478	158	-0-
Lake	242,816	23,887	156,286	180,173	487	3,381	3,868	-0-	141,100
La Plata	1,077,632	29,344	394,380	423,724	10,087	49,650	59,737	3,359	316,500

County	(1) Total Acres In County 1/	(2) BLM Acres	(3) Forest Service Acres	(4) Total Columns 2 + 3	Revenue Returned to County, by Program, FY 76 (5) BLM 2/	(6) Forest Service 3/	(7) Total Columns 5 + 6	(8) Increase Over FY 75 Distribution	(9) HR 9719 Estimated Distribution
Larimer	1,670,592	28,149	618,678	646,827	$ 3,368	$ 19,416	$ 22,784	$ 655	$ 326,700
Las Animas	3,068,032	14,601	22,012	36,613	52,645	5,784	58,429	17,358	8,900
Lincoln	1,659,456	2,210	-0-	2,210	2,097	-0-	2,097	610	214
Logan	1,166,272	1,117	-0-	1,117	2,289	-0-	2,289	763	110
Mesa	2,113,728	978,084	545,679	1,523,763	140,184	44,645	184,829	46,537	769,000
Mineral	589,504	-0-	525,269	525,269	-0-	29,961	29,961	-0-	50,000
Moffat	3,035,328	1,453,520	41,763	1,495,283	210,138	3,691	213,829	-0-	169,500
Montezuma	1,340,288	188,930	243,309	432,239	57,244	30,694	87,938	19,047	288,200
Montrose	1,432,576	636,307	327,352	963,659	62,289	23,622	85,911	20,689	422,800
Morgan	817,664	2,527	-0-	2,527	6,622	-0-	6,622	2,189	460
Otero	802,560	2,284	161,334	163,618	19,824	16,273	36,097	6,531	85,800
Ouray	345,408	38,758	126,905	165,663	2,953	9,407	12,360	888	87,500
Park	1,384,704	75,500	650,557	726,057	10,203	20,975	31,178	2,420	77,000
Phillips	435,200	-0-	-0-	-0-	406	-0-	406	134	-0-
Pitkin	622,592	23,583	485,604	509,187	11,237	63,960	75,197	3,740	250,000
Prowers	1,037,248	752	-0-	752	6,168	-0-	6,168	2,055	-0-
Pueblo	1,539,328	16,845	32,833	49,678	14,270	718	14,988	4,305	34,100
Rio Blanco	2,088,320	1,169,934	358,526	1,528,460	204,611	41,935	246,546	-0-	152,000
Rio Grande	585,728	54,028	276,126	330,154	229	9,375	9,604	73	233,600
Routt	1,491,136	79,521	582,957	662,478	165,903	49,527	215,430	52,128	171,800
Saguache	2,012,224	349,668	959,598	1,309,266	3,408	34,415	37,823	463	148,700
San Juan	250,496	48,720	170,484	219,204	-0-	19,155	19,155	-0-	39,000
San Miguel	821,056	298,733	176,149	474,882	72,763	13,274	86,037	24,202	47,400
Sedgwick	348,096	273	-0-	273	1,830	-0-	1,830	610	-0-
Summit	391,168	18,187	311,158	329,345	10	36,319	36,329	-0-	101,900
Teller	353,920	33,308	125,497	158,805	-0-	3,981	3,981	-0-	120,400
Washington	1,616,384	879	-0-	879	5,385	-0-	5,385	1,793	-0-
Weld	2,560,960	5,491	193,060	198,551	27,506	37,797	65,303	9,152	99,750
Yuma	1,522,752	441	-0-	441	5,315	-0-	5,315	1,771	770
Totals	66,229,888	8,345,833	14,332,010	22,677,843	$1,715,143	$1,042,815	$2,757,958	$422,386	$7,356,996

Calculations by the Legislative Council Staff, November 22, 1976, from data provided by the Colorado Secretary of State's Office and the Washington, D.C. office of U.S. Representative Frank Evans.

1/ These figures were taken from the Colorado Year Book, 1962-64. There is little agreement among agencies on this statistic. The Bureau of Land Management reports Colorado's area as 66,718,080 acres, whereas a publication distributed by the State Division of Commerce and Development reports a figure in excess of 68 million acres.

2/ These revenues are from the two programs administered by the Bureau of Land Management: the Mineral Leasing Act and the Taylor Grazing Act. Monies from the Taylor Grazing Act represent $39,689 of the $1.7 million total. Because of the provisions of Colorado law (Article 63 of Title 34), only two-thirds of the dollars received by the state under provisions of the Mineral Leasing Act are sent directly to the county. The remaining third is deposited to the state public school fund (this fund also receives spillover funds from the $200,000 limit on the revenue that a single county may receive from the Mineral Leasing Act). A portion of the one-third of each county's share of the receipts may be returned to the county pursuant to provisions of the "Public School Finance Act of 1973", but that amount cannot be accurately determined.

3/ These revenues are from the Forest Revenues and Bankhead-Jones Farm Tenancy Acts administered by the Forest Service. Monies from the Lands and Materials Act are found in both columns (5) and (6) depending on the jurisdiction. Payments under the Bankhead-Jones Farm Tenancy Act are made on a calendar year basis; the figures shown here are for calendar year 1975.

COMMITTEE ON STATE AFFAIRS

BILL 62

A BILL FOR AN ACT

CONCERNING A LEVY OF SPECIAL PENALTY ASSESSMENTS TO FINANCE TRAINING FOR LAW ENFORCEMENT AND CORRECTIONAL PERSONNEL.

Bill Summary

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

Imposes a special penalty assessment in any case where a fine is imposed following a criminal conviction, the proceeds to be forwarded to the state treasurer for credit to a fund subject to appropriation for the training of law enforcement and correctional personnel.

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

SECTION 1. 13-10-113, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

13-10-113. Fines and penalties. (4) All fines for convictions of municipal ordinance violations imposed pursuant to the provisions of this section exceeding ten dollars shall be subject to the addition of the special penalty assessment of two dollars or ten percent, whichever is greater, as authorized by part 6 of article 11 of title 16, C.R.S. 1973, subject to the additional provisions and limitations therein. All such special penalty assessment proceeds shall be remitted to the state

treasurer at least quarterly, for credit to the law enforcement and correction officers' training fund created under section 24-32-613, C.R.S. 1973.

SECTION 2. Article 11 of title 16, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW PART to read:

PART 6

SPECIAL PENALTY ASSESSMENT AUTHORIZED

16-11-601. Special penalty assessment. (1) With respect to any conviction of an offense for which a fine is imposed under any penalty assessment or by any court, there shall be imposed a special penalty assessment in the amount of two dollars or ten percent, whichever is greater, of every fine, penalty, or forfeiture imposed and collected by any state court, the Denver county court, or any municipal court in this state.

(2) Where multiple offenses are involved, the special penalty assessment shall be based upon the total fine or amount of bail for all offenses. When a fine is suspended in whole or in part, the special penalty assessment shall be reduced in proportion to the suspension. No special penalty assessment shall be imposed when the total fine is ten dollars or less.

(3) When a penalty assessment notice is issued pursuant to law, the amount of the penalty assessment shall be increased by the amount of the special penalty assessment imposed by this section.

(4) After a determination by the court of the amount due, the clerk of the court shall collect and transmit such amount to

the state treasurer, to be credited to the law enforcement and correction officers' training fund established under section 24-32-613, C.R.S. 1973. Such transmittals shall be made no less frequently than quarterly.

SECTION 3. 24-32-610, Colorado Revised Statutes 1973, is amended to read:

24-32-610. Reimbursement for training expenses. One hundred percent of the tuition, fees, room, board, and related expenses required for certification of peace officers at the basic classification required by this part 6 shall be paid by appropriation from the general fund AND FROM THE LAW ENFORCEMENT AND CORRECTION OFFICERS' TRAINING FUND ESTABLISHED UNDER SECTION 24-32-613, whether such training is provided by the Colorado law enforcement training academy or ANY other state or local government academy certified by the advisory board to meet training and curriculum requirements established by the board; except that no other certified state or local government academy shall be reimbursed pursuant to this section in an amount per peace officer greater than that due the academy for tuition and related expenses.

SECTION 4. Part 6 of article 32 of title 24, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SECTION to read:

24-32-613. Fund created. (1) The law enforcement and correction officers' training fund is hereby created in the office of the state treasurer, which fund shall be credited with moneys received as a result of the imposition of the special

penalty assessment applied under part 6 of article 11 of title 16, C.R.S. 1973, to:

(a) Section 13-10-113, C.R.S. 1973, with respect to fines and penalties under municipal ordinances;

(b) Section 33-6-133, C.R.S. 1973, with respect to fines imposed by any court and penalty assessments for violation of wildlife and parks and outdoor recreation provisions;

(c) Section 42-4-1501.5, C.R.S. 1973, with respect to fines, penalty assessments, and forfeitures relating to violations of motor vehicle operation and ownership provisions.

(2) Proceeds shall be appropriated from said fund annually to:

(a) The department of local affairs for training of law enforcement personnel who qualify for training at the law enforcement training academy and for reimbursement of expenses of training in any other state or local government facilities certified by the advisory board pursuant to section 24-32-610;

(b) The judicial branch for the training of probation personnel; and

(c) The division of correctional services in the department of institutions for training of correctional personnel.

SECTION 5. 33-6-133, Colorado Revised Statutes 1973, is amended to read:

33-6-133. Disposition of fines collected. (1) All moneys collected for fines under this title shall be immediately paid over by the judge or clerk collecting the same, as follows: One-half to the state treasurer for deposit to the credit of the

state general fund and one-half to the division of wildlife or the division of parks and outdoor recreation for proper distribution either to the wildlife cash fund or the parks and outdoor recreation cash fund.

(2) ALL FINES FOR CONVICTIONS OF VIOLATIONS OF ANY PROVISIONS OF SECTION 33-6-127, INCLUDING PENALTIES IN THE FORM OF PENALTY ASSESSMENTS, WHICH EXCEED TEN DOLLARS SHALL BE SUBJECT TO THE ADDITION OF THE SPECIAL PENALTY ASSESSMENT OF TWO DOLLARS OR TEN PERCENT, WHICHEVER IS GREATER, AS AUTHORIZED BY PART 6 OF ARTICLE 11 OF TITLE 16, C.R.S. 1973, SUBJECT TO THE ADDITIONAL PROVISIONS AND LIMITATIONS THEREIN. ALL PROCEEDS FROM SUCH SPECIAL PENALTY ASSESSMENTS SHALL BE REMITTED TO THE STATE TREASURER, AT LEAST QUARTERLY, FOR CREDIT TO THE LAW ENFORCEMENT AND CORRECTION OFFICERS' TRAINING FUND CREATED UNDER SECTION 24-32-613, C.R.S. 1973.

SECTION 6. Part 15 of article 4 of title 42, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-1501.5 Special penalty assessment authorized. (1) With respect to any conviction of a traffic offense subject to a fine under section 42-4-1501, there shall be imposed, in addition to any other penalty assessment provided by law, a special penalty assessment of two dollars or ten percent, whichever is greater, to all fines which exceed ten dollars, as authorized by part 6 of article 11 of title 16, C.R.S. 1973, subject to the additional provisions and limitations therein. All proceeds from such special penalty assessments shall be remitted to the state

treasurer, at least quarterly, for credit to the law enforcement and correction officers' training fund created under section 24-32-613, C.R.S. 1973.

SECTION 7. Effective date - applicability. This act shall take effect July 1, 1977, and shall apply to acts committed on or after that date.

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

COMMITTEE ON STATE AFFAIRS

BILL 63

A BILL FOR AN ACT

CONCERNING THE COLORADO LAW ENFORCEMENT TRAINING ACADEMY, AND RELATING TO THE TRAINING OF JAIL EMPLOYEES 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.)

Authorizes the voluntary training of jail employees, and authorizes the academy to conduct specialized training. Increases the membership of the advisory board to include jail employees. Makes an appropriation for the training of jail employees.

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

SECTION 1. 24-32-603 (2) and (3), Colorado Revised Statutes 1973, are amended, and the said 24-32-603 is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-32-603. Definitions. (2) "Basic classification" means the basic law enforcement training PROGRAM received by a peace officer at the academy or at any other ~~certified law enforcement training academy~~ TRAINING PROGRAM CERTIFIED BY THE ADVISORY BOARD TO THE COLORADO LAW ENFORCEMENT TRAINING ACADEMY.

(3) "Certification" means the issuance to a peace officer

OR JAIL EMPLOYEE, or TO an applicant for appointment as a peace officer, by the advisory board to the Colorado law enforcement training academy, of a signed instrument evidencing satisfaction by such peace officer, JAIL EMPLOYEE, or applicant of the requirements imposed by this part 6 and by said board.

(3.5) "Jail employee" means a jailer, detention person, jail keeper, jail guard, or person by any other title, who, as a full-time employee, is responsible for the custody, treatment, or discipline of inmates in temporary or regional holding facilities or jails.

SECTION 2. 24-32-604, Colorado Revised Statutes 1973, is amended to read:

24-32-604. Advisory board. There is hereby created an advisory board to the Colorado law enforcement training academy, which shall consist of ~~nine~~ TEN members. The chairman of the advisory board shall be the attorney general, and the remaining members shall be the special agent in charge of the Denver division of the federal bureau of investigation, three active chiefs of police from cities or towns of this state, three active sheriffs from counties of this state, ONE JAIL EMPLOYEE, and one lay member. The governor shall appoint initially one such chief of police and one such sheriff for a term of one year, one each for a term of two years, and one each for a term of three years. THE GOVERNOR SHALL APPOINT ONE JAIL EMPLOYEE FOR A TERM OF THREE YEARS. Thereafter, the governor shall appoint their successors for terms of three years each. If any such chief of police, ~~or~~ sheriff, ~~shall vacate~~ OR JAIL EMPLOYEE VACATES his office during

the term for which appointed to the advisory board, a vacancy on the board shall exist and shall be filled by appointment by the governor for the unexpired term. The lay member shall be appointed by the governor for a term of three years, and any vacancy in his office on the board shall likewise be filled for the unexpired term. The advisory board shall annually elect from its members a vice-chairman and a secretary. The members of the advisory board shall receive no compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties.

SECTION 3. 24-32-605, Colorado Revised Statutes 1973, is amended to read:

24-32-605. Duties of the advisory board. (1) The ADVISORY board has the following duties:

(a) To establish reasonable standards for training ~~training academies~~ AT THE ACADEMY, FOR OTHER TRAINING PROGRAMS, and FOR instructors, ~~limited---in---each---case--to--the--certification requirements-of-this-part-6~~ WHICH STANDARDS ARE NECESSARY TO FURNISH LAW ENFORCEMENT PERSONNEL, INCLUDING JAIL EMPLOYEES, WITH BASIC, IN-SERVICE, ADMINISTRATIVE, AND SPECIALIZED TRAINING;

(b) To establish procedures for determining whether or not a peace officer OR JAIL EMPLOYEE meets or has met the standards which have been set;

(c) To certify qualified peace officers AND JAIL EMPLOYEES and withhold or revoke certification in the manner provided for by rules and regulations adopted by the advisory board pursuant

to the provisions of article 4 of this title.

SECTION 4. 24-32-606 (1) and (3), Colorado Revised Statutes 1973, are amended to read:

24-32-606. Certification - revocation of certification. (1) The advisory board shall issue a certificate to any peace officer or applicant for appointment as a police officer who presents evidence that he has met the basic standards established by the board and has ~~successfully--completed--a--high-school education~~ A HIGH SCHOOL DIPLOMA or its equivalent. In addition, the certification shall designate compliance with any higher classification of standards for which such peace officer is qualified. THE ADVISORY BOARD SHALL ALSO ISSUE A CERTIFICATE TO ANY JAIL EMPLOYEE WHO PRESENTS EVIDENCE THAT HE HAS MET THE BASIC STANDARDS ESTABLISHED BY THE BOARD FOR JAIL EMPLOYEES AND HAS A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT.

(3) The basic classification as established shall serve as a guideline for the hiring or retention of all peace officers. Certification reflecting a higher level of proficiency than the basic classification shall not be a condition precedent to the hiring, retention, or promotion of any peace officer. However, higher classes of certification may, at the discretion of the employing agency, be required in hiring, retaining, or promoting peace officers. CERTIFICATION OF JAIL EMPLOYEES SHALL NOT BE A CONDITION PRECEDENT TO THE HIRING BUT MAY BE A CONDITION PRECEDENT TO THE RETENTION OR PROMOTION OF ANY JAIL EMPLOYEES AT THE DISCRETION OF THE EMPLOYING AGENCY.

SECTION 5. 24-32-609 (1)(a), (1)(b), and (1)(c), Colorado

Revised Statutes 1973, are amended, and the said 24-32-609 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-32-609. Powers and duties of the superintendent. (1) (a) To coordinate training at the Colorado law enforcement training academy AND AT OTHER PUBLIC OR PRIVATE AGENCIES OR INSTITUTIONS to meet the needs of the Colorado state patrol and other ~~agencies--which--may--use--this--facility--as--the--primary training--academy~~ STATE AND LOCAL LAW ENFORCEMENT AGENCIES, INCLUDING JAILS, WHICH MAY USE SAID AGENCIES OR INSTITUTIONS AS TRAINING CENTERS;

(b) To establish standards and adopt rules and regulations concerning the admission and training of such law enforcement AND JAIL personnel, WHICH STANDARDS, RULES, AND REGULATIONS SHALL REFLECT THE SPECIAL NEEDS OF ALL TRAINEES;

(b.5) To determine the curriculum and courses of instruction for programs at the academy and for other certified training programs necessary to furnish law enforcement personnel, including jail employees, adequate basic, in-service, administrative, and specialized training for the efficient performance of their respective duties.

(c) To enter into contracts on behalf of the academy relative to matters necessary for the proper and efficient administration and operation thereof, including contracts with ~~other~~ state AND FEDERAL agencies and institutions and with political subdivisions of this state.

SECTION 6. 24-32-610, Colorado Revised Statutes 1973, is amended to read:

24-32-610. Reimbursement for training expenses. One hundred percent of the tuition, fees, room, board, and related expenses required for certification of peace officers at the basic classification required by this part 6 AND FOR THE TRAINING OF JAIL EMPLOYEES AUTHORIZED IN THIS PART 6 shall be paid by appropriation from the general fund OR OTHER FUND, whether such training is provided by the Colorado law enforcement training academy or other state, FEDERAL, or local ~~government--academy~~ TRAINING PROGRAM certified by the advisory board to meet training and curriculum requirements established by the board; except that no other certified ~~state--or-local-government-academy~~ TRAINING PROGRAM shall be reimbursed pursuant to this section in an amount per peace officer OR JAIL EMPLOYEE greater than that due the academy for tuition and related expenses.

SECTION 7. Appropriation. There is hereby appropriated, out of any moneys in the state treasury not otherwise appropriated, to the Colorado law enforcement training academy, for the fiscal year commencing July 1, 1977, the sum of _____ dollars ($), or so much thereof as may be necessary, for the training of jail employees.

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

LEGISLATIVE COUNCIL

COMMITTEE ON AGRICULTURE

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The Legislative Council directed the interim Committee on Agriculture to conduct "a study of a program for the utilization of water resources, including the possible creation of a state water use commission". At the committee's first meeting, a decision was made not to conduct the comprehensive study necessary to implement the directive, but instead to give priority to the solution of problem areas in present Colorado water law.

Constitutional Provisions Affecting Control of Water Use

The decision not to fully implement the study directive was influenced by a staff briefing on the current Colorado constitutional provisions affecting control of water use. 1/ Although, under the state constitution, title to all surface and underground waters flowing in natural streams is vested in the public, under the same document, application of appropriated water to a beneficial use transfers legal ownership and control to the appropriator, and he thereby acquires an alienable right to real property. Thus, any attempt to impose state control over the acquisition and use of water should be undertaken with an awareness of the property right in water and the constitutional prohibitions against taking of property without just compensation and for any purpose without due process of law.

Two specific sections of Article XVI of the state constitution deal with water rights and uses and form the foundation of the state's water law. The first of these reads as follows:

> Section 5. Water of streams public property. The water of every natural stream, not heretofore appropriated, within the state of Colorado, is hereby declared to be the property of the public, and the same is dedicated to the use of the people of the state, subject to appropriation as hereinafter provided.

This language has been held to be so clear that no judicial interpretation of it is necessary. The title, right, property, and ownership of unappropriated water in the state remains vested in the state until some person appropriates it and devotes it to a beneficial use. When appropriated, title no longer remains in the state, but is transferred to the appropriator for such time as the beneficial use for which the water was appropriated is continued. This section applies only to waters in natural streams but has been held to apply

1/ This section of the report is taken from a staff memorandum of the Legislative Drafting Office prepared by Ms. Sue Burch, staff member in that office.

to groundwater insofar as such water is tributary to a natural stream. (It should be noted that all water is presumed to be tributary to some stream, but the presumption can be overcome.)

The fact that the section quoted above applies to all unappropriated waters becomes critical at this time since most, if not all available waters in the state, have already been appropriated and have thereby passed from state ownership. In addition, the availability of waters is crucial in light of the several interstate compacts concerning water which require delivery of specific amounts of water outside the state.

The effect of any plan for statewide control of water use on this section would depend on the plan and type of implementation involved, but it can generally be said that this section, at the present date, is less prospective than retrospective.

The second section of Article XVI which has a direct bearing on water use reads as follows:

> Section 6. Diverting unappropriated water - priority preferred uses. The right to divert the unappropriated waters of any natural stream to beneficial uses shall never be denied. Priority of appropriation shall give the better right as between those using the water for the same purpose; but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall have the preference over those claiming for any other purpose, and those using the water for agricultural purposes shall have preference over those using the same for manufacturing purposes.

This section also has been held to be so plain that no judicial interpretation is necessary, although evolving conditions have necessitated interpretation. The language guarantees the right of diversion and appropriation for beneficial uses, but the right exists only so long as the water is applied to a beneficial use. Any prolonged nonuse of the water coupled with an intent, express or implied, to abandon the water right results in a forfeiture of the right. However, the right to appropriate "shall never be denied", which language has been held to provide for the use of water in perpetuity. This constitutional construction appears to require care in any system providing control over the appropriation and use of the state's waters.

Section 6 establishes two types of priorities to be applied in the determination of water rights. The first is a priority in time -- the appropriator first diverting unappropriated water and applying it to a beneficial use obtains a right superior to all subsequent appropriators. However, this system of seniority applies only to appropriators "for the same purpose"; the constitution additionally sets up a priority of uses "when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same". This priority system establishes domestic use as the "best and highest use" and sets agricultural uses over manufacturing uses.

This second priority classification does not provide for an outright taking of water for a better and higher use; consent of the prior appropriator or compensation is required. Still the establishment of these priorities has great implications, for essentially all municipal water uses are domestic. Thus, in addition to purchasing water rights, municipalities are able to condemn water rights pursuant to statutory procedures.

The category under which municipal water use falls points to another constitutional provision implicated in any statewide system of water use control -- the powers of home rule cities and towns. Section 6 of Article XX provides that:

> Such charter and the ordinances made pursuant thereto in such matters shall supersede within the territorial limits and other jurisdiction of said city or town and law of the state in conflict therewith ... The statutes of the state of Colorado, so far as applicable, shall continue to apply to such cities and towns, except insofar as superseded by the charters of such cities and towns or by ordinance passed pursuant to such charters.

Thus with respect to municipal matters, home rule cities and towns are independent of state law in any area in which they choose to legislate, barred only by constitutional restrictions and by state legislation declared to concern matters of "statewide" interest. Although creation of a system of control over water use in the state could be deemed a matter of statewide interest, and thereby conceivably enable the state to preempt municipal home-rule rights, the extent to which such a system could control municipal water matters is not clearly defined and is still subject to the other constitutional provisions concerning water use discussed above.

Another consideration is the extent to which the Public Utilities Commission is authorized to control a municipal water utility and the effect of a statewide water use system on such control. Article XXV of the state constitution vests "all power to regulate the facilities, service and rates and charges therefor, ... of every corporation, individual, or association of individuals, ... operating ... as a public utility ..." in the Public Utilities Commission, but specifically exempts municipally-owned utilities. Here the questions of utility control, home-rule powers, and water rights all affect any system of statewide water use control and must be considered in establishing such a system.

These constitutional provisions, together with the state and federal provisions concerning deprivation and taking of property, will directly affect any system establishing statewide control of water use.

In order to provide a point of reference for consideration of a system of statewide water use control, a brief sketch of Colorado's water system is useful. There are four basic components of the

state's water system. The first is initial appropriation; the second, adjudication of the water right; the third, the administration of the water right; and the fourth, determination of state water policy.

Greatly generalized, there is virtually no state control over the acquisition of the initial appropriation of water. The right is obtained by the affirmative action of diversion and application to a beneficial use. Adjudication of the water right is accomplished judicially under the "Water Right Determination and Administration Act of 1969". The state engineer is responsible for administration of adjudicated water rights, and the Colorado Water Conservation Board is responsible for development of state water policy. A statewide system of control of water use would necessarily comprehend the three parts of the system which are under state control, but without some state participation in the fourth, any such system would not be fully effective.

Problem Areas in Present Water Law

The State Engineer and the staff director for the Colorado Water Conservation Board outlined for the committee several problems resulting from present Colorado water statutes. As a result, bill drafts addressing each area of concern were discussed during the interim. The five bills recommended by the committee are reviewed below. This summary is followed by a discussion of two proposals bearing no recommendation from the committee.

Duties of the Colorado Water Conservation Board -- Bill 64

This bill would amend a current provision of law which authorizes the Colorado Water Conservation Board to "investigate the plans, purposes, and activities of other states, and of the federal government, which might affect the interstate waters of Colorado" (section 37-60-106, C.R.S. 1973). The proposed language would give the board authority, as a result of its investigation, to "respond or assist in formulating a response" to those activities of state and federal agencies which affect "the use or development of the water resources of the state". The bill thus gives the board clearer authority to respond to proposals like federal environmental impact statements, and wilderness and wild river designations.

Colorado Water Conservation Board Construction Fund -- Bills 65 and 66

In 1971, the General Assembly enacted S.B. 21 which provided authority for the Colorado Water Conservation Board to enter into contracts for the construction of projects to conserve and utilize the water and power resources of the state (section 37-60-119, C.R.S. 1973). The act authorized a maximum appropriation of $10,000,000 which would establish a revolving fund from which water projects could

be constructed in the future. The construction fund is unique in that the board levies charges for the use of facilities it constructs sufficient to return the state's investment. As of this date, the sum of $3,200,000 has been appropriated to the fund from the following sources: $2,700,000 from payments originating out of the federal oil shale test leases; $300,000 from revenue sharing; and $200,000 from the state's general fund.

As a result of federal and state legislation enacted in recent years relating to water quality, the municipalities of this state are experiencing or will experience financial burdens in meeting these standards. The Colorado Water Conservation Board has recommended to the General Assembly the construction of twelve water resource projects within the state to be partially financed by the board's construction fund. (Although the board recommends all twelve projects, the order of priority is tentative only and is subject to final determination at a board meeting to be held on January 19, 1977.) These twelve projects in order of tentative priority, the recommended appropriation therefor, and the proposed service charges are as follows:

Water Projects in Colorado Recommended by
the Colorado Water Conservation Board
Showing Funding Sources (Excluding Federal Funds)
and Charges to Local Users

Project	Total Cost	State Cost*	Annual Charges to Local Users	Years	Total Charges
Dove Creek	$ 1,200,000	$ 400,000	$ 14,624	40	$ 584,960
Trinchera	1,000,000	400,000	17,860	30	535,800
Hayden	600,000	300,000	20,166	20	403,320
Delta	990,000	450,000	26,024	30	780,720
Brighton	1,010,000	460,000	26,418	25	660,445
Yamcolo	3,200,000	1,000,000	43,260	40	1,730,400
Rico	385,000	80,000	3,460	40	138,400
Keenesburg	810,000	405,000	17,400	40	700,812
Winter Park	1,500,000	750,000	38,264	30	1,147,920
Overland	2,630,000	850,000	31,076	40	1,243,040
Hotchkiss	1,575,000	570,000	29,018	30	872,442
Montrose	2,460,000	1,000,000	57,830	30	1,734,900
Totals	$21,251,000	$6,665,000	$325,400		$10,533,159

*Required appropriation.

In summary, the state appropriation required if all of these projects are constructed is $6,665,000. The revenue to the state for service charges would be $10,533,159.

Current statutory authority provides that "the General Assembly may select such projects as it deems to be to the advantage of the people of the state of Colorado and shall direct the board to proceed with construction of said projects in the priorities established by the General Assembly under such terms as shall be determined by the General Assembly." (section 37-60-122 (1) (b), C.R.S. 1973).

To meet the increasing need for state assistance in this area, the committee recommends two bills. The first measure, Bill 65, would delete the current provision that monies in the construction fund cannot exceed $10,000,000 and would substitute language to allow the General Assembly to determine the amount of money in the fund.

The second measure, Bill 66, would amend the statute detailing the distribution of monies received as the state's share of payments under the Federal Mineral Leasing Act of 1920. These amendments are necessary to conform state law with changes in the federal statute that increase the percentage of payments received by the state and alter the restriction on how the state's share can be spent.

The federal law, as amended in 1976, provides that 50 percent of all mineral leasing funds shall be paid to the respective states. These funds may be used, as each state legislature directs, for planning, construction and maintenance of public facilities, and providing for public services. Priority is to be given to those political subdivisions socially or economically impacted by the development of minerals leased under the act. Thus, all funds received by the state under the amended federal act can now be used as the General Assembly directs for almost any public purpose. There is no longer any specific federal statutory direction that any portion of these funds be used exclusively for roads and schools.

The effect of the 1976 federal legislation is to make available to the state of Colorado an estimated $10,000,000 annually from the mineral leasing fund for public purposes, including the construction or improvement of water supply projects. In addition to this estimated sum, about $66,000,000 now on deposit with the state treasurer as receipts from the leasing of oil shale tracts are now available for the planning, construction, and maintenance of public facilities, and for public services.

Bill 66 would provide for the following distribution of monies: (a) the funds now held by the state treasurer originating out of the department of the interior oil shale test leases, the interest earned from these funds, and 25 percent of all other monies received from the mineral leasing act would be distributed, by appropriation, to state agencies, school districts, and other political subdivisions of the state for planning, construction, and maintenance of public facilities and for public services; (b) 25 percent of the monies received from

the act would be paid into the state's public school fund for distribution under provisions of the school finance act; and (c) the remaining 50 percent of all monies received from the mineral leasing fund would be paid to the respective counties from which the leasing money is derived and used by these counties for the support of public schools and construction and maintenance of public roads. The committee suggests that this distribution will cause the least disruption in the existing distribution of mineral leasing funds, create a new source of funds for water resource projects, and meet other needs at the local level.

Location of Hearings of the Ground Water Commission -- Bill 67

Under provisions of the Colorado Ground Water Management Act of 1965, hearings conducted by the ground water commission are to be held "within the boundaries of the designated ground water basin and within the ground water management district, if one exists, in which the water rights directly involved are situated." The bill recommended by the committee would amend this provision to direct that hearings be held at the state capital or, if the ground water commission so chooses, within the ground water basin and management district.

Speaking in support of this measure, the state engineer reported that the proposal will: (a) reduce the number of unjustified hearings; (b) solve a problem which the commissioner faces in some rural areas of the state where there is a lack of public meeting facilities; and (c) save the state travel and personnel costs.

Authority of the State Engineer Regarding Reservoirs -- Bill 68

The state engineer has authority over the construction of dams or reservoirs on private property. This officer approves the plans and specifications for such structures, acts as consulting engineer during construction, and accepts the completed project. The state engineer also investigates complaints concerning structures that are regarded as unsafe. Bill 68 would provide for two changes in the law: (a) it would extend the state engineer's authority to include approval of plans for the repair or enlargement of reservoirs, not just the initial construction of these facilities; and (b) it would revise the fee structure for the review, approval, and filing of plans and specifications for the construction, repair or enlargement of reservoirs. The state engineer's office reports that fees charged for fiscal 1976 amounted to approximately $2,500, substantially below the cost of carrying out the agency's statutory responsibilities in this area. The proposed fee schedule would result in collections of an estimated $58,000 a year.

Augmentation Plans -- Bills 69 and 70

A recent decision of the Colorado Supreme Court raised several concerns over provisions of the statute regarding plans for augmen-

tation. (The term augmentation means a detailed program to increase the supply of water available for beneficial use.) In an attempt to respond to these concerns, the committee reviewed two proposed bills. After due deliberation, the committee decided to submit both measures to the General Assembly without recommending either proposal. The committee takes this approach because the language in both bills, although not entirely satisfactory, provides an important first step for consideration and because it is essential that the General Assembly address revisions in this area of the law.

Concerning Temporary Augmentation Plans, and Providing for Notice and Hearing Prior to a Determination Thereon by the State Engineer -- Bill 69

Bill 69 was drafted to respond to a concern expressed by the Colorado Supreme Court in Kelly Ranch v. Southeastern Colorado Water Conservancy District and Division Engineer of Water Division No. 2 (Colo., 550 P.2d 297, ___ Colo ___). The case involved approval of a temporary augmentation plan by the State Engineer under provisions of section 37-92-307, C.R.S. 1975, as amended (S.B. 7, 1974 session). This act added a procedure to the Water Right Determination and Administration Act of 1969 permitting a proposed temporary plan for augmentation to be submitted to the State Engineer for his rejection or approval. The statute also provided that the findings of the State Engineer with respect to the plan for augmentation "shall be prima facie evidence, unless challenged by competent countervailing evidence, of the facts upon which his determination was based".

The Southeastern Colorado Water Conservancy District argued that, since the bill was enacted after hearings on the case commenced in the water court, S.B. 7 should not be used to cast a presumption of validity of the plan for augmentation as a result of the approval of the plan by the State Engineer. The district also argued that S.B. 7 violates due process by not affording interested persons appropriate notice of proceedings and action to be taken by the State Engineer.

The Supreme Court agreed with the first argument, but did not rule on the second. The court noted "since the presumptive effect of the statute has been removed, this is not a case for us to reach the question of facial unconstitutionality. In the absence of intervening legislative amendment as to notice, we well may have to cross that bridge some future date."

The bill seeks to respond to the issue of notice by providing that the State Engineer hold a hearing on the proposed plan within 60 days after it is submitted. The hearing is to offer "interested persons an opportunity to submit written data, views, or arguments to present the same orally". Further, the bill would provide that the state engineer make a determination on the application within 30 days. If the state engineer finds that the proposal would cause injury, he is to allow the applicant "an opportunity to propose protective terms or conditions".

Amending the Water Right Determination and Administration Act of 1969 -- Bill 70

This bill also attempts to speak to issues raised by the Kelly Ranch decision. The bill would: (1) restrict the definition of plan for augmentation to a program for the development of new sources of water, including water exchange projects; (2) repeal the statutory provision regarding a temporary plan for augmentation; (3) provide that a plan for augmentation shall be ruled upon first by a referee as is now the case in other water rights determinations; and (4) specifically allow the state engineer and any division engineer to participate in hearings before a water judge.

A Plan for Certification of Pesticide Applicators in Colorado

An additional responsibility of the committee was to review the functions and duties of the state Department of Agriculture. One recent primary activity of the Commissioner of Agriculture, Mr. Evan Goulding, has been the drafting of a proposal for the certification of pesticide applicators. The Commissioner reviewed for the committee his work to date and outlined the major provisions of a certification bill which he hopes will be given approval during the 1977 legislative session.

Mr. Goulding reported that he had acted in this area as a result of the General Assembly's frustration with the "Federal Environmental Pesticide Control Act" and its initial administration by the Environmental Protection Agency (E.P.A.), and the decision on the part of the legislature during the 1976 session not to pass a state program for certification. Further, a state attorney general's opinion recently stated that if Colorado does not have a state certification program by October, 1977, the Environmental Protection Agency can mandate a program. His objectives were first to solicit the opinions of the state's agricultural community on the kind of standards that should be imposed, and second to obtain the E.P.A.'s reaction to the approaches suggested by the farm community.

To implement this approach, Mr. Goulding held some eleven meetings throughout the state, involving some 350 people. The alternatives discussed in these meetings were presented to officials in the regional and Washington offices of the E.P.A. After additional drafts and conferences, regional E.P.A. officials accepted a plan, and the offer of "intent to approve" is expected soon from Washington, D.C. With enactment of the proposed plan by the General Assembly, final approval of the E.P.A. may be expected according to Mr. Goulding.

With regard to the certification of private applicators of restricted use pesticides, the Commissioner noted that the philosophy of the bill is that the applicators need a minimum level of understanding on how to use restricted chemicals, and that a certification

requirement should be as flexible as possible. Mr. Goulding outlined six ways an individual could qualify for certification. The approaches include attendance at a four to six hour seminar, an open book home course, or a short test for those who feel they are knowledgeable enough not to attend a seminar or take a home course. Self-certification could be granted on a one-time, emergency basis. Certification would be renewed at the end of a five year period and would be automatic unless, at the discretion of the commissioner, the applicant needs to be tested or there have been sufficient technological changes to justify something more extensive than automatic recertification.

After a review of the major provisions of the bill, the committee submits no recommendation on the proposal. A motion was adopted, however, that if a certification bill is approved during the 1977 session, rules and regulations promulgated by the Commissioner are to be reviewed and approved by the appropriate House and Senate standing committees before they are implemented.

COMMITTEE ON AGRICULTURE

BILL 64

A BILL FOR AN ACT

CONCERNING THE DUTIES OF THE COLORADO WATER CONSERVATION BOARD.

Bill Summary

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

Adds to the duties of the Colorado water conservation board the response to actions or proposed actions of the federal government and other states having an effect on Colorado's water resources.

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

SECTION 1. 37-60-106 (1) (h), Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

37-60-106. Duties of the board. (1) (h) To investigate and respond or assist in formulating a response to the plans, purposes, procedures, requirements, laws, proposed laws, or other activities of the federal government and other states which affect or might affect the use or development of the water resources of this state;

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

COMMITTEE ON AGRICULTURE

BILL 65

A BILL FOR AN ACT

CONCERNING THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND.

Bill Summary

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

Eliminates the requirement that any balance in excess of ten million dollars in the Colorado water conservation board construction fund revert to the general fund.

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

SECTION 1. 37-60-106 (1) (o), Colorado Revised Statutes 1973, is amended to read:

37-60-106. Duties of the board. (1) (o) To sell or otherwise dispose of property owned by the board, in the name of the state of Colorado, as a result of expenditures from the Colorado water conservation board construction fund in such manner as to be most advantageous to the state. Proceeds from such sale or disposal shall accrue to the Colorado water conservation board construction fund and shall not revert to the general fund except ~~that any balance in such construction fund in excess of ten million dollars at the close of any fiscal year~~

~~shall-revert-to-the-general-fund-of-the-state~~ AS MAY BE DIRECTED BY THE GENERAL ASSEMBLY FROM TIME TO TIME.

SECTION 1. 37-60-121, Colorado Revised Statutes 1973, is amended to read:

37-60-121. Colorado water conservation board construction fund - creation of - nature of fund - funds for investigations - contributions. (1) There is hereby created a fund to be known as the Colorado water conservation board construction fund, which shall consist of all moneys which may be appropriated thereto by the general assembly or which may be otherwise made available to it by the general assembly, and such charges may become a part thereof under the terms of section 37-60-119. Such fund shall be a continguing fund TO BE EXPENDED IN THE MANNER SPECIFIED IN SECTION 37-60-122 and shall not revert to the general fund of the state at the end of any fiscal year except ~~that-any-balance-in excess-of-ten-million-dollars-shall-revert-to-the-general-fund-of the-state~~ AS MAY BE DIRECTED BY THE GENERAL ASSEMBLY FROM TIME TO TIME.

(2) The board, in addition to the amount allocated to a project to cover the actual cost of construction, may allocate to the project constructed by it, under contract or otherwise, such amounts as may be determined by it for investigating, engineering, inspection, and other expenses, and may provide for the repayment of the same out of the first moneys repayable from the project under the contract for its construction, and such moneys so repaid shall be accounted for within the purpose of making investigations for the development of the water resources

of the state.

(3) Contributions of money, property, or equipment may be received from any county, municipality, federal agency, water conservation district, metropolitan water district, conservancy district, water users' association, person, or corporation for use in making investigations, contracting projects, or otherwise carrying out the purposes of sections 37-60-119 to 37-60-123.

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

COMMITTEE ON AGRICULTURE

BILL 66

A BILL FOR AN ACT

CONCERNING ROYALTIES RECEIVED FROM FEDERAL MINERAL LEASES.

Bill Summary

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

Conforms state law to the provisions of the federal mineral leasing act and provides for disbursement of certain royalties to counties for public purposes pursuant to the general assembly's directive. Repeals provisions concerning methods of payment.

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

SECTION 1. 34-63-101, Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

34-63-101. State treasurer to receive and distribute mineral leasing payments. In accordance with the provisions of section 35 of the federal mineral leasing act of February 25, 1920, as amended, the state treasurer is directed to deposit and distribute any moneys now held or to be received by the state of Colorado from the United States as the state's share of sales, bonuses, royalties, and rentals of public lands within this state for the benefit of the public schools or the political subdivisions of this state and for other purposes in accordance

with the provisions of section 34-63-102.

SECTION 2. 34-63-102, Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

34-63-102. Creation of mineral leasing fund and distribution. (1) All moneys, including any interest earned therefrom, now held or to be received by the state treasurer pursuant to the provisions of the federal mineral leasing act of February 25, 1920, as amended, and originating out of the department of the interior oil shale test leases known as Colorado tracts C-A and C-B, together with twenty-five percent of all other moneys received on or after January 1, 1977, pursuant to said federal mineral leasing act, shall be deposited by the state treasurer into a special fund to be known as the "mineral leasing fund", for appropriation by the general assembly to state agencies, school districts, and other political subdivisions of the state for planning, construction, and maintenance of public facilities and for public services. In making such appropriation, priority shall be given to those public schools and political subdivisions socially or economically impacted by the development of minerals leased under said federal mineral leasing act.

(2) Further, twenty-five percent of all moneys received on or after January 1, 1977, pursuant to said federal mineral leasing act, other than those moneys received from the leasing of the oil shale tracts described in subsection (1) of this section, upon receipt, shall be paid into the public school fund to be used for the support of the public schools of this state.

(3) (a) The remaining fifty percent of all moneys received on or after January 1, 1977, pursuant to said federal mineral leasing act, other than those moneys received for the leasing of the oil shale tracts described in subsection (1) of this section shall, upon receipt, be paid to the respective counties of this state from which said federal leasing money is derived and used by said counties for the support of public schools and for the construction and maintenance of public roads. The board of county commissioners of any county receiving such money shall apportion such money to public schools and public roads, but not more than seventy-five percent of said money shall be apportioned for either of said purposes during any one year; except that no single county shall be paid an amount in excess of two hundred thousand dollars in any calendar year under the provisions of this paragraph (a).

(b) Any balance of said fifty percent remaining after payment to the several counties as provided in paragraph (a) of this subsection (3) shall be paid by the state treasurer, on or before the last day of December of each year, into the state public school fund and used for the support of the public schools.

SECTION 3. Repeal. 34-63-104, Colorado Revised Statutes 1973, is repealed.

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

COMMITTEE ON AGRICULTURE

BILL 67

A BILL FOR AN ACT

CONCERNING THE LOCATION OF HEARINGS OF THE GROUND WATER COMMISSION.

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 hearings of the ground water commission shall be held at the state capital or, in the discretion of the commission, in the designated ground water basin and management district.

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

SECTION 1. 37-90-113 (1), Colorado Revised Statutes 1973, is amended to read:

37-90-113. Hearings. (1) Hearings on all matters to be heard by the commission shall be held AT THE STATE CAPITAL OR, IN THE DISCRETION OF THE COMMISSION, within the boundaries of the designated ground water basin and within the ground water management district, if one exists, in which the water rights directly involved are situated. The hearings shall be conducted before the commission under reasonable rules and regulations of procedure prescribed by it. All parties to the hearing,

including the commission, have the right to subpoena witnesses, who shall be sworn by the chairman or acting chairman of the commission to testify under oath at the hearing. All parties to the hearing shall be entitled to be heard either in person or by attorney.

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

COMMITTEE ON AGRICULTURE

BILL 68

A BILL FOR AN ACT

CONCERNING RESERVOIRS.

Bill Summary

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

Sets up a fee schedule for review of plans and specifications for reservoirs, provides for expenses for inspection of reservoirs, and provides that any reservoir owner is liable to a penalty for noncompliance with directions of the state engineer. Repeals certain provisions concerning certain fees collected by the state engineer.

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

SECTION 1. 37-87-105, Colorado Revised Statutes 1973, is amended to read:

37-87-105. Approval of plans for reservoir - fees. (1) No reservoir of a capacity of more than one thousand acre-feet or having a dam or embankment in excess of ten feet in vertical height, or having a surface area at high waterline in excess of twenty acres shall be constructed, REPAIRED, OR ENLARGED in this state unless the plans and specifications for the same have first been approved by the state engineer and filed in his office. The state engineer shall act as consulting engineer during the

construction thereof and shall have authority to require the material used and the work of construction to be done to his satisfaction. No work shall be deemed complete until the state engineer furnishes to the owners of such structures a written statement of the work of construction and the full completion thereof, together with his acceptance of the same, which statement shall specify the dimensions of such dam and capacity of such reservoir.

(2) (a) THE FEE SCHEDULE FOR REVIEWING, APPROVING, AND FILING PLANS AND SPECIFICATIONS SHALL BE AS FOLLOWS:

(I) FOR THE FIRST ONE THOUSAND DOLLARS OF ESTIMATED CONSTRUCTION COST OR FRACTION THEREOF OF ESTIMATED CONSTRUCTION COST, A FEE OF ONE HUNDRED DOLLARS;

(II) FOR THE NEXT NINE THOUSAND DOLLARS, OR FRACTION THEREOF OF ESTIMATED CONSTRUCTION COSTS, AN ADDITIONAL FEE OF TEN PERCENT OF THE INCREMENT OVER THE INITIAL ONE THOUSAND DOLLARS;

(III) FOR THE NEXT NINETY THOUSAND DOLLARS, OR FRACTION THEREOF OF ESTIMATED CONSTRUCTION COST, AN ADDITIONAL FEE OF THREE PERCENT OF THE INCREMENT OVER THE INITIAL TEN THOUSAND DOLLARS;

(IV) FOR THE NEXT ONE MILLION THREE HUNDRED THOUSAND DOLLARS, OR FRACTION THEREOF OF ESTIMATED CONSTRUCTION COST, AN ADDITIONAL FEE OF ONE TENTH OF ONE PERCENT OF THE INCREMENT OVER THE INITIAL ONE HUNDRED THOUSAND DOLLARS;

(V) FOR PROJECTS WHERE ALL ESTIMATED CONSTRUCTION COSTS ARE IN EXCESS OF ONE MILLION FOUR HUNDRED THOUSAND DOLLARS, A FEE OF FIVE THOUSAND DOLLARS WILL BE CHARGED.

(b) IN NO CASE, HOWEVER, SHALL THE MINIMUM FEE BE LESS THAN ONE HUNDRED DOLLARS NOR THE MAXIMUM FEE MORE THAN FIVE THOUSAND DOLLARS.

(c) REQUESTS FOR PRELIMINARY REVIEW AND COMMENT ON DESIGN REPORTS AND PRELIMINARY DRAWINGS SHALL BE ACCOMPANIED BY A ONE HUNDRED DOLLAR FEE. THIS FEE FOR PRELIMINARY REVIEW AND COMMENT MAY BE APPLIED TO THE TOTAL FEE TO BE CHARGED FOR THE EXAMINATION AND FILING OF THE FORMAL SUBMITTAL.

(d) THE FEES TO BE CHARGED UNDER SUBPARAGRAPHS (I) TO (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL INCLUDE THE COST OF REVIEW, THE COST OF ADMINISTRATION OF CONSTRUCTION IN ACCORDANCE WITH THE APPROVED PLANS AND SPECIFICATIONS, AND THE COSTS OF NECESSARY INSPECTIONS TO FURNISH A WRITTEN STATEMENT OF THE WORK OF CONSTRUCTION AND THE FULL COMPLETION THEREOF.

SECTION 2. 37-87-111, Colorado Revised Statutes 1973, is amended to read:

37-87-111. Expense of examination. The person calling upon the state engineer to perform the duty required of him by section 37-87-109 shall pay him in advance when requested or invoiced expenses, ~~as provided in section 37-87-106;~~ INCLUDING EXPENSES FOR ANY PERSON APPOINTED BY THE STATE ENGINEER TO MAKE SUCH INSPECTION, NOT TO EXCEED ONE HUNDRED TWENTY-FIVE DOLLARS PER DAY FOR EACH DAY NECESSARILY EMPLOYED FOR SUCH PURPOSES, and mileage at the rate of ~~ten~~ TWELVE cents per mile for each mile actually and necessarily traveled in going to and from said reservoir, and should the state engineer find upon examination that such reservoir is in an unsafe condition, the owners thereof shall be

liable for all expenses incurred in such examination.

SECTION 3. 37-87-114, Colorado Revised Statutes 1973, is amended to read:

37-87-114. Penalty - disposition of fines. Any reservoir ~~company~~ OWNER failing or refusing, after ten days' notice in writing BY REGISTERED MAIL has been given, to obey the directions of the state engineer as to the construction or filling of any reservoir shall be subject to a fine of not less than two hundred dollars for each offense, and each day's continuance after time of notice has expired shall be considered a separate offense. Such fines shall be recovered by civil action in the name of the people, by the district attorney, upon the complaint of the state engineer, in the county where the injury complained of occurred. The proceeds of all fines, after payment of costs and charges of the proceedings, shall be paid into the county treasury for the use of the general fund of the county.

SECTION 4. Repeal. 37-80-110 (1) (e) and 37-87-106, Colorado Revised Statutes 1973, are repealed.

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

COMMITTEE ON AGRICULTURE

BILL 69

A BILL FOR AN ACT

CONCERNING TEMPORARY AUGMENTATION PLANS, AND PROVIDING FOR NOTICE AND HEARING PRIOR TO A DETERMINATION THEREON BY THE STATE ENGINEER.

Bill Summary

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

Provides for notice to interested parties regarding hearings on temporary augmentation plans before the state engineer.

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

SECTION 1. 37-92-302 (3) (a), Colorado Revised Statutes 1973, is amended to read:

37-92-302. Applications for water rights or changes of such rights - plans for augmentation. (3) (a) Not later than the fifteenth day of each month, the water clerk shall prepare a resume of all applications AND NOTICES OF SUBMISSION OF PLANS FOR AUGMENTATION TO THE STATE ENGINEER PURSUANT TO SECTION 37-92-307 (2) (a) in the water division which have been filed in his office during the preceding month. The resume shall give the name and address of the applicant, a description of the water right or

conditional water right involved, and a description of the ruling sought.

SECTION 2. 37-92-307 (2), Colorado Revised Statutes 1973, as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

37-92-307. Special procedures with respect to plans for augmentation - temporary augmentation plan. (2) (a) Any person who has filed with the water clerk an application for approval of a plan for augmentation pursuant to section 37-92-302 may thereafter, at the applicant's option, submit such a proposed plan to the state engineer for his approval as a temporary augmentation plan and shall file with the water clerk notice of such submission.

(b) The state engineer shall hold a hearing on the proposed plan not less than sixty days after receipt affording interested persons an opportunity to submit written data, views, or arguments and to present the same orally. Not later than thirty days after the hearing, the state engineer shall make a determination concerning the proposed temporary augmentation plan.

(c) The state engineer shall approve such plan if he can determine with reasonable assurance that it will not injuriously affect the owner of or persons entitled to use water under a vested water right. If he determines that the proposed plan would cause such injurious effect, he shall afford the applicant an opportunity to propose protective terms or conditions. The state engineer may impose other protective terms and conditions including those specified in section 37-92-305 (4).

(d) Wherever possible, the state engineer shall approve a plan for augmentation upon specifying protective terms and conditions which would permit the plan to be implemented without such injurious effect.

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

COMMITTEE ON AGRICULTURE

BILL 70

A BILL FOR AN ACT

AMENDING THE "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.)

Limits the definitions of "plan for augmentation", provides that plans for augmentation be dealt with as other changes of water rights, specifies fees for finding more than one change of water right, and provides for appearance of interested parties in proceedings before the water judge. Repeals prior special provisions concerning plans for augmentation.

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

SECTION 1. 37-92-103 (9), Colorado Revised Statutes 1973, as amended, is amended to read:

37-92-103. Definitions. (9) "Plan for augmentation" means a detailed program to increase the supply of water available for beneficial use in a division or portion thereof by ~~the development--of-new-or-alternate-means-or-points-of-diversion;-by a-pooling-of-water-resources;--by--water--exchange--projects;--by providing-substitute-supplies-of-water;-by~~ the development of new sources of water, ~~or--by-any-other-appropriate-means~~ INCLUDING

WATER EXCHANGE PROJECTS. "Plan for augmentation" does not include the salvage of tributary waters by the eradication of phreatophytes, nor does it include the use of tributary water collected from land surfaces which have been made impermeable, thereby increasing the runoff but not adding to the existing supply of tributary water.

SECTION 2. 37-92-301 (2), Colorado Revised Statutes 1973, as amended, is amended to read:

37-92-301. Administration and distribution of waters. (2) In accordance with procedures specified in this article, the referee in each division shall in the first instance have the authority and duty to rule upon determinations of water rights and conditional water rights and the amount and priority thereof, INCLUDING A DETERMINATION THAT A CONDITIONAL WATER RIGHT HAS BECOME A WATER RIGHT BY REASON OF COMPLETION OF THE APPROPRIATION, determinations with respect to changes of water rights, PLANS FOR AUGMENTATION, approvals of reasonable diligence in the development of appropriations under conditional water rights, and determinations of abandonment of water rights or conditional water rights; and he may include in any ruling for a determination of water right or conditional water right any use or combination of uses, any diversion or combination of points or methods of diversion, and any place or alternate places of storage and may approve any change of water right as defined in this article. ~~Plans-for-augmentation-shall--be--subject--to--the special-provisions-of-section-37-92-307.~~

SECTION 3. 37-92-302 (1) (d) and (3) (b), Colorado Revised

Statutes 1973, are amended to read:

37-92-302. Applications for water rights or changes of such rights - plans for augmentation.(1)(d) The fee for filing an application shall be twenty-five dollars; and for filing a statement of opposition, the fee shall be fifteen dollars. If more than one water right is requested in any application OR IF MORE THAN ONE WATER RIGHT IS SOUGHT TO BE APPROVED IN A PLAN FOR AUGMENTATION, a fee of five dollars for each additional right shall be assessed AT THE TIME SUCH APPLICATION OR PLAN FOR AUGMENTATION IS FILED. No fee shall be assessed to the state of Colorado or any agency of its executive department under this subsection (1).

(3) (b) Not later than the end of such month, the water clerk shall cause such publication to be made of each resume or portion thereof in a newspaper or newspapers as is necessary to obtain general circulation once in every county affected, as determined by the water judge. IF AT THE REQUEST OF AN APPLICANT THE RESUME OF AN APPLICATION IS REPUBLISHED, THE APPLICANT SHALL PAY THE COST OF SUCH REPUBLICATION.

SECTION 4. 37-92-304 (3), Colorado Revised Statutes 1973, is amended to read:

37-92-304. Proceedings by the water judge. (3) As to the rulings with respect to which a protest has been filed and as to matters which have been rereferred to the water judge by the referee, there shall be hearings conducted in accordance with the Colorado rules of civil procedure; except that no pleadings shall be required. The court shall not be bound by findings of the

referee. The division engineer shall appear to furnish pertinent information and may be examined by any party, and if requested by the division engineer, the attorney general shall represent the division engineer. The applicant shall appear either in person or by counsel and shall have the burden of sustaining the application, whether it has been granted or denied by the ruling or been rereferred by the referee and in the case of a change of water right the burden of showing absence of any injurious effect alleged in the protest or a statement of opposition. ~~All persons interested shall be permitted to participate in the hearing either in person or by counsel if they enter their appearance in writing prior to the date on which hearings are to commence as specified in subsection (1) of this section. Each interested person, if such person has not already appeared in the matter in which the hearing is to be held and paid an appropriate filing or docket fee, shall pay a docket fee of twenty dollars upon filing the entry of appearance under this subsection (3). Such entry of appearance shall identify the matter with respect to which the appearance is being made. Service of copies of applications, statements of opposition, protests, or any other documents is not necessary for jurisdictional purposes, but the water judge may order service of copies of any documents on any persons and in any manner which he deems appropriate.~~ IN ADDITION TO THOSE PERSONS WHO HAVE FILED PROTESTS, ALL PERSONS WHOSE WATER RIGHTS MAY BE AFFECTED BY THE SUBJECT MATTER OF THE APPLICATION, THE STATE ENGINEER, AND ANY DIVISION ENGINEER, WITH THE APPROVAL OF THE STATE ENGINEER, SHALL BE PERMITTED TO PARTICIPATE IN THE

HEARINGS AND BECOME PARTIES TO THE PROCEEDING IF THEY ENTER THEIR APPEARANCE IN WRITING, STATING THE NATURE OF THE POSITION THEY WILL TAKE IN THE PROCEEDING, ON OR BEFORE THE DAY SPECIFIED IN SUBSECTION (1) OF THIS SECTION ON WHICH MATTERS ARE TO BE SET FOR HEARING. THE STATE ENGINEER OR ANY DIVISION ENGINEER SHALL BE REPRESENTED BY THE ATTORNEY GENERAL. A COPY OF SUCH ENTRY OF APPEARANCE SHALL BE SERVED UPON THE APPLICANT, ALL PROTESTORS, AND ALL OTHER PERSONS WHO HAVE ENTERED AN APPEARANCE IN THE PROCEEDING. EACH PERSON ENTERING AN APPEARANCE SHALL PAY A DOCKET FEE OF TWENTY DOLLARS UPON THE FILING OF AN ENTRY OF APPEARANCE UNLESS SUCH PERSON HAS PREVIOUSLY PAID A DOCKET FEE IN SUCH PROCEEDING IN CONNECTION WITH A PRIOR APPEARANCE THEREIN. THE STATE ENGINEER, IN MAKING A DETERMINATION AS TO WHETHER HE OR A DIVISION ENGINEER SHOULD ENTER AN APPEARANCE IN A PARTICULAR PROCEEDING, SHALL CONSIDER WHETHER SUCH APPEARANCE MIGHT BE ADVISABLE IN ORDER TO PRESENT PERTINENT FACTUAL DATA, IN ORDER TO PRESENT ADEQUATELY MATTERS THAT MAY RELATE TO WATER ADMINISTRATION IN THE PARTICULAR DIVISION AND THE INTEGRITY OF WATER RIGHTS NOT REPRESENTED IN THE PROCEEDING, OR IN ORDER TO PRESENT OTHER MATTERS IN THE PUBLIC INTEREST.

SECTION 5. Repeal. 37-92-307, Colorado Revised Statutes 1973, as amended, is repealed.

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