0242 Committees on: Legislative Procedures, Finance, Education, Fire and Police Pensions, Agriculture — Water

Colorado Legislative Council

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0242 Committees on: Legislative Procedures, Finance, Education, Fire and Police
Pensions, Agriculture — Water

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RECOMMENDATIONS FOR 1980 COMMITTEES ON:

Legislative Procedures
Finance
Education
Fire & Police Pensions
Agriculture – Water

COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 242

December, 1979
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 1980

Committees on:

Legislative Procedures
Finance
Education
Policemen's and Firemen's Pension Reform Commission
Agriculture - Water

Legislative Council
Report to the
Colorado General Assembly

Research Publication No. 242
To Members of the Fifty-second Colorado General Assembly:

Submitted herewith are the final reports of the Legislative Council interim committees for 1979. This year's report consolidates the individual reports of ten committees into three volumes of research publications: No. 242, No. 245, and No. 246. The reports of the Committees on School Finance (Research Publication No. 243); and State Affairs (Research Publication No. 244), are contained in separate volumes as indicated.

Respectfully submitted,

/s/ Senator Fred Anderson
Chairman
Colorado Legislative Council

FA/pm
FOREWORD

The recommendations of the Colorado Legislative Council for 1979 appear in five separate volumes (Research Publication Nos. 242 through 246). The Legislative Council reviewed the reports contained in this volume (Research Publication No. 242) at its meeting on November 26, 1979. With one exception, the Legislative Council voted to transmit the bills included herein with favorable recommendation to the Governor and to the 1980 Session of the General Assembly. Bill 10, recommended by the Committee on Finance, is transmitted without comment by the Legislative Council.

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 contained in this Volume. Jim Wilson, Becky Lennahan, and Doug Brown assisted the Committee on Legislative Procedures; John Polak, the Committee on Finance; Becky Lennahan, the Committee on Education; Patrick Boyle, the Committee on Policemen's and Firemen's Pension Reform Commission; and Dave Doering, the Committee on Agriculture - Water.

December, 1979

Lyle C. Kyle
Director
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Letter of transmittal</td>
<td>iii</td>
</tr>
<tr>
<td>Foreword</td>
<td>v</td>
</tr>
<tr>
<td>Table of Contents</td>
<td>vii</td>
</tr>
<tr>
<td>List of Bills</td>
<td>ix</td>
</tr>
<tr>
<td>Committee on Legislative Procedures</td>
<td>1</td>
</tr>
<tr>
<td>Bills 1 through 8</td>
<td>17</td>
</tr>
<tr>
<td>Committee on Finance</td>
<td>33</td>
</tr>
<tr>
<td>Bills 9 through 15</td>
<td>45</td>
</tr>
<tr>
<td>Committee on Education</td>
<td>63</td>
</tr>
<tr>
<td>Bills 16 and 17</td>
<td>79</td>
</tr>
<tr>
<td>Committee on Policemen's and Firemen's Pension Reform Commission</td>
<td>87</td>
</tr>
<tr>
<td>Bills 18 and 19</td>
<td>105</td>
</tr>
<tr>
<td>Committee on Agriculture - Water</td>
<td>121</td>
</tr>
<tr>
<td>Bills 20 through 30</td>
<td>133</td>
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**LIST OF BILLS AND RESOLUTIONS**

<table>
<thead>
<tr>
<th>Bill</th>
<th>Description</th>
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<tbody>
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<td>Bill 1</td>
<td>Resolution amending Joint Rule No. 23</td>
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<td>Bill 8</td>
<td>Resolution amending Joint Rule No. 4</td>
<td>31</td>
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<tr>
<td>Bill 9</td>
<td>Concerning weatherization grants by the Division of Housing, and making an appropriation therefor</td>
<td>45</td>
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<tr>
<td>Bill 10</td>
<td>Concerning capital construction expenditure limitations</td>
<td>49</td>
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<tr>
<td>Bill 11</td>
<td>Concerning open space-residential property</td>
<td>51</td>
</tr>
<tr>
<td>Bill 12</td>
<td>Concerning open space-residential property, and providing for a definition of “residence” therefor</td>
<td>53</td>
</tr>
<tr>
<td>Bill 13</td>
<td>Concerning appeals of decisions of the board of assessment appeals to district courts</td>
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<td>Bill 14</td>
<td>Concerning real property tax or rent paid as a credit or refund for income tax purposes</td>
<td>57</td>
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<tr>
<td>Bill 15</td>
<td>Concerning eligibility for income tax credits</td>
<td>61</td>
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<tr>
<td>Bill 16</td>
<td>Concerning the accreditation of school districts</td>
<td>79</td>
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<tr>
<td>Bill 17</td>
<td>Concerning the creation of the Division of Information Systems Coordination in the Department of Higher Education, and making an appropriation therefor</td>
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<td>Bill 18</td>
<td>Concerning the provision of benefits for firemen and policemen</td>
<td>105</td>
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<tr>
<td>Bill 19</td>
<td>Concerning volunteer firemen, and providing benefits therefor and increasing the state's contribution for fire protection service</td>
<td>111</td>
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<tr>
<td>Bill 20</td>
<td>Concerning an allocation of revenues from sales and use taxes to the Colorado Water Conservation Board Construction Fund</td>
<td>133</td>
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<tr>
<td>Bill 21</td>
<td>Concerning utilization for water resource development of a portion of the special reserve fund created pursuant to section 24-75-201.1</td>
<td>139</td>
</tr>
<tr>
<td>Bill 22</td>
<td>Concerning water quality</td>
<td>141</td>
</tr>
<tr>
<td>Bill 23</td>
<td>Concerning appointments to the Colorado Water Quality Control Commission</td>
<td>203</td>
</tr>
<tr>
<td>Bill 24</td>
<td>Concerning permits for discharge or dredged or fill material</td>
<td>205</td>
</tr>
<tr>
<td>Bill 25</td>
<td>Making a supplemental appropriation to the Department of Natural Resources for rehabilitation of the channel of the Conejos River in the San Luis Valley</td>
<td>213</td>
</tr>
<tr>
<td>Bill 26</td>
<td>Making a supplemental appropriation to the Department of Natural Resources for rehabilitation of the channel of the Rio Grande River in the San Luis Valley</td>
<td>215</td>
</tr>
<tr>
<td>Bill 27</td>
<td>Concerning exemptions for wells used in the production of alcohol for use in motor fuel and derived from agricultural commodities and forest products</td>
<td>217</td>
</tr>
<tr>
<td>Bill 28</td>
<td>Resolution regarding the Nevada test of federal control of land</td>
<td>221</td>
</tr>
<tr>
<td>Bill 29</td>
<td>Resolution regarding acquisition of lands for the federal government</td>
<td>223</td>
</tr>
<tr>
<td>Bill 30</td>
<td>Resolution regarding Fort Carson</td>
<td>225</td>
</tr>
</tbody>
</table>
Members of the Committee

Rep. Robert Burford, Chairman
Sen. Dan Noble, Vice-Chairman
Sen. Fred Anderson
Sen. Hugh Fowler
Sen. Regis Groff
Sen. Barbara Holme

Rep. William Becker
Rep. Richard Castro
Rep. John Hamlin
Rep. Betty Orten

Council Staff

David Hite Principal Analyst
Tina Halls Senior Research Assistant
The focus of the committee's deliberations for the 1979 interim has been on ways to expedite the business of the General Assembly during the legislative session.

**Deadlines -- Bills 1 and 2**

Since its establishment in 1966, the Committee on Legislative Procedures has been involved in a continuing study of how the General Assembly can more efficiently use its time during the annual legislative session. Until recently, the committee's principal effort has been directed at resolving the existing dichotomy of the General Assembly working at less than capacity for the first two-thirds of the session, and then overburdening itself in the closing weeks of the session.

In an attempt to make the workload more uniform throughout the session, a series of legislative day deadlines for the handling of business were developed by the committee during the 1973 interim. The recommendation was introduced in 1974 as House Joint Resolution 1002 and adopted for implementation the following year. As a result of five years of experience with the deadline schedule, the General Assembly has experienced a more evenly distributed workload and, generally speaking, a diminished end-of-the-session "log jam".

The deadline schedule implemented during the 1975 session did not, however, include deadlines for concurrence in second house amendments, conference committee reports, signing of bills, consideration of gubernatorial vetoes, or sine die.

Based on the general success of the present deadline schedule, the committee recommends that two additional deadlines be added: a deadline for recess, and a deadline for sine die. The recess deadline would allow a reasonable time period after the existing deadline for final passage of all bills originating in the other house within which concurrence, conference committee reports, and the signing of bills could be accomplished. The recommended deadline for sine die would allow sufficient time -- fifteen days during the "short session" and twenty days during the "long session" -- for delivery of bills to the Governor and for his action on each measure prior to the General Assembly's consideration of vetoes and their final adjournment.
### Long Session

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<td>30th</td>
<td>Bill Draft Requests Due</td>
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<td>60th</td>
<td>Introduction of Bills</td>
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<tr>
<td>80th</td>
<td>Own House Bills out of Committee</td>
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<td>95th</td>
<td>Final Passage - House of Introduction</td>
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<td>110th</td>
<td>Committee Reports - Bills from Other House</td>
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<tr>
<td>120th</td>
<td>Final Passage - Bills from Other House</td>
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<tr>
<td>130th (NEW)</td>
<td>Recess</td>
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<tr>
<td>150th (NEW)</td>
<td>Reconvene for Adjournment Sine Die</td>
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### Short Session

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<td>30th</td>
<td>Introduction of Bills</td>
</tr>
<tr>
<td>45th</td>
<td>Own House Bills out of Committee</td>
</tr>
<tr>
<td>55th</td>
<td>Final Passage - House of Introduction</td>
</tr>
<tr>
<td>70th</td>
<td>Committee Reports - Bills from Other House</td>
</tr>
<tr>
<td>30th (NEW)</td>
<td>Recess</td>
</tr>
<tr>
<td>105th (NEW)</td>
<td>Reconvene for Adjournment Sine Die</td>
</tr>
</tbody>
</table>

In addition to the setting of deadlines for legislative recess and sine die, the committee recommends a change in the current exclusion of appropriation bills from the deadlines. All appropriation measures are now excluded from the following deadlines: request for a bill draft; bill introduction; committee consideration of a measure; and passage in the house of introduction. The committee recommends...
that only the general appropriation (long) bill, supplemental appropriation bills, and the legislative appropriation bill be excluded from the deadlines enumerated above. As a result of this change, all appropriation bills would be excluded from the deadline for committees of reference to report bills originating in the other house. By specifically defining which appropriation measures are excluded from the deadlines, there should no longer be any question regarding the kinds of "appropriation" bills that are excluded from the deadlines. The existing exemption has been used too often as a loop-hole for excluding bills which should have been subject to the deadline schedule.

Consent Calendar -- Bills 3 and 4

The committee recommends that a consent calendar be adopted as a part of the joint rules of the Senate and the House of Representatives. The purpose of a consent calendar is to expedite non-controversial bills and resolutions through the legislative process. Such a device is used in one or both houses of the legislature in at least eighteen states, although the conditions under which it is employed vary greatly from state to state.

The Committee on Legislative Procedures recommends that if a bill or resolution is reported out of a committee of reference without amendment, and is approved on a unanimous vote of all committee members in attendance, the measure will be placed on a consent calendar for consideration on the second day following the day on which the committee report is delivered. If an objection is filed during the first twenty-four hours after its placement on the consent calendar, the measure is removed and placed on the regular general orders calendar.

The joint rule recommended by the committee provides that there be no debate or floor amendments on second and third reading for items on the consent calendar; and that a single vote covering all measures on the consent calendar be taken after each reading. The objection by a member of the General Assembly to a proposal automatically removes the measure from the consent calendar.

Although a very small percentage of the bills and resolutions adopted by the General Assembly in the past fit the criteria established by the committee recommendation (see following table), such a procedure will expedite the handling of non-controversial items, thus allowing more time for considering measures of both greater importance and upon which there is less agreement. At the same time, there is adequate provision in the recommended rule for the removal of an item from such a calendar and its handling in the traditional manner.

In order to accomplish the committee's recommendation, Bill 3 amends the rules of the Senate and Bill 4 amends the rules of the House.
Number of Bills that Passed Both Houses and
Bills that Passed Without Amendment 1/

<table>
<thead>
<tr>
<th>Year</th>
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<td>220</td>
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<td>1977</td>
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<td>1976</td>
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<td>25%</td>
<td>21%</td>
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<tr>
<td>1977</td>
<td>10</td>
<td>16</td>
<td>26</td>
<td>19</td>
</tr>
<tr>
<td>1978</td>
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<td>16%</td>
<td>14%</td>
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<td>1976</td>
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<tr>
<td>1976</td>
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Sponsorship of Bills -- Bill 5

The committee recommends an addition to the joint rules that no bill be accepted for introduction in either house unless it has a prime sponsor in both houses. Such a recommendation provides that the six bill limitation rule not limit the number of bills originating in the house of introduction which a member may introduce in the second house.

The recommendation is made in response to numerous problems that develop each session when there is no sponsor for a measure in
the second house. In such a case, the scheduling of a committee hearing on a bill depends on the availability of the bill's prime sponsor from the first house. Without a prime sponsor in the second house, little may be known of the measure when it reaches the floor for debate. As a result of these problems, the lack of a prime sponsor in the second house has proven to be an obstacle to the most efficient use of legislative time.

Citations of Recognition -- Bills 6 and 7

The committee recommends a change in the rules of the Senate and House of Representatives to provide for a different procedure for handling resolutions and memorials of recognition. The accompanying table details the number of resolutions and memorials introduced during the last four sessions which could be identified as congratulatory or recognition in nature. During the 1979 session alone, some 23 resolutions or memorials were introduced to congratulate or recognize athletic teams. The legislative rules now provide that each recognition be discussed on the floor (and, in addition, sometimes in committees of reference), printed in the journals, and voted upon. This procedure is time consuming and often detracts from legislative decorum.

Recognizing the importance of paying tribute to significant public achievement, the committee recommends a procedure which allows tributes or joint tributes to be issued for the following purposes:

(a) congratulations for significant public achievement;

(b) meritorious individual achievement;

(c) appreciation for service to the state or the General Assembly; or

(d) greetings to prominent visitors to the state.

In addition, memorial tributes or joint memorial tributes could be issued as an expression of sentiment on the death of a person who has not served as a member of the General Assembly.

Tributes would not require introduction, calendaring, or floor action. The legislative sponsor of the tribute must first receive the presiding officer's approval. After securing preliminary approval, the sponsor would obtain a preprinted form and, with the assistance of the Legislative Drafting Office or the staff of the House or Senate, prepare the traditional "whereas" language which would then be transferred to the form by House or Senate personnel. The sponsor would sign the form and place it on the desk of either the Chief Clerk of the House or the Secretary of the Senate who is responsible for obtaining the presiding officer's signature and transmitting the form to the recipient or recipients.
# Total Numbers of Resolutions and Memorials Introduced During the Sessions of 1976-79

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</tr>
<tr>
<td>SM</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Total Introduced</td>
<td>0</td>
<td>3</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>Congratulations/Recognition</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Former Member</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Non-Member</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>
The recommended procedure would not apply to the following:

-- concurrent resolutions which propose amendments to the state constitution or ratify proposed amendments to the federal constitution;

-- joint resolutions pertaining to the establishment of committees or the transaction of business between the two houses which are outside the scope of the new rule;

-- resolutions relating solely to matters concerning the House or the Senate and not mentioned in the new rule; or

-- memorials or joint memorials which express sentiment on the death of any person or persons who served as members of the General Assembly.

Format of Conference Committee Reports

In response to the committee's request for an alternative form for conference committee reports, the Legislative Drafting Office presented a format which the committee endorses for implementation during the 1980 legislative session. The committee determined that the present form is too complicated and cumbersome and is thus in need of simplification. The new format for conference committee reports will have the following advantages:

-- because they are written as amendments to the rerevised or reengrossed bills, instead of addressing the amendments in the journals, the reports will be much easier to understand than the "current form" of reports. The "new form" will reduce the time-consuming practice of reproducing an entirely new bill showing the conference committee changes;

-- the "new form" is shorter than the "current form"; and,

-- as a general rule, the "new form" is easier to draft than the "current form".

Although the "new form" of conference committee reports will be written as an amendment to the rerevised bill in the great majority of cases, drafting considerations relating to length, complexity and the greater understanding by the reader may mean that a report is occasionally written as an amendment to the reengrossed bill. The Legislative Drafting Office will be allowed the discretion to decide when a report should be written as an amendment to the rerevised or reengrossed bill.

No rule changes are necessary to implement the new procedure.
The Scope of Conference Committee Activities -- Bill 8

Joint Rule No. 4 of the joint rules of the Senate and House of Representatives provides that "with the consent of a majority of members elected to each of the two houses, the conference committee may consider and report on matters beyond the scope of the differences between the two houses; otherwise the committee shall consider and report only on matters directly at issue between the two houses". Different interpretations have recently been applied to the term "scope of the differences" by presiding officers of the two houses. The committee recommends an amendment to Joint Rule No. 4 which provides that consent is not necessary for a conference committee to consider and report on any matter which is germane to the subject of the provision at issue between the two houses.

Revisor's Comments

Pursuant to Joint Rule 16, the procedure currently used by the Office of Revisor of Statutes when it appears that a comment on a bill is necessary is to attach a copy of the comment to the actual bill when it is transmitted from the house of introduction to the second house. In addition, a copy of the comment is sent to the prime sponsor in the house of introduction and to the prime sponsor in the second house if one is listed on the bill. Copies are also sent to the Legislative Drafting Office and to the Legislative Council for use in the committee of reference in the second house.

Joint Rule No. 26 also provides a procedure whereby a bill may be returned for correction to the second house after that house has adopted the bill on third reading. This procedure is used to suggest a correction to the bill which cannot be made except by amendment. The bill is returned to the second house with a comment attached explaining the need for the correction and with a prepared amendment to make the correction.

In response to the need for additional attention to Revisor's Notes, the committee recommends that a copy of each note be delivered to the front desk in each house, and the calendar in each house in some distinct way reflect the fact that a note on the bill has been written.

Schedule of Meetings for the Committees of Reference

An afternoon meeting schedule keyed to a categorization of the committees of reference was first used during the 1975 legislative session. No changes in the schedule have been made in the afternoon meeting schedule since 1975. A morning schedule was implemented, in part, during the 1977 legislative session and became fully operational during the 1979 session.
The committee has reviewed the meeting schedule and various alternatives aimed at reducing the number of categories as well as the actual number of committees in both the House and the Senate. As a result of its study, the committee recommends that no changes be made in the existing schedule of meetings for committees of reference and that the schedule (see below) followed during the 1979 session be continued during the 1980 legislative session.

**MORNING HOUSE COMMITTEE SCHEDULE***

<table>
<thead>
<tr>
<th>House Committee Room</th>
<th>Monday</th>
<th>Tuesday</th>
<th>Wednesday</th>
<th>Thursday</th>
<th>Friday</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>10:00 a.m. to 12:00 noon</td>
<td>9:00 a.m. to 12:00 noon</td>
<td>9:00 a.m. to 12:00 noon</td>
<td>9:00 a.m. to 12:00 noon</td>
<td>9:00 a.m. to 12:00 noon</td>
</tr>
<tr>
<td>B</td>
<td></td>
<td>Business Affairs and Labor</td>
<td>Health, Environment Welfare, and Institutions</td>
<td></td>
<td>Game, Fish and Parks 8-9 a.m.</td>
</tr>
<tr>
<td>C</td>
<td>10:00 a.m. FLOOR ACTION FOR THIRD READING</td>
<td>State Affairs</td>
<td>Finance</td>
<td></td>
<td>9:00 a.m. FLOOR ACTION FOR SECOND READING</td>
</tr>
<tr>
<td>D</td>
<td></td>
<td>Judiciary</td>
<td>Agriculture, Livestock, and Natural Resources</td>
<td></td>
<td></td>
</tr>
<tr>
<td>E</td>
<td></td>
<td>Local Government</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>F</td>
<td></td>
<td>Education</td>
<td>Transportation and Energy</td>
<td></td>
<td></td>
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<td>G</td>
<td></td>
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</tr>
</tbody>
</table>

*Joint Budget Committee will meet in Room 341 from 9:00 until 12:00 noon Tuesday through Thursday.*
**AFTERNOON HOUSE COMMITTEE SCHEDULE**

<table>
<thead>
<tr>
<th>House Committee Room</th>
<th>Monday and Wednesday</th>
<th>Tuesday and Thursday</th>
<th>Friday</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1:30 p.m. to 3:30 p.m.</td>
<td>1:30 p.m. to 5:00 p.m.</td>
<td>1:30 p.m. to 5:00 p.m.</td>
</tr>
<tr>
<td>(Category 2)</td>
<td>(Category 3)</td>
<td>(Category 1)</td>
<td></td>
</tr>
<tr>
<td>B</td>
<td>Health, Environment, Welfare, and Institutions Chrm:</td>
<td>Business Affairs and Labor Chrm:</td>
<td>LEGISLATIVE AUDIT COMMITTEE (1st and 3rd Fridays of each month)</td>
</tr>
<tr>
<td>C</td>
<td>Finance Chrm:</td>
<td>State Affairs Chrm:</td>
<td>Game, Fish, and Parks Chrm:</td>
</tr>
<tr>
<td>D</td>
<td>Agriculture, Livestock, and Natural Resources Chrm:</td>
<td>Judiciary Chrm:</td>
<td></td>
</tr>
<tr>
<td>E</td>
<td>Local Government Chrm:</td>
<td></td>
<td>COMMITTEE ON LEGAL SERVICES (2nd and 4th Fridays of each month)</td>
</tr>
<tr>
<td>F</td>
<td>Education Chrm:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>G</td>
<td>Transportation and Energy Chrm:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Joint Budget Committee will meet in Room 341 from 1:30 to 5:00 p.m. Monday through Thursday.
### MORNING SENATE COMMITTEE SCHEDULE*

<table>
<thead>
<tr>
<th>Senate Committee Room</th>
<th>Monday 10:00 a.m. to 12:00 noon</th>
<th>Tuesday 9:00 a.m. to 12:00 noon</th>
<th>Wednesday 9:00 a.m. to 12:00 noon</th>
<th>Thursday 9:00 a.m. to 12:00 noon</th>
<th>Friday 9:00 a.m. to 12:00 noon</th>
</tr>
</thead>
<tbody>
<tr>
<td>320A</td>
<td>Business Affairs and Labor</td>
<td>Health, Environment Welfare, and Institutions</td>
<td>Education</td>
<td></td>
<td></td>
</tr>
<tr>
<td>320B</td>
<td>State Affairs</td>
<td>Local Government</td>
<td>Agriculture, Livestock, and Natural Resources</td>
<td></td>
<td></td>
</tr>
<tr>
<td>320C</td>
<td>Judiciary</td>
<td>Transportation</td>
<td>Finance</td>
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<td></td>
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<tr>
<td>320E</td>
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</tr>
</tbody>
</table>

*Joint Budget Committee will meet in Room 321 from 9:00 until 12:00 noon Tuesday through Thursday.*
### Afternoon Senate Committee Schedule*

<table>
<thead>
<tr>
<th>Senate Committee Room</th>
<th>Monday and Wednesday (Category 1)</th>
<th>Tuesday and Thursday (Category 2)</th>
<th>Friday</th>
</tr>
</thead>
<tbody>
<tr>
<td>320A Business Affairs and Labor</td>
<td>1:30 p.m. to 5:00 p.m.</td>
<td>Educational Health, Environment, Welfare and Institutions</td>
<td>Legislative Audit Committee will meet on 1st and 3rd Fridays, 1:30-5:00 p.m. in House Committee Room D.</td>
</tr>
<tr>
<td>320B State Affairs</td>
<td>1:30 p.m. to 3:30 p.m. (Category 3)</td>
<td>Environmental, Natural Resources and Energy</td>
<td>Local Government</td>
</tr>
<tr>
<td>320C Judiciary</td>
<td>3:30 p.m. to 5:00 p.m. (Category 2)</td>
<td>Finance</td>
<td>Transportation</td>
</tr>
<tr>
<td>320E</td>
<td></td>
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</tr>
</tbody>
</table>

*Joint Budget Committee will meet in Room 341 from 1:30-5:00 p.m. Monday through Thursday.
Daily Status Sheet

The committee recommends a change in the preparation and usage of the daily status sheet to correct a waste in paper and labor created by daily revision of the status sheet. It is recommended that a complete status sheet be prepared for distribution on Monday morning, listing all House and Senate action to date. During the rest of the week, a cumulative daily "log sheet" will be prepared. The current format will continue to be used with House action on one side of the status sheet and Senate action on the other side. As soon as a bill is acted upon, it will be noted on the daily log sheet. It will not be necessary to keep sheets from one day to the next. On Friday afternoon, the whole week's actions will be incorporated into an up-to-date, complete status sheet for distribution on Monday morning.

The recommended system will help highlight the bills that are receiving attention during the week and make legislators more aware of the week's work both in the House and the Senate. A substantial savings in time, labor, and paper costs is expected.

Reports of Attendance at Committee Meetings

The committee has approved a plan for the filing of weekly reports of meeting attendance of the committees of reference. The reports will be distributed each Friday to the majority and minority leadership in each house. Such a procedure should improve attendance at committee meetings during the legislative session.

Other Committee Activities

Contact with the Resource Communication Center, Colorado School of Mines. At the committee's first meeting of the interim, Dr. Albert Burke, representing the Resource Communication Center at the Colorado School of Mines, proposed the development of a series of videotaped programs on the state of the art of energy development in the West. Using existing resource data, the resource Communication Center would make a series of video tapes to assist decision-makers at the national level in the formulation of a national energy policy. As the proposal was presented to the committee, programmatic approval would lie with the General Assembly while administrative responsibility would remain with the School of Mines. The project would not require the approval of the Board of Trustees of the School of Mines.

The project budget calls for a monthly expenditure of $25,000. It was suggested that an agreement be made for funding through March, 1980, at which time the fiscal year 1981 legislative appropriation would be written and adopted to reflect funding for the remainder of FY 1980 and all of FY 1981. Although one General Assembly cannot legally bind a succeeding body, it was recommended that the project coordinators be given some kind of assurance that the program would receive legislative support through June, 1982.
At its August 21, 1979, meeting, the committee voted to recommend to the Executive Committee of the Legislative Council the approval of a contract between the Legislative Council and the School of Mines for a program administered according to the provisions enumerated above.

Use of the Old State Museum Building. During the 1976 legislative interim, the Committee on Legislative Procedures was directed to study the immediate and long-range office space needs of the legislative department. The departure of the Judicial Department from the Capitol Building scheduled for 1977 and the vacating of the State Museum Building (located directly south of the Capitol Building on Fourteenth Street) gave additional impetus to the study. The committee recommendations to the 1977 General Assembly included plans for the utilization of all available space in the basement, second and third floors of the Capitol Building, as well as the space in the Museum Building.

With the completion of the Colorado Heritage Center building, the State Museum Building was vacated in 1977. House Bill 1017, adopted during the 1977 session, directed that the building be designated for use by the General Assembly. However, the appropriation to remodel the building into legislative offices was not adopted during the 1977 session. As a result, the expansion of legislative office space was limited to areas within the Capitol Building. By statute (Section 2-2-321, C.R.S. 1973, as amended), the General Assembly has relinquished use of the first floor of the Capitol Building to the Governor. The same provision of law charges the General Assembly with the designation and assignment of space in the remaining areas of the building and in the museum building.

The cost for remodeling the museum facility for legislative office space was estimated at $1.2 million in 1977. To date, a number of additional proposals have been made for use of the building. The committee recognizes that the structure should be in use and, as a result, has directed that the following information be gathered for consideration by the General Assembly during the 1979 session: a current estimate of monies needed for remodeling the building to house government offices, and a survey of government agencies leasing space in the capitol hill area. The committee further recommends that the museum building remain under the control of the General Assembly.

Activities of the Capitol Arts Commission. Until recently, there have been no organized efforts to present arts performances and displays on a regular basis in the Capitol Building. Periodically, since December, 1977, a small group of citizens has organized a series of concerts in the rotunda during the noon hours, and occasionally works of art have been displayed. During the 1978 interim, the committee was asked to approve the continuation of those efforts. In addition, the committee was asked to support the establishment of an ongoing "Capitol Arts Fund" and the formation of an "Arts Colorado" commission. It was envisioned that the fund would be established to promote the continual display of the arts in the Capitol Building, and
that the commission would include legislators among its members. After discussing the issue, the 1979 interim Committee on Legislative Procedures approved a motion to authorize continuation of the arts program in the Capitol Building but took no action to support fund raisers for establishment of a "Capitol Arts Fund" or an "Arts Colorado" commission.

During the 1979 legislative session, House Joint Resolution 1027 was adopted which created a Capitol Arts Commission comprised of twenty-one members, including members of the General Assembly, representatives from the Executive Branch, and interested citizens. The resolution charged the commission with responsibility for scheduling and implementing arts programs in the State Capitol and soliciting volunteer assistance to implement the desired events. With regards to funding, the resolution stated that:

The commission shall not incur any government expense and that, to defray its expenses, the commission shall sponsor, with the concurrence of the Speaker of the House of Representatives and the President of the Senate, an annual arts benefit in the State Capitol and establish an ongoing "Capitol Arts Fund" to be implemented through private contributions and volunteer community assistance.

During the 1979 interim, the commission presented the committee with concerns over art acquisitions, including the establishment of a procedure for accepting donations of art and the possibility of the General Assembly purchasing art. The committee asked that the commission develop a proposed procedure and present it to the committee. The commission report to the committee reads as follows:

The Capitol Arts Commission recommends the following procedures regarding acquisition of art for the Capitol building:

1) Works of art donated or acquired for the Capitol should meet the professional standards of the Colorado Historical Society (exhibit historical significance as to artists or subject matter) or the criteria created by the Capitol Arts Commission.

2) The Capitol Arts Commission shall establish a committee on criteria and standards composed of representatives of the Colorado Historical Society, the Colorado Council on the Arts, and Capitol Arts Commission members representing the legislature and the Governor's Office. Such committee shall consult state arts experts, including staff members of the Denver Art Museum, and shall promulgate general standards in writing for future acquisitions other than those which are of historical significance and therefore meet the existing CMS standards.
3) The Capitol Arts Commission shall be the official body for channeling of art acquisitions for the Capitol and for coordination of arts programs and cultural events focusing on art from all regions of the state.

4) Art objects or works approved for acceptance by the Colorado Historical Society will be covered automatically under the CHS insurance provision. We are hopeful that other acquisitions for the Capitol which are officially approved by the Capitol Arts Commission may be covered through the existing insurance policy of the Colorado Council on the Arts for such works in state buildings (this latter provision yet to be ascertained).

The above report was accepted by the committee and the following recommendation made regarding art acquisitions: a final determination on the acceptance of a piece of art for the Capitol Building should be made by joint agreement between the Governor, the President of the Senate, and the Speaker of the House of Representatives. In addition to being of high quality, the piece of art should be of special historical significance.

Aid Station in the Capitol Building. As a result of the need for emergency first aid for those who work in the Capitol Building, as well as for those who visit the building, the committee has adopted a plan suggested by Senator Harvey Phelps, M.D., to establish a first aid station in the Capitol. The basic first aid materials needed for the station will cost approximately $2,500. The facility will be housed on the second floor of the Capitol Building. Senator Phelps has been asked to detail a procedure for utilizing the equipment, including the training of those state employees working in the building on methods of first aid.
Be It Resolved by the House of Representatives of the Fifty-second General Assembly of the State of Colorado, the Senate concurring herein:

That Joint Rule No. 23 (a) of the Joint Rules of the Senate and House of Representatives is amended to read:

JOINT RULE NO. 23

(a) Deadline schedule. For the purposes of organizing the legislative session, the schedule for the enactment of legislation shall be as follows:

Odd-year Session

First House

Deadlines:

30th day Deadline for bill draft requests to the Legislative Drafting Office.*

60th day Deadline for the introduction of bills. No bill delivered by the Legislative Drafting Office on or before the fiftieth legislative day shall be introduced more than ten legislative days after such delivery. Any bill delivered by the Legislative Drafting Office on or after the fifty-first legislative day and before the fifty-sixth legislative day shall be introduced not later than five days after such delivery; except that no bill shall be introduced after the sixtieth legislative day.*

80th day Deadline for committees of reference to report bills originating in their own house.*

95th day Deadline for final passage of bills in the house of introduction.*
Second House

Deadlines:

110th day Deadline for committees of reference to report bills originating in the other house.*

120th day Deadline for final passage of all bills originating in the other house.

130TH DAY DEADLINE FOR RECESS.

150TH DAY RECONVENE FOR ADJOURNMENT SINE DIE.

* Appropriation bills are excluded from these deadlines.

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Even-year Session

First House

Deadlines:

15th day Deadline for bill draft requests to the Legislative Drafting Office.*

30th day Deadline for the introduction of bills. No bill delivered by the Legislative Drafting Office on or before the twentieth legislative day shall be introduced more than ten legislative days after such delivery. Any bill delivered by the Legislative Drafting Office on or after the twenty-first legislative day shall be introduced not later than the thirtieth legislative day.*

45th day Deadline for committees of reference to report bills originating in their own house.*

55th day Deadline for final passage of bills in the house of introduction.*

Second House

Deadlines:

70th day Deadline for committees of reference to report bills originating in the other house.*

80th day Deadline for final passage of all bills originating in the other house.

105TH DAY DEADLINE FOR RECESS.

120TH DAY RECONVENE FOR ADJOURNMENT SINE DIE.

* Appropriation bills are excluded from these deadlines.
SENATE JOINT RESOLUTION NO.

Be It Resolved by the Senate of the Fifty-second General
Assembly of the State of Colorado, the House of
Representatives concurring herein:

That Joint Rule No. 23 (a) of the Joint Rules of the
Senate and House of Representatives is amended to read:

JOINT RULE NO. 23

(a) Deadline schedule. For the purposes of organizing the
Legislative session, the schedule for the enactment of
legislation shall be as follows:

Odd-year Session

First House

Deadlines:

30th day Deadline for bill draft requests to the Legislative
Drafting Office.*

60th day Deadline for the introduction of bills. No bill
delivered by the Legislative Drafting Office on or
before the fiftieth legislative day shall be
introduced more than ten legislative days after
such delivery. Any bill delivered by the
Legislative Drafting Office on or after the
fifty-first legislative day and before the
fifty-sixth legislative day shall be introduced not
later than five days after such delivery; except
that no bill shall be introduced after the sixtieth
legislative day.*

80th day Deadline for committees of reference to report
bills originating in their own house.*

95th day Deadline for final passage of bills in the house of
introduction.*
Second House

Deadlines:

110th day Deadline for committees of reference to report bills originating in the other house.**

120th day Deadline for final passage of all bills originating in the other house.

* THE GENERAL APPROPRIATION BILL, SUPPLEMENTAL APPROPRIATION BILLS, AND LEGISLATIVE APPROPRIATION BILL ARE EXCLUDED FROM THESE DEADLINES.

** ALL appropriation bills are excluded from these deadlines.

Even-year Session

First House

Deadlines:

15th day Deadline for bill draft requests to the Legislative Drafting Office.*

30th day Deadline for the introduction of bills. No bill delivered by the Legislative Drafting Office on or before the twentieth legislative day shall be introduced more than ten legislative days after such delivery. Any bill delivered by the Legislative Drafting Office on or after the twenty-first legislative day shall be introduced not later than the thirtieth legislative day.*

45th day Deadline for committees of reference to report bills originating in their own house.*

55th day Deadline for final passage of bills in the house of introduction.*

Second House

Deadlines:

70th day Deadline for committees of reference to report bills originating in the other house.**

80th day Deadline for final passage of all bills originating in the other house.

* THE GENERAL APPROPRIATION BILL, SUPPLEMENTAL APPROPRIATION BILLS, AND LEGISLATIVE APPROPRIATION BILL ARE EXCLUDED FROM THESE DEADLINES.

** ALL appropriation bills are excluded from these deadlines.
BILL 3

SENATE RESOLUTION NO.

Be It Resolved by the Senate of the Fifty-second General Assembly of the State of Colorado:

That the Rules of the Senate are amended BY THE ADDITION OF A NEW RULE to read:

15A. CONSENT CALENDAR

(a) If a bill is reported out of a committee of reference without amendment, for consideration by the committee of the whole, and if all members of the committee of reference who are present so vote, the secretary shall place the bill on the consent calendar for consideration on the second day of actual session following the day on which the committee report is delivered. If any Senator files an objection to the inclusion of a bill on the consent calendar with the secretary during the first twenty-four hours after its placement thereon, the bill shall be removed from the consent calendar and placed on the general orders calendar in accordance with Rule No. 15(c). The consent calendar shall appear on the daily calendar under the title of "general orders", and it shall be clearly designated by the words "consent calendar".

(b) All bills on the consent calendar shall be considered on second reading by the committee of the whole in the same manner as other bills, except that:

(1) No debate or floor amendments shall be permitted for bills on the consent calendar; and

(2) The committee of the whole shall take a single vote covering all such bills. Such vote shall have the effect of adopting all such bills on second reading.

(c) All bills on the consent calendar which have been passed on second reading shall be included on the calendar under the title "third reading of bills" and shall be clearly
designated by the words "consent calendar". No debate or third reading amendments shall be permitted for bills on the consent calendar. There shall be a single vote covering all bills appearing on the consent calendar. Such vote shall be by ayes and noes and entered in the journal separately for each bill.

(d) A bill shall be removed from the consent calendar upon the objection of any Senator made at any time after the Senate begins to consider the bill on second reading. If the objection is made prior to the adoption of the committee of the whole report, the bill shall be deemed as not having been considered on second reading and shall be placed on the general orders calendar for the next day of actual session following the day on which it was removed from the consent calendar. If the objection is made after the adoption of the committee of the whole report but prior to the passage of the bill on third reading, the bill shall be placed on the third reading calendar for the next day of actual session following the day on which it was removed from the consent calendar.
BILL 4

HOUSE RESOLUTION NO.

1 Be It Resolved by the House of Representatives of the Fifty-second General Assembly of the State of Colorado:

2 That the Rules of the House of Representatives are amended BY THE ADDITION OF A NEW RULE to read:

5 29A. CONSENT CALENDAR

6 (a) If a bill is reported out of a committee of reference without amendment, for consideration by the committee of the whole, and if all members of the committee of reference who are present so vote, the rules committee may place the bill on the consent calendar. If any member files an objection to the inclusion of a bill on the consent calendar with the clerk during the first twenty-four hours after its placement thereon, the bill shall be removed from the consent calendar and placed on the general orders calendar. The consent calendar shall appear on the daily calendar under the title of "general orders", and it shall be clearly designated by the words "consent calendar".

(b) All bills on the consent calendar shall be considered on second reading by the committee of the whole in the same manner as other bills, except that:

(1) No debate or floor amendments shall be permitted for bills on the consent calendar; and

(2) The committee of the whole shall take a single vote covering all such bills. Such vote shall have the effect of adopting all such bills on second reading.

(c) All bills on the consent calendar which have been passed on second reading shall be included on the calendar under the title "third reading of bills" and shall be clearly designated by the words "consent calendar". No debate or third reading amendments shall be permitted for bills on the consent calendar. There shall be a single vote
covering all bills appearing on the consent calendar. Such vote shall be by ayes and noes and entered in the journal separately for each bill.

(d) A bill shall be removed from the consent calendar upon the objection of any member made at any time after the House begins to consider the bill on second reading. If the objection is made prior to the adoption of the committee of the whole report, the bill shall be deemed as not having been considered on second reading and shall be placed on the general orders calendar for the next day of actual session following the day on which it was removed from the consent calendar. If the objection is made after the adoption of the committee of the whole report but prior to the passage of the bill on third reading, the bill shall be placed on the third reading calendar for the next day of actual session following the day on which it was removed from the consent calendar.
BILL 5

SENATE JOINT RESOLUTION NO.

Be It Resolved by the Senate of the Fifty-second General Assembly of the State of Colorado, the House of Representatives concurring herein:

That Joint Rule No. 24 (a) of the Joint Rules of the Senate and House of Representatives is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

JOINT RULE NO. 24

(a) No bill shall be accepted for introduction in either house of the General Assembly unless it shall have a prime sponsor in both houses thereof.

That Joint Rule No. 24 (b) of the Joint Rules of the Senate and House of Representatives is amended to read:

JOINT RULE NO. 24

(b) A member of the General Assembly may not introduce more than six bills, excluding bills for appropriations and prefiled bills requested of the Legislative Drafting Office no later than December 1, in a regular session of the General Assembly except when given permission to exceed the limit established by this rule by the Senate Committee on Delayed Bills for members of the Senate and the House Committee on Delayed Bills for members of the House of Representatives; EXCEPT THAT NOTHING IN THIS SUBSECTION (b) SHALL LIMIT THE NUMBER OF BILLS ORIGINATING IN THE OTHER HOUSE WHICH A MEMBER MAY INTRODUCE IN THE SECOND HOUSE.

-25-
BILL 6

SENATE RESOLUTION NO.

Be It Resolved by the Senate of the Fifty-second General Assembly of the State of Colorado:

That Rule No. 30(b) and 30(d) of the Rules of the Senate are amended to read:

30. RESOLUTIONS AND MEMORIALS

(b) Senate joint resolutions, which pertain to:

(1) The transaction of the business of both houses.

(2) The establishment of investigating committees composed of members of both houses.

(3) An expression of the will or—sentiment of both houses on any matter NOT MENTIONED IN RULE 30A.

Any such resolution, upon request of its sponsor, shall be printed as a bill and placed in the members' bill books. The number of printed copies shall be determined by the secretary. If such resolution is printed and placed in the bill books, only its title shall be printed in the journal. At the discretion of the President, it shall then either lay over one day before being acted upon or be referred to a committee of reference, where it shall be considered as Senate bills are considered.

(d) Senate joint memorials or Senate memorials, which shall pertain to resolutions memorializing the Congress of the United States on any matter or to an expression of sentiment on the death of any person or persons WHO SERVED AS MEMBERS OF THE GENERAL ASSEMBLY. Such memorials shall be treated in all respects as joint resolutions; except that Senate memorials shall not require the concurrence of the House.

That the Rules of the Senate are amended BY THE ADDITION
OF A NEW RULE to read:

30A. TRIBUTES

(a) Tributes are non legislative actions which do not require introduction, calendaring, or floor action.

(b) Tributes issued by the secretary of the Senate shall be of the following classes:

(1) Senate joint tributes or Senate tributes, which shall:

(A) Offer congratulations for significant public achievements;

(B) Recognize meritorious individual achievement;

(C) Express appreciation for service to the state or the General Assembly;

(D) Extend greetings to prominent visitors to the state.

(2) Senate joint memorial tributes or Senate memorial tributes, which shall express sentiment on the death of a person who has not served as a member of the General Assembly.

(c) The secretary of the Senate shall not issue:

(1) A Senate tribute or memorial tribute unless the Senator requesting the issuance of such tribute has obtained the permission of the President;

(2) A Senate joint tribute or joint memorial tribute unless the Senator requesting the issuance of such tribute has obtained the permission of the President and a Representative has obtained the permission of the Speaker of the House.
Be It Resolved by the House of Representatives of the Fifty-second General Assembly of the State of Colorado:

That Rule No. 26 (a) of the Rules of the House of Representatives is amended to read:

26. RESOLUTIONS AND MEMORIALS

(a) Resolutions and memorials originating in the House shall be of the following classes:

(1) House concurrent resolutions, which shall propose amendments to the constitution of the state of Colorado or recommend the holding of constitutional conventions and ratify proposed amendments to the federal constitution.

(2) House joint resolutions, which shall pertain to the transaction of the business of both the House and the Senate or the establishment of committees comprised of members of both houses or which shall express the will or sentiment of both houses on any matter not mentioned in Rule 26A.

(3) House resolutions, which shall relate solely to matters not mentioned in Rule 26A concerning the House.

(4) House memorials or House joint memorials, which shall express sentiment on the death of any person or persons who served as members of the General Assembly.

That the Rules of the House of Representatives are amended by the addition of a new rule to read:

26A. TRIBUTES
(a) Tributes are nonlegislative actions which do not require introduction, calendaring, or floor action.

(b) Tributes issued by the chief clerk of the House shall be of the following classes:

(1) House joint tributes or House tributes, which shall:

(A) Offer congratulations for significant public achievement;

(B) Recognize meritorious individual achievement;

(C) Express appreciation for service to the state or the General Assembly;

(D) Extend greetings to prominent visitors to the state.

(2) House joint memorial tributes or House memorial tributes, which shall express sentiment on the death of a person who has not served as a member of the General Assembly.

(c) The chief clerk of the House shall not issue:

(1) A House tribute or memorial tribute unless the Representative requesting the issuance of such tribute has obtained the permission of the Speaker;

(2) A House joint tribute or joint memorial tribute unless the Representative requesting the issuance of such tribute has obtained the permission of the Speaker and a Senator has obtained the permission of the President of the Senate.
BILL 8

SENATE JOINT RESOLUTION NO.

Be It Resolved by the Senate of the Fifty-second General
Assembly of the State of Colorado, the House of
Representatives concurring herein:

That Joint Rule No. 4 (d) of the Joint Rules of the
Senate and House of Representatives is amended to read:

JOINT RULE NO. 4

(d) With the consent of a majority of members elected to each
of the two houses, the conference committee may consider
and report on matters beyond the scope of the differences
between the two houses; otherwise-the-committee-shall
consider-and-report-only-on-matters-directly-at-issue
between-the-two-houses BUT NO SUCH CONSENT SHALL BE
NECESSARY FOR THE COMMITTEE TO CONSIDER AND REPORT ON ANY
MATTER WHICH IS GERMANE TO THE SUBJECT OF THE PROVISION
AT ISSUE BETWEEN THE TWO HOUSES.
LEGISLATIVE COUNCIL  
COMMITTEE ON FINANCE

Members of the Committee

Sen. Les Fowler.  
Chairman  
Vice-Chairman  
Sen. Barbara Holme  
Sen. Al Melkjejohn  
Sen. Ron Stewart  
Sen. Sam Zahnem  
Rep. C. Michael Callihan  
Rep. Carol Edmonds  
Rep. Steven Durham  
Rep. Martha Ezzard  
Rep. Rob Kirsch  
Rep. Paul Schauer  
Rep. Bev Scherling  
Rep. Claire Taylor  
Rep. Dorothy Witherspoon

Council Staff

David Hite  
Principal Analyst  
Brian Mitchell  
Senior Research Assistant
The Interim Committee on Finance was established by the Legislative Council to conduct four studies pursuant to House Joint Resolution 1052:

1) a review of the problems of the low-income elderly and low-income disabled in meeting rising energy and fuel costs, and of all aspects of winterization, including current programs, designed to provide services, labor, material, finances, and other forms of assistance to such people in order to improve the thermal performance of their residences;

2) a study of the reestablishment and restoration of an ad valorem tax on intangible personal property and the elimination of the surtax on dividends and interest;

3) an examination of the effects of the seven-percent limitation on state general fund spending and on tax levies of local governments to determine if such limitations result in the underfunding of necessary governmental services; and

4) a study of the problems concerning property valuations for tax purposes under House Bill 1452, enacted in 1977.

Weatherization

Energy assistance programs for the low-income in Colorado began in 1974 with a utility bill relief grant of $100,000 from the federal Community Services Administration (C.S.A.). The C.S.A. has funded various types of weatherization programs in the state since that time, but its funding for weatherization services is being gradually phased out in favor of Department of Energy grants for the same purpose. The federal Department of Energy first became involved in a weatherization program in Colorado with a $548,000 weatherization grant in October, 1977. In recent years, funding for a portion of the labor costs for weatherization has also been provided by the federal Comprehensive Employment and Training Act (CETA).

Between 1975 and July 1, 1979, approximately 9,300 Colorado homes have been weatherized through the federal programs. At the present time, it is estimated that 33,000 to 34,000 households in the state remain eligible for federal weatherization assistance. Approximately 40 percent of these homes are owner-occupied, while 60 percent are renter-occupied. The federal eligibility guidelines for the current weatherization programs limit maximum family income for farm and non-farm homes to 125 percent of the designated poverty-level income. This requirement translates into the following maximum annual incomes:
Federal Eligibility Guidelines
(Maximum Annual Income)

<table>
<thead>
<tr>
<th>Persons in Household</th>
<th>Non-Farm</th>
<th>Farm</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$4,250</td>
<td>$3,637</td>
</tr>
<tr>
<td>2</td>
<td>5,625</td>
<td>4,800</td>
</tr>
<tr>
<td>3</td>
<td>7,000</td>
<td>5,963</td>
</tr>
<tr>
<td>4</td>
<td>8,375</td>
<td>7,125</td>
</tr>
<tr>
<td>5</td>
<td>9,750</td>
<td>8,288</td>
</tr>
<tr>
<td>6</td>
<td>11,125</td>
<td>9,450</td>
</tr>
</tbody>
</table>

For families larger than 6 members, for each additional member add: 1,375 1,163

During the interim, the Department of Local Affairs reported to the committee that at current energy costs the annual savings resulting from the installation of $310 of weatherization materials is $173. This constitutes a 31 percent reduction in utility bills per home per year and a decrease of 45 million BTU's per home per year. The committee recognized that a program which could result in such substantial savings in energy consumption and utility bills is worthwhile. However, the committee was informed by the Division of Housing that the weatherization program in Colorado is in jeopardy of being curtailed because of projected cutbacks in federal CETA funding for weatherization labor. Although by mid-November, 1979, the CETA bill had not yet passed Congress, the division expects a 50 percent reduction in Title VI labor funds for the state. Such a reduction would leave $700,000 ($200 per home) available in CETA funds for weatherization labor.

The Division of Housing plans to weatherize 3,500 homes under the existing federal programs in FY 1979-80, and another 3,500 homes in FY 1980-81. The division has determined that approximately $1,400 is needed to weatherize each home ($840 for labor and $560 for materials). The Department of Energy provides the entire funding of $560 for materials, and in addition allows $440 for support services and labor. If CETA labor funding is cut back as expected, only $200 in CETA labor funds would be available for each residence. Therefore, the Division of Housing requested that the state provide the shortfall of $700,000 ($200 per residence) caused by the projected reduction in CETA labor monies.

In addition, the committee was informed by the Division of Housing that certain homes are not approved for weatherization because the residences have structural or other problems which limit the effectiveness of the weatherization services. Consequently, the division requested an appropriation of $800,000 for a state repair program which would upgrade certain homes. The proposed state program would
include services such as repairing roofs, plumbing, electrical systems, and furnaces.

The other weatherization proposal placed before the committee came from the Office of Energy Conservation. At several meetings, representatives of that office suggested that an Oregon weatherization law be used as a model for Colorado. The law requires that gas and electric utilities provide weatherization services and low-interest loans for such services to their customers. The committee was not convinced of the viability of the Oregon approach and consequently offers no recommendation on this matter.

State Financial Assistance -- Bill 9

The committee concludes that weatherizing homes of low-income and disabled people serves a useful purpose. In contrast to programs which provide funds or credits to pay utility bills for energy inefficient homes, a weatherization program reduces energy costs and consumption. Concerning the Division of Housing's specific FY 1981 request of $1.5 million, the committee concludes that such a request may be warranted, but it is concerned that the funds may not be available because of the state's seven percent expenditure limitation on general fund monies. The committee also concludes that the General Assembly should exercise close control over any state expenditures made for weatherization assistance.

As a result of its deliberations, the committee recommends a measure which will allow appropriations to be made to the Division of Housing for weatherization grants. No specific dollar amount is recommended. In addition, the bill provides:

-- a specific definition of weatherization;

-- a requirement that the Division of Housing report to the General Assembly on the weatherization grants program within six months after the end of each fiscal year; and

-- a stipulation that the funds appropriated for weatherization grants may not be used to pay administrative costs.

Taxation of Intangible Personal Property

Prior to 1937, intangible personal property in Colorado was subject to the property tax. Intangible property, as defined during that period, included the following paper evidences of wealth: rights; credits; franchises; and special privileges and advantages derivable under contract rights or in connection with other property including bank deposits, money and credits, bank stock, bonds, notes, and book accounts. This class of property largely escaped taxation
because most county assessors found it inadvisable or impossible to place a very large portion of intangibles on the assessment rolls.

In 1937, an income tax law was enacted which repealed property taxation on intangibles and imposed instead a two percent surtax on the income derived from intangible personal property. The surtax law was amended in 1943 to permit a $200 exemption of intangible income from the tax. The present exemption for income derived from intangible personal property is $15,000 (increased in 1979 from $5,000).

During the interim, the committee heard testimony that all property, regardless of its type, should be taxed on an ad valorem basis. It was contended that owners of intangible personal property are taxed in a manner which is not consistent or uniform with owners of real property and, as a result, real property owners carry too much of a tax burden. Finally, it was suggested that taxes on real property cannot be lowered appreciably unless intangibles are taxed in the same manner as real property.

The committee decided against taking any action on this subject for primarily two reasons: first, the differences between intangible and real property are too great to tax both classes in the same manner; and secondly, subjecting of intangible personal property to the property tax would discourage savings and thereby diminish the capital which the American economy needs for investments.

Seven Percent Limitation on General Fund Expenditures and Local Tax Levies

A restriction on state general fund spending of seven percent over the previous year was enacted into law in 1977. FY 1973-79 was the first fiscal year to which the limitation applied. The statute, as amended, reads as follows:

24-75-201.1. Restriction on state spending. For the fiscal year 1978-79 and each fiscal year thereafter, state general fund spending shall be limited to seven percent over the previous year. Any amount of general fund revenues in excess of seven percent, and after retention of unrestricted general fund year-end balances of no less than four percent of the amount appropriated for expenditure from the general fund for the current fiscal year, shall be placed in a special reserve fund to be utilized for tax relief.

In addition to the seven percent limitation on state expenditures, Colorado law imposes a seven percent limitation on the annual revenue generated through property taxes levied by local governments and special districts. Section 29-1-301, C.R.S. 1973, specifies that all statutory levies for counties, special districts, and cities not chartered as home rule, shall be reduced as to "...prohibit the levy-
ing of a greater amount of revenue than was levied in the preceding year plus seven percent, except to provide for the payment of bonds and interest thereon."

During the course of the interim, the committee heard testimony on whether these two limitations were still feasible in view of present economic conditions and the level of need for governmental services. In regards to the seven percent limitation on state expenditures, the committee heard testimony from the Office of State Planning and Budgeting (OSPB) and Senator Stockton, member of the Joint Budget Committee. The OSPB agrees that the seven percent limitation has proved to be a useful budgeting mechanism, but contends that it will result in shortfalls and underfunding of governmental services in the future because of the effect of double-digit inflation, the increase in pressure for services from a growing population, and the expansion of needs that result from the state's energy development.

As evidence of the funding problem, OSPB presented a report entitled "Current Services Estimates, 1980-83", which makes a projection of governmental costs if the fiscal 1979-80 programs and levels of activities and services are continued into the future with no legislative or executive changes. Under these conditions, the study projects the following shortfalls in funding: $28 million in FY 1980-81, $50 million for FY 1981-82, and $70 million for FY 1982-83. This projection is illustrated in the table found on the following page.

In Senator Stockton's discussion with the committee, she contended that it is possible to continue under the constraints of the seven percent spending limitation for at least another fiscal year. She stated that the limitation has compelled state agencies to prioritize their budgets and the General Assembly to begin to explore the question of the level of government involvement in society.

The question of the state-imposed seven percent limitation on revenues derived from local tax levies was addressed by representatives of the Colorado Municipal League and Colorado Counties, Inc. They apprised the committee of the major problems confronting the local budgeting process. These problems are:

-- state and federal mandated programs which must be administered by local entities;

-- inflation, recession, population increases and growth; and

-- the variation from year to year in the funds provided to local entities by the state and federal governments.

All of these factors are exerting pressure on budgets of local taxing jurisdictions which are limited in their ability to raise taxes.
### GENERAL FUND EXPENDITURES, APPROPRIATIONS, CURRENT SERVICES ESTIMATES, AND PER CAPITA EXPENDITURES UNDER THE 7% SPENDING LIMITATION

($ MILLIONS)

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Expenditures/Appropriation</th>
<th>% Increase</th>
<th>Current Services Estimates</th>
<th>% Increase</th>
<th>Amount Over 7%</th>
<th>Expenditures Per Capita /a</th>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Current $</td>
<td>Constant $</td>
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<tr>
<td>1967-68</td>
<td>239.6</td>
<td>11.1</td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>1968-69</td>
<td>270.7</td>
<td>12.9</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>1969-70</td>
<td>364.7</td>
<td>34.7</td>
<td></td>
<td></td>
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<tr>
<td>1970-71</td>
<td>421.8</td>
<td>15.7</td>
<td></td>
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<tr>
<td>1971-72</td>
<td>447.2</td>
<td>6.0</td>
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<tr>
<td>1972-73</td>
<td>509.1</td>
<td>13.8</td>
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<tr>
<td>1973-74</td>
<td>700.4</td>
<td>37.6</td>
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<td>1974-75</td>
<td>774.3</td>
<td>10.6</td>
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<tr>
<td>1975-76</td>
<td>867.6</td>
<td>12.1</td>
<td></td>
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<td>1976-77</td>
<td>937.5</td>
<td>8.1</td>
<td></td>
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<tr>
<td>1977-78</td>
<td>999.7</td>
<td>6.6</td>
<td></td>
<td></td>
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<tr>
<td>1978-79</td>
<td>1,069.8</td>
<td>7.0</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>1979-80</td>
<td>1,144.6</td>
<td>7.0</td>
<td>1,144.6</td>
<td>9.4</td>
<td>28.0</td>
<td>412</td>
</tr>
<tr>
<td>1980-81</td>
<td>1,225.0</td>
<td>7.0</td>
<td>1,253.0</td>
<td>9.4</td>
<td>28.0</td>
<td>431</td>
</tr>
<tr>
<td>1981-82</td>
<td>1,310.0</td>
<td>7.0</td>
<td>1,360.0</td>
<td>8.5</td>
<td>50.0</td>
<td>449</td>
</tr>
<tr>
<td>1982-83</td>
<td>1,402.0</td>
<td>7.0</td>
<td>1,472.0</td>
<td>8.2</td>
<td>70.0</td>
<td>468</td>
</tr>
</tbody>
</table>

/a Based on the amount available for appropriation within the 7% limitation.
While acknowledging the economic pressures that local budgets and the state general fund budget are presently subjected to, the committee concludes that both limitations serve a useful function. They should remain in effect because they restrain unnecessary government spending. However, the committee also concludes that capital construction expenditures should be removed from the limitation on state general fund expenditures and therefore recommends Bill 10. The committee's reasoning for this exclusion is twofold: 1) capital construction should not be regarded as part of an agency's day-to-day operational expenditures; and 2) it is a wise and cost-effective policy to maintain state-owned buildings in a proper manner.

Committee Review of H.B. 1452 (1977 Session)

As part of its charge, the committee was directed to review the problems concerning property valuations for tax purposes under H.B. 1452, adopted by the General Assembly during the 1977 Session. Of all the topics reviewed by the committee during the interim, this subject commanded the greatest amount of time and attention. During its deliberations, the committee heard from the chairman of the Board of Assessment Appeals, the Property Tax Administrator, various county assessors, a representative of the Colorado Association of Commerce and Industry, and other interested parties. Although there was a common identification by these parties of the problem areas in H.B. 1452, there was a lack of concurrence regarding a solution to each issue. The committee devoted itself primarily to an examination of the specified problems in order to clarify any ambiguities in the existing provisions of law.

Open space-residential property. There is presently an uncertainty about what tracts of land should qualify for the open space-residential designation. Land used for open space-residential purposes is defined in the law as "land of up to thirty-five acres, part of which is used for residential and related purposes and part of which is used for open space." The actual value of the non-residential portions of such a property is determined in a manner which in effect lowers the assessed valuation of the entire parcel of property. As a result, the property taxes on such tracts are lower. The question before the committee was whether the General Assembly intended to apply the assessment benefit only to tracts of land up to thirty-five acres, or to grant the benefit to the first thirty-four acres of a larger tract of land.

Committee deliberations on this topic included a general discussion of whether such a tax benefit is justifiable. The law is criticized because it grants tax benefits to only one class of property owners. Supporters of the open space tax policy state that persons owning such land should bear less of a tax burden on that portion of property which is basically undeveloped.
A second problem with the current statutory provisions concerning open space-residential property is that the term "residence" is not defined. As a result, it is unclear as to what constitutes a residence for the purposes of this section of statute.

Open Space-Residential Land -- Bill 11

It is the committee's conclusion that the General Assembly intended for the open space-residential provisions to apply to the first thirty-four acres of any tract which meets the other specified requirements. Bill 11 provides specific wording to this effect.

Definition of residence -- Bill 12. In response to the suggestion of inserting a definition of residence into the open space-residential law, the committee recommends Bill 12. The committee concludes that the law was enacted with the idea that a residence on an open space-residential tract would have to be the owner's primary home.

Appeals of Decisions of the Board of Assessment Appeals -- Bill 13

Under present law, a county may appeal a decision of the Board of Assessment Appeals, but only upon the recommendation of the board that the matter is one of "statewide concern". The chairman of the Board of Assessment Appeals questioned whether this is a reasonable requirement since decisions regarding property within a county may not have any significance to the rest of the state. As an alternative, it was proposed that the criteria be changed to provide that an appeal may be initiated on matters of "significant public concern".

The committee concurs that counties should be able to appeal decisions of the Board of Assessment Appeals on matters of "significant public concern", rather than being restricted to matters of "statewide concern". Bill 13 reflects this recommendation.

Appraisal Factor Used in Determining Actual Value

H.B. 1452 added "appraisal value for loan purposes" as a seventh factor to be used in determining the actual value of property. The committee heard testimony that such information is, in most instances, unavailable. It was, therefore, suggested that the factor be removed from the law. The committee decided, however, to make no recommendation on this matter.

One Percent Sample of Each Class and Subclass of Property

As a check on the accuracy and the methodology used in establishing the assessed valuation of property in each county, the Property Tax Administrator is required to conduct a periodic review of
each county assessor's use of all manuals published by the Property Tax Administrator, and the factors, formulas, and other directives of law. This review is conducted over a four year period, corresponding to the four year revaluation cycle. As part of this periodic review, the Property Tax Administrator is required to sample at least one percent of the properties in each class and subclass. The administrator informed the committee that the implementation of this responsibility would place a severe strain on his staff and the resources of his office. He further informed the committee that it would be difficult for his staff, at its present size, to continue giving aid and assistance to assessors and review, under the one percent directive, approximately 13,900 schedules annually.

Committee recommendation. The committee recognizes that the tax administrator's office may not have sufficient staff to conduct the one percent sample, and that, furthermore, such a requirement at this point in the revaluation cycle may be excessive. As a result, the committee recommends that this matter be placed before the General Assembly for a full discussion during the 1980 legislative session.

Property Tax Increases Caused by a Change in Base Years

Committee members expressed concern over the dramatic increase in real property values that will occur in 1983 when the shift is made from the 1973 base year level of value to the 1977 base year. This increased valuation could result in a doubling of the property tax bills. Committee members offered the following suggestions on ways to prevent such a dramatic increase in taxes:

-- allow real property to remain on the 1973 base year;

-- lower the assessment percentage from its present 30 percent rate;

-- adjust state school finance aid in such a manner that lower property taxes for support of schools would mitigate higher property taxes for other services; or

-- institute a state-imposed limitation on revenues or expenditures for those taxing jurisdictions which do not presently operate under any such limitation.

The committee discussed these options, but decided to make no recommendation on this matter.

Assessment of Personal Property

The committee devoted a large portion of its time to the problems surrounding the assessment of personal property. When H.B. 1452 was enacted, there was confusion as to whether the General Assembly intended to place personal property on the base year concept. In
order to clarify the legislative intent on this matter, the General Assembly passed Senate Joint Resolution 2 in 1978. This resolution stated that the General Assembly intended that depreciation be allowed in the determination of the actual value of personal property. Nevertheless, the Property Tax Administrator and the State Board of Equalization, upon advice of the Attorney General, have held that depreciation on personal property is not to be allowed, while the Board of Assessment Appeals has ruled that depreciation on personal property is to be allowed to the year of assessment. As a result, some counties are granting personal property depreciation to the current year, some are allowing depreciation until 1973, and at least one county is allowing depreciation to some other year. The committee recognizes that this situation is not only confusing, but also inequitable, since the actual value of personal property is being determined differently throughout the state.

The proposal which the committee considered on this subject would have left personal property on the base year, allowed depreciation to the current year, and adjusted state school finance aid in a way that would mitigate the effects of reduced valuations for assessment. The committee decided not to recommend this proposal.

Committee recommendations. Action must be taken to resolve the question of how to determine the actual value of personal property. However, the committee believes that this subject needs to be studied further and a consensus reached by various interest groups. The committee therefore recommends that the House and Senate leadership appoint, with the advice of the interim committee, an ad hoc committee composed of legislators, assessors, and other interested parties. The committee further recommends that this ad hoc group begin its deliberations immediately after the start of the 1990 session. The leadership is urged to give this subject top priority. In addition, the committee directed its chairman to meet with the Governor and request that he place on his call the topic "concerning the taxation of personal property and, in connection therewith, providing a method for mitigating the fiscal impact of changes in the taxation of personal property". The committee approved this topic because it encompasses a number of proposals on personal property, including those debated by the General Assembly in the past and the one considered by the committee during the interim.

Other Committee Action

Credits or Refunds Against Property Taxes -- Bills 14 and 15

The committee also reviewed inequities in the law granting credits or refunds against real property taxes or rents paid by senior or disabled citizens. It was realized by committee members that this subject was beyond the scope of the committee's assignment; however, the members concluded that it was an area which warranted consideration. The first problem brought to the committee's attention involved
the annual income ceiling and the amount of the credit or refund that eligible parties may receive. In 1971, both the maximum allowable income and the amount of the credit for married couples were increased. The annual income ceiling was increased from $6,300 to $10,800 and the credit or refund was changed to $410 minus 10 percent of a couple's income over $6,700, rather than over $4,300. The annual income ceiling for a single individual remained at $7,300 and the credit or refund at $410 minus 10 percent of an individual's income over $3,300.

The committee concludes that it is unfair to increase the benefits and liberalize the qualification requirements for married couples, and not provide similar treatment for single individuals. The committee recommends Bill 14 which is an attempt to correct this inequity by expanding the benefits and qualification requirements for unmarried individuals. Bill 14 raises the annual income ceiling from $7,300 to $9,000 and the dollar ceiling used in calculating the credit or refund from $3,300 to $5,200.

The additional problem with the law concerns the provision that a surviving spouse who is fifty-eight years of age or older qualifies for the tax credit or refund if the deceased spouse met the 65 years of age requirement and if all other income and residency limitations are fulfilled. The committee concludes that this statutory provision causes a hardship for those surviving spouses whose husband or wife died before he or she met the age requirement. Under such circumstances, the surviving spouse could not qualify for tax benefits even though all the other requirements are satisfied. Therefore, the committee recommends Bill 15 which would remove the stipulation that the deceased spouse had to have met the age requirement in order for the surviving spouse to be eligible for tax benefits.
BILL 9

A BILL FOR AN ACT

CONCERNING WEATHERIZATION GRANTS BY THE DIVISION OF HOUSING, 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 division of housing to issue grants for weatherization of houses of low-income persons and for necessary weatherization-related repair work on such houses. Requires the division to submit annual reports to the general assembly regarding specified aspects of the weatherization grants program. Makes an appropriation therefor, none of which may be used for administrative costs.

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

SECTION 1. 24-32-702 (1), Colorado Revised Statutes 1973, is amended to read:

24-32-702. Legislative declaration. (1) It is hereby declared that there exists in this state a need for additional adequate, safe, and sanitary, AND ENERGY-EFFICIENT new and rehabilitated dwelling units and that a need exists for assistance to families in securing new or rehabilitated rental housing; that unless the supply of housing units is increased, a
large number of residents of this state will be compelled to live
under unsanitary, overcrowded, and unsafe conditions to the
detriment of their health, welfare, and well-being and to that of
the communities of which they are a part. It is further declared
that coordination and cooperation among private enterprise and
state and local government are essential to the provision of
adequate housing, and to that end it is desirable to create a
division of housing within the department of local affairs. The
general assembly further declares that the enactment of these
provisions as set forth in this part 7 are for the public and
statewide interest.

SECTION 2. 24-32-705 (1) (a), Colorado Revised Statutes
1973, as amended, is amended, and the said 24-32-705 is further
amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-32-705. Functions of division. (1) (a) To encourage
private enterprise and all public and private agencies engaged in
the planning, construction, and acquisition of adequate housing
or the rehabilitation OR WEATHERIZATION of existing housing in
Colorado by providing research, advisory, and liaison services
and rehabilitation, construction, and acquisition, AND
WEATHERIZATION grants from appropriations made for this purpose
by the general assembly. FOR THE PURPOSES OF THIS PARAGRAPH (a),
WEATHERIZATION MEANS THE PROVISION AND INSTALLATION OF MATERIALS
AND DEVICES WHICH IMPROVE THE THERMAL PERFORMANCE OF A RESIDENCE
SO AS TO CONSERVE ENERGY AND REDUCE ENERGY COSTS AND INCLUDES
THOSE STRUCTURAL, HEATING, ELECTRICAL, AND PLUMBING REPAIRS AND
IMPROVEMENTS WHICH ARE NECESSARY TO SAFELY AND EFFECTIVELY IMPROVE THERMAL PERFORMANCE. All such grants shall be at least equally matched from a nonstate source and shall be primarily for the purpose of demonstrating for-existing-or-proposed-low-income housing-development-agencies-and-corporations; methods by which adequate AND ENERGY-EFFICIENT housing can be made available to low-income households. None of these grants shall be used for development, planning, or administration which shall be funded within the administrative budget of the division of housing.

(3) A full report on the weatherization grants program shall be made by the division to the general assembly within six months after the end of each fiscal year. The report shall contain the following:

(a) The actual program expenses, itemized appropriately;

(b) The total number of eligible residences upon which weatherization services were performed and the average cost per residence;

(c) The income eligibility guidelines for residences receiving weatherization services;

(d) The average energy savings realized by such residences;

(e) Recommendations for improvements and changes in program design and administration.

SECTION 3. Appropriation. There is hereby appropriated, out of any moneys in the capital construction fund not otherwise appropriated, for the fiscal year beginning July 1, 1980, to the department of local affairs, for allocation to the division of
housing, the sum of ______ dollars ($ ___), or so much thereof as may be necessary, for weatherization grants, of which none may be used for administration costs.

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.
BILL 10

A BILL FOR AN ACT

CONCERNING CAPITAL CONSTRUCTION EXPENDITURE LIMITATIONS.

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 seven percent limitation on state general fund spending shall not apply to moneys spent for capital construction, as such term is defined in the provisions on the capital construction fund but without regard to the dollar limits contained in such provisions.

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

SECTION 1. 24-75-201.1, Colorado Revised Statutes 1973, as amended, is amended to read:

24-75-201.1. Restriction on state spending. For the fiscal year 1978-79 and each fiscal year thereafter, state general fund spending shall be limited to seven percent over the previous year; EXCEPT THAT THE SEVEN PERCENT LIMIT IMPOSED BY THIS SECTION SHALL NOT APPLY TO SPENDING STATE GENERAL FUND MONEYS FOR CAPITAL CONSTRUCTION, AS SUCH TERM IS DEFINED IN SECTION 24-75-301 (1) BUT REGARDLESS OF THE DOLLAR LIMITS CONTAINED IN SUCH DEFINITION. MONEYS SPENT THE PREVIOUS YEAR FOR SUCH CAPITAL CONSTRUCTION
SHALL BE EXCLUDED IN THE CALCULATION OF THE SEVEN PERCENT LIMIT PURSUANT TO THIS SECTION. Any amount of general fund revenues in excess of seven percent, and after retention of unrestricted general fund year-end balances of no less than four percent of the amount appropriated for expenditure from the general fund for the current fiscal year, shall be placed in a special reserve fund to be utilized for tax relief.

SECTION 2. Effective date. This act shall take effect July 1, 1980.

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.
A BILL FOR AN ACT

CONCERNING OPEN SPACE-RESIDENTIAL PROPERTY.

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 first thirty-four acres of any tract of land shall be considered open space-residential for determining the actual value thereof for property tax purposes if such acres meet the definitional requirements.

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

SECTION 1. 39-1-103 (7), Colorado Revised Statutes 1973, as amended, is amended by the addition of a new paragraph to read:

39-1-103. Actual value determined - when. (1) (c) The actual value of the first thirty-four acres of any tract of land, regardless of the total acreage of such tract, shall be determined pursuant to this subsection (7), provided such thirty-four acres meet the requirements set forth in subsections (12.3) and (12.4) of section 39-1-102.

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.
BILL 12

A BILL FOR AN ACT

CONCERNING OPEN SPACE-RESIDENTIAL PROPERTY, AND PROVIDING FOR A

DEFINITION OF "RESIDENCE" THEREFOR.

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 "residence", for the purpose of taxing open space-residential property, means the primary home or place of abode of a person.

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

SECTION 1. 39-1-102 (12.4), Colorado Revised Statutes 1973, as amended, is amended to read:

39-1-102. Definitions. (12.4) "Portion of land used for residential and related purposes" means that portion of land used for open space-residential purposes which underlies a residence and an area not exceeding one acre which encompasses the residence. AS USED IN THIS SUBSECTION (12.4), "RESIDENCE" MEANS THE PRIMARY HOME OR PLACE OF ABODE OF A PERSON. A PERSON'S PRIMARY HOME OR PLACE OF ABODE IS THAT HOME OR PLACE IN WHICH HIS HABITATION IS FIXED AND TO WHICH A PERSON, WHenever he is absent,
HAS THE PRESENT INTENTION OF RETURNING AFTER A DEPARTURE OR
ABSENCE THEREFROM, REGARDLESS OF THE DURATION OF ABSENCE.

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.
A BILL FOR AN ACT

CONCERNING APPEALS OF DECISIONS OF THE BOARD OF ASSESSMENT APPEALS TO DISTRICT 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 decisions of the board of assessment appeals favorable to the taxpayer may be appealed if the board determines that the matter is of significant public concern rather than requiring the matter to be of statewide concern.

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

SECTION 1. 39-8-108 (2), Colorado Revised Statutes 1973, as amended, is amended to read:

39-8-108. Decision - review. (2) If the decision of the board is against the petitioner, he may, within thirty days after such decision, petition the district court of the county wherein his property is located for judicial review thereof pursuant to section 24-4-106, C.R.S. 1973. If the decision of the board is against the respondent, the respondent, upon the recommendation of the board that it is a matter of statewide-concern SIGNIFICANT
PUBLIC CONCERN and within thirty days after such decision, may petition the district court of the county in which the property is located for judicial review pursuant to section 24-4-106, 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.
A BILL FOR AN ACT

CONCERNING REAL PROPERTY TAX OR RENT PAID AS A CREDIT OR REFUND FOR INCOME TAX PURPOSES.

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 income level at which a single senior or disabled citizen may receive the maximum real property tax or rent paid credit or refund for income tax purposes for taxable years 1980 and after. Increases the maximum allowable income for single senior or disabled citizens to claim such credit or refund.

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

SECTION 1. 39-22-120 (2) (a), (3) (c), and (5) (c), Colorado Revised Statutes 1973, as amended, are amended to read:

39-22-120. Real property tax credit or refund - eligibility - applicability. (2) (a) In the case of an individual, four hundred ten dollars reduced by ten percent of the amount by which his income exceeds three FIVE thousand three Two hundred dollars;

(3) (c) Have income from all sources for the taxable year of less than seven NINE thousand three-hundred dollars if single
or, in the case of husband and wife, less than ten thousand eight hundred dollars including, but not limited to, for this purpose, alimony, support money, cash public assistance and relief, pension or annuity benefits, federal social security benefits, veterans' benefits (except those specific veterans' benefits that are service-connected disability compensation payments), nontaxable interest, workmen's compensation, and unemployment compensation benefits, but not including outright gifts. "Service-connected disability compensation payments" means those payments made for permanent disability, which disability shall be limited to loss of or loss of use of both lower extremities so as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; loss of use of both hands; blindness in both eyes, including such blindness with only light perception; or loss of one lower extremity together with residuals or organic disease or injury which so affects the functions of balance or propulsion as to preclude locomotion without the use of a wheelchair.

(5) (c) Paragraphs (a) and (b) of subsection (2) of this section and paragraph (c) of subsection (3) of this section shall apply to credits and refunds claimed on real property taxes levied for the year 1977 1979 and actually paid in the year 1978 1980 and to personal property and specific ownership taxes and tax-equivalent amounts paid during 1978 1980 and for each succeeding year.

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.
A BILL FOR AN ACT

CONCERNING ELIGIBILITY FOR INCOME TAX CREDITS.

Bill Summary

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

Removes the requirement that a deceased spouse must have been at least sixty-five years of age for the surviving spouse to claim the real property tax credit for income tax purposes. Makes such amendment applicable to taxes levied in 1979 and paid in 1980 and to taxable years thereafter.

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

SECTION 1. 39-22-120 (1) (b) (II), Colorado Revised Statutes 1973, as amended, is amended to read:

39-22-120. Real property tax credit or refund - eligibility - applicability. (1) (b) (II) A surviving spouse fifty-eight years of age or older shall be treated as qualifying for the credit or refund under paragraph (a) of this subsection (1) if the deceased spouse met the age requirement and they THE SURVIVING SPOUSE AND THE DECEASED SPOUSE HAVE jointly met all the limitations of subsection (3) of this section for a prior taxable year and such surviving spouse meets all the limitations imposed
by subsection (3) of this section.

SECTION 2. 39-22-120 (5), Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

39-22-120. Real property tax credit or refund - eligibility - applicability. (5) (d) Subparagraph (II) of paragraph (b) of subsection (1) of this section shall apply to credits and refunds claimed on real property taxes levied for the year 1979 and actually paid in the year 1980 and to personal property and specific ownership taxes and tax-equivalent amounts paid during 1980 and for each succeeding year.

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.
Members of the Committee

Sen. Hugh Fowler, Chairman
Higher Education
Vice-Chairman,
Basic Education

Rep. Thomas Tancredo, Chairman
Basic Education
Vice-Chairman,
Higher Education

Sen. Robert Allshouse
Sen. Regis Groff
Sen. Don Sandoval
Sen. Duane Woodard

Rep. Laura DeHerrera
Rep. Cliff Dodge
Rep. Anne Gorsuch
Rep. Carl Gustafson
Rep. Wayne Knox
Rep. Leo Lucero
Rep. James Shepard
Rep. Robert Stephenson
Rep. Joe Winkler

Council Staff

Stanley Elofson
Principal Analyst

Daniel Chapman
Senior Research Assistant
The Committee on Education was directed under H.J.R. 1052, 1979 Session, to make "a study of the various aspects of 'a basic education', and a study of possible revisions in the present system of higher education".

BASIC EDUCATION

In addressing the basic education segment of the resolution, the committee was further directed to study "the various components of an educational program which serve to constitute 'a basic education', including definition thereof...".

Five specific areas of study were defined and the committee's activities in response to these study areas are noted below.

Study Area One. The first study area concerned the identification of academic programs designed to teach basic skill levels, their quality and effectiveness, and the uniformity of their application throughout the state's school districts.

The committee toured school districts in three different geographic locations in the state, holding open public hearings at two of these locations. School district officials prepared information which helped to detail the basic skills curriculum of each school. Uniformity of school experiences was considered by comparison of course offerings, physical facilities, class sizes, and other variable factors among the school districts.

Study Area Two. The second study area concentrated on academic programs which are designed to supplement the basic education core of the curriculum and their value and effectiveness.

The committee's school district tours also addressed issues of supplementary courses. Testimony from members of the educational community, experts in educational measurement, and the general public was heard on this subject.

Study Areas Three and Four. These areas focused on the academic environment in which basic skills courses are taught with reference to the degree of teacher preparation, the classroom climate, and the degree of discipline maintained; and an investigation to determine the quality and extent of the teacher education training programs, undergraduate and graduate, currently being used to prepare a person for certification to teach in Colorado schools.

Tours, testimony, and prepared materials were used to assess these conditions.
Study Area Five. The final study area regarded the assessment of the legal and constitutional requirement which have been placed upon the state of Colorado in the area of basic education.

Staff members of the Legislative Drafting Office briefed the committee on the present status of litigation challenging the Colorado Public School Finance Act of 1973, and representatives of New Jersey and Washington, two states which have also wrestled with the problem of defining and implementing basic educational standards, reviewed their states' laws with the committee. In addition, information was presented concerning uses of electronic media, particularly television, as an aid to classroom teaching.

School District Visits

In its study of the various aspects of an educational program which comprises "a basic education", the committee toured facilities in 16 school districts in three distinct areas of the state -- six districts in the San Luis Valley, seven districts in the eastern plains area near Limon, and three districts in the Denver metropolitan area. The visits included presentation of comparative educational data for each school district and discussion of district problems with superintendents, board of education members, and accountability committee members. Much of the information received and impressions gained were subjective in nature and depended, to some extent, on which schools individual members were able to tour. Summarized below are a few observations shared by several committee members.

San Luis Valley. At the public meeting in Alamosa, school officials and citizens participated in a wide-ranging discussion concerning the goals, performance, needs, and accomplishments of their schools. Several persons expressed concern about the difficulty of attracting and retaining good teachers in rural areas. They also cited the difficulty of providing a high quality educational experience when tight budget constraints cause problems in such areas as replacement of equipment and upgrading physical facilities. Some districts in the area appeared to have salary schedules which provide only minimal increments after the first year. Several parents suggested that a definition of basic education should not be so narrowly focused that enrichment of the student might be jeopardized through reduction of curriculum offerings.

Districts visited in the San Luis Valley were Alamosa, Antonito, Del Norte, La Jara, Sargent, and Sierra Grande. These districts were visited for two primary reasons: 1) in each of the districts, declining enrollments were a significant concern; and 2) to find what level of educational opportunities could be seen in districts which historically have had comparatively low expenditures per pupil.

Although many of the school facilities were considered to be in good or excellent condition, portions of the physical plant in some
districts were in a state which the committee found to be less than desirable. In a number of locations, the adequacy and condition of the physical plant varied considerably among the school buildings of the same district. Under present Colorado law, no provision exists for state assistance for local school construction costs. The committee was interested in viewing these school facilities in order to note the problems which exist and the efforts which have been made to rectify unsatisfactory conditions.

Some problems proved to be unique to certain school districts. The problems of student discipline and lack of parental involvement were mentioned in one locale, but were not typical problems in other districts in the San Luis Valley. The committee observed that both the North and South Conejos districts experience difficulty in attracting and retaining high quality teachers, but the problem is not shared by all the districts visited. Community members and school personnel told the committee that they felt that financial disparities, substandard physical facilities, and the difficulty of attracting good teachers to remote areas were the major impediments to providing equal educational opportunities in these districts.

Committee members observed a high level of dedication and motivation among teachers in all of the San Luis Valley schools visited. Visitors to the Antonito school saw the district's success in procuring federal funds for educational projects, most notably Elementary and Secondary Education Act (ESEA) Title I monies. These funds were being used for the improvement of basic skills instruction in the elementary school. Highly motivated energetic administrators and staff were present at the Sargent school district. The committee was also pleased to observe the productivity engendered by a moderate pupil/teacher ratio in a small town environment in several locations.

The second set of visits concentrated on the eastern plains school districts in the Limon area. An open public meeting was held at Limon Junior-Senior High School at which time comparative factual information concerning conditions at the school districts to be visited was presented. Problems noted included declining enrollments and the difficulties encountered in obtaining and holding good teachers. Transportation expenses for students over long distances during bad weather were also mentioned as area-wide concerns. The work of the regional board of cooperative educational services (BOCES) was cited as a valuable asset to the local districts in providing services and materials which would be too costly to be purchased by individual schools. Members of the committee visited school facilities at Limon, Hugo, Geoa, Arriba, Deer Trail, Woodlin, and the offices of the East Central BOCES. Committee members obtained a firsthand impression of the difficulty of pupil transport in visiting remote districts such as Woodlin, which serves a wide geographical area. A
disparity in the adequacy of some physical facilities was noted, but modern, well-appointed facilities were toured in Limon, Deer Trail, Hugo, and Woodlin.

Most of these districts enjoy a relatively high level of per pupil expenditure, but the problems of small and declining enrollments posed difficulties for some districts. Having an extremely low student/teacher ratio may be beneficial in a number of respects, but this was not seen as automatically improving the quality of instruction. In addition, it further served to restrict the number of course offerings. Similarly, program offerings in some vocational arts subjects were curtailed because of the small number of students taking those courses. In the districts visited, the remoteness of some areas to be served is a major factor impacting upon the level of educational quality. The isolation of the area effects students, as a student may find that the few other students with whom he enters school in the primary grades may very well be the same group with whom he graduates from high school.

Another impression gained was of the importance of the local school as a focus for community activity in the small towns. Parental support for the schools and teacher interaction with the community seemed to share a high priority in many of the districts visited. Moreover, the role of the BOCES in filling gaps in local educational endeavors proved to be very significant. Remoteness, small and declining enrollments, and a lack of varied experiences for students struck many parents and teachers as an obstacle to providing an equal educational opportunity to students.

Denver area. The final committee tour was a series of visits to schools in the Denver metropolitan area -- Gilpin Elementary School and East High School (Denver), Cunningham Elementary School and Overland High School (Cherry Creek), and Paris Elementary School and Gateway High School (Aurora). A wide variety of educational issues were observed and discussed at each of these schools. At Gilpin Elementary School, for example, the effects of busing to achieve racial balance in the schools was observed, as were problems of language communication with children from several cultures, including refugee children from Southeast Asia. At Gateway High School and Paris Elementary School the problem of rapidly increasing enrollments and high student/teacher ratios were present. Conversely, the impact of an enrollment decline, but to a more manageable level, was seen at East High School. The committee toured a district (Cherry Creek) in which parental involvement, both in financial support and in participation in school activities, was extremely high. At Paris Elementary School a "fundamental school" approach to teaching basic skills is proving to be popular with parents who advocate a "back to basics" educational approach.

In looking for commonalities among these districts, the committee found that parental support was of major importance in determining that high levels of quality be maintained in the schools. Some
schools having modest per pupil expenditures appeared to do quite well in student performance, possibly because of strong feelings of parental interest in the school. The committee took note of numerous teachers and administrators of high quality and dedication in all of the districts visited.

One significant difficulty in the metropolitan school districts was high rates of student turnover from one year to the next. In some cases, for example, students might enter a school without any previous academic record available to assist the teachers and staff with placement in the appropriate academic programs.

Summary. The dominant belief engendered by the tours seemed to support a definition of "a basic education" that would not be a restrictive definition, but rather one that would be broad enough to encompass the goals and directions which the school districts have developed for their own needs. Others, however, have pointed out the need to set parameters and to decide on a more narrow definition of what constitutes the basic education segment of a thorough and uniform system of education.

Committee Hearings

Testimony was received from a number of persons in the educational community with regard to what constitutes "a basic education". Dr. Calvin M. Frazier, Commissioner of the Colorado Department of Education, noted that the question of quality is evidenced by growing public concern over declining scores in standardized tests, and by a revival of interest in the quality of instruction in basic skills areas. Test results from Colorado school districts, however, have been somewhat counter to the national trends, based on surveys of local test results monitored by the State Department of Education over the last four years.

Court challenges have acted to further reinforce the need for a clearer understanding of the state's responsibility to provide a "thorough and uniform system of education", according to Dr. Frazier. The importance of the school principal as a key element in assessing quality of education was also underscored, as was establishment of an effective monitoring system to provide a meaningful evaluation process.

Dr. Gene V. Glass of the Laboratory of Educational Research, the University of Colorado at Boulder, also commented on the importance of the school principal and the district superintendent in the monitoring of levels of quality in school programs. Dr. Glass contended that among the variables effecting educational quality, only class size (student/teacher ratio) had a direct bearing on pupil progress in basic skills or in personality development. Dr. Glass said that in his research he could find no correlation between increases in public school funding and improved learning environment. The reason for this was that extra funds were absorbed by increased
salary levels, expanding school bureaucracies, or "faddish" curriculum offerings. Dr. Glass concluded that the measurement of progress in providing "a basic education" should focus strictly on those learning activities geared to strengthen a child's literate and numerate capabilities.

Dr. J. Quentin Jones, Associate Director of the College Board, discussed the measurement of quality in educational programs and the relationship of such testing to the assessment of basic skills. Dr. Jones said that public dissatisfaction with current educational standards is reflected in the recent controversy over declining scores on standardized academic tests. The Scholastic Aptitude Test (SAT), administered by the College Board, is a predictive instrument designed exclusively to forecast academic success in college. As such, the SAT cannot be viewed as a diagnostic device to pinpoint inadequacies in levels of educational achievement of public schools.

Dr. Jones also stated that public demand for educational accountability was on the increase and was being manifest in support for state minimal competency legislation and other measures of performance-based achievement. State legislatures and departments of education might expect to see even greater demand for assessment mechanisms in the years to come.

Dr. Roy H. Forbes, Director, National Assessment of Educational Progress Project located in Denver, described the work being done by the project in measuring levels of educational achievement on both a regional and on a national level. Achievement levels in basic skills areas had remained relatively constant over the last ten years, but applicative skills had shown a significant drop in recent years. For example, results in the area of mathematics demonstrated a level of proficiency in basic skills being maintained, but also showed a decline in scores relative to problem-solving abilities. Dr. Forbes said that test scores for students from low-income backgrounds, particularly in urban, inner-city districts, tended to be disproportionately lower than the national average. In areas where additional funds are being used to upgrade basic skill levels, however, the gap in these test scores appears to be narrowing somewhat.

A common sentiment related to a perceived lack of accountability on the part of schools and school personnel. This concern was articulated by Mrs. Naomi Bradford, member of the Denver Board of Education. Parents were said to be shut out of the accountability process, thus prohibiting them from interacting in a manner that might impact upon educational standards.

Mr. A. Edgar Benton, member of the Colorado Commission on Higher Education and former Denver school board member, said that in order to insure standards of quality for public education in Colorado, it would be necessary to create a coherent mechanism for making educational judgments that would include parents, teachers, students, administrators, and legislators. Mr. Benton agreed that a return to teaching basic skills exclusively might not encompass much of the
progress made in educational standards in recent years. Similarly, the role of the state in determining what constitutes "a basic education" should be limited to providing a forum for local school districts and their governing boards to address that issue.

The issues of accreditation and accountability were reviewed for the committee by Dr. Frazier and by Dr. William C. Dean, Assistant Commissioner, State Department of Education. It was stated that lack of staff and uncertain statutory authority for enforcement to oversee these activities inhibited Colorado's accreditation and accountability functions. The Department has observed that districts that have utilized the school accountability process are those districts showing achievement test gains, while districts not in compliance with the accountability law generally have held even or lost ground on test scores.

Senator Sam Barnhill described the benefits of a package-type program of television instruction in terms of improving basic skill levels throughout the state. A presentation demonstrating the practical uses of television instruction was made by Dr. Harold Hill of the University of Colorado at Boulder, Ms. Mary Lou Ray of KRAM-TV, and Dr. Ray Anterton, director of the media center at the Auraria complex. Their presentation outlined the diverse uses of educational television in supplementing the student's classroom experience.

Legal and constitutional requirements. One of the study areas assigned the committee was an assessment of the legal and constitutional requirements for public education which have been placed upon the state of Colorado. The committee was briefed by Mr. Douglas G. Brown and Ms. Rebecca Lennahan of the Legislative Drafting Office regarding recent state district court decision in Lujan, et al v. State Board of Education, et al (Civil Action No. C-73638). In that opinion the court held that the Colorado system of public school financing violates three constitutional provisions, including the education clause of the Colorado constitution, which requires that the general assembly provide for the establishment and maintenance of "a thorough and uniform system of free public schools throughout the state..." The case has been appealed, and is currently before the Colorado Supreme Court.

The opinion of the district judge in the Lujan decision indicated that, although several meanings of "thorough" and "uniform" were possible, the basic concept which needed to be addressed was that of equal educational opportunity. Citing language from the case of Robinson v. Cahill (62 N.J. 4731 303A. 2d 273, 1973), a New Jersey decision concerned with "thorough and efficient" education, the judge concluded that education is a fundamental right and that it is necessary for the state of Colorado to fund its schools so as to provide an equal educational opportunity in a manner consistent with a thorough and uniform system of public education.

The Committee on Education attempted to examine the basic educational components of the present school system in order to determine
whether one or more of these components could be identified as providing the type of equal educational opportunity which would meet the responsibility of the state under its thorough and uniform mandate. A principal goal of the committee was to develop a clear and comprehensive definition of such a basic educational system. To this end, it seemed appropriate to hear from officials of other states which had attempted similar acts of definition in recent years in order to gain some insights about the definitional process.

Dr. Fred G. Burke, Commissioner of Education of the State of New Jersey, and State Senator James McDermott, State of Washington, both spoke with the committee in regard to the laws in their states concerning basic educational requirements. Dr. Burke outlined the process by which New Jersey had responded to the court decision (Robinson v. Cahill) which invalidated that state's system of public school finance. The New Jersey legislation empowered the state Department of Education, in cooperation with the State Board and local school districts, to determine the goals, standards, and procedures necessary to meet the "thorough and efficient" mandate. The legislature, meanwhile, acted in several other areas: to define the overall goals of a thorough and efficient system of free public schools; to establish guidelines which would ensure that adequate financial resources would be available for operation of the system; and to provide a mechanism for monitoring the system and levying corrective action when necessary. The legislature was quite specific, however, in delegating to appropriate state and local agencies the authority to establish goals and objectives and in delineating statewide standards of pupil proficiency such as basic communications and computational skills.

Dr. Burke pointed out several important differences between the New Jersey system and the current condition of education in Colorado. New Jersey, for example, employs a Minimum Basic Skills Test, which is administered on a state-wide basis to grades 3, 6, 9, and 11. The Office of Commissioner of Education is vested with considerable enforcement power in administering the Basic Education Act provisions, particularly those relating to remediation plans and capital outlays within school districts.

New Jersey had experienced some problems of local compliance over the four years that the Act has been in effect, and faces possible litigation over contentious aspects of the program. Dr. Burke said, however, that in leaving the definition of "thorough and efficient" to the legislature, and subsequently to state and local agencies, the court allowed the state some leeway in determining which educational components would be included in that definition. In conclusion, Dr. Burke stated that a state should proceed cautiously and to seek maximum inputs in its task of defining "a basic education".

State Senator James McDermott, of Washington, outlined the efforts made by that state in meeting the constitutional mandate which requires the state to make ample provision for the education of all children residing within its borders and to "provide for a general and
uniform system of public schools". The Basic Education Act of 1977 was the legislative response to that mandate and to pending judicial decisions relating to equal educational opportunity. The Washington Legislature acted to define the goals of the basic education system for the state, delineated the components of such a system in terms of curriculum hours and offerings, and then developed a financing formula to fund the entire system. (School districts, however, may raise an additional ten percent over state funds to provide for additional programs).

The legislature opted for a broad definition of basic education so as to allow maximum flexibility on the part of the local districts in accepting and modifying components of the basic education package. Districts are not required by law to limit curriculum to these components, but funding for instruction or activities above and beyond this core must be raised at the local level. It is important to note, however, that deviations from the basic education program are regulated at the state level, and penalties may be levied upon school districts which fail to meet state program requirements.

Senator McDermott discussed some of the difficulties of the basic education financing formula, particularly in growing urban areas. Importance was given to the four-year phase-in period for the program in terms of allowing districts time to make curriculum and instructional staff adjustments. Also of note was that Washington, in keeping with a desire to ensure maximum possible local control and flexibility, had decided against initiating a state-wide minimum competency testing program.

In Washington it was decided to attempt to provide a system to equalize educational opportunities across the state, but which would also leave questions of quality and objectives at the local level. In effect, the state decided to provide a guarantee of process, leaving as much of the educational decision-making as possible with the local school district. Senator McDermott concluded with an observation that a state should consider all the implications of linking a funding formula to a definition of basic education before venturing into the definitional process itself.

Committee Recommendations - Basic Education

Accreditation of School Districts -- Bill 16

The state board of education would be given statutory responsibility for accreditation of a school district under Bill 16, with local boards of education responsible for maintaining accreditation at the district level. Bill 16 would require that the state board report annually to the Governor and to the General Assembly on the accreditation status of all school districts and their educational programs. The state board would be authorized to withhold accreditation of any district which fails to meet the educational accountability standards
set forth in Article 7, Title 22, C.R.S. 1973. Moreover, the bill would amend the state accountability act to prohibit admission of a student from an unaccredited district to any state institution of higher education.

This bill was developed to give the state board of education statutory responsibility for accreditation of school districts, and to require compliance with state accountability standards, with a serious penalty for noncompliance. The state board of education, under the constitution, (Article IX, Section 1), has the "general supervision" of the public schools. This bill would provide a statutory basis for school accreditation. The function has been a voluntary activity by local districts.

Another draft bill appropriate to the basic education segment of the committee was considered but was not recommended. This bill would have: a) defined a basic educational curriculum through amendment of the school accountability act; b) provided for review of accountability goals and objectives and measurement of district performance at the local level; and c) required the state board to consider district performance under the accountability law in its accreditation activities. An amendment proposed to this bill would have required statewide standardized testing of basic education levels to be administered by the state Department of Education. The bill failed on a tie vote.

HIGHER EDUCATION

Issues concerning higher education in the state were also included in the committee's charge:

-- continuation of the legislative consideration of revisions in the present system of higher education including monitoring developments relative to the reorganization of the Auraria Higher Education Center as directed under H.B. 1498 (1979 Session);

-- monitoring and receipt of periodic reports on the activities of the Colorado Commission on Higher Education in its study of issues of faculty productivity and student redirection; and

-- consideration of the advisability of the creation of a permanent subcommittee within the General Assembly to address issues concerning higher education on a continuing basis.

Hearings were held on the progress of the Colorado Commission on Higher Education (CCHE) in implementing the provisions of H.B. 1498 which require that the commission report their recommendations to the General Assembly by January 15, 1980, concerning the numerous governance issues at the Auraria Higher Education Center. The commission
also used these opportunities to report its findings on footnotes 38 and 44a of the 1979 Long Appropriations Bill. Footnote 38 empowered the commission to make transfers between the appropriations made to the University of Colorado at Denver and Metropolitan State College in order to eliminate duplication of programs between those two institutions. Footnote 44a gave the commission similar powers to transfer funds appropriated for instructional support among the University of Colorado at Denver, Metropolitan State College, Community College of Denver - Auraria, and the Auraria Higher Education Center for purposes of consolidation and centralization of instructional support services on the Auraria campus.

Footnote 38a mandated that the CCHE develop in conjunction with institutional governing boards, a plan assessing and increasing faculty productivity. The plan is to be reported by January 8, 1980. Similarly, footnote 39a required the commission to develop a program which would provide systematic referral and transfer of students among the community colleges and four-year colleges and universities. The CCHE presentation on faculty productivity consisted of a report of the progress being made toward the January, 1980, deadline. The study of student transfers was presented in the form of a plan of action, with initiation of the plan and the monitoring and evaluation phases not scheduled to begin until 1980.

Auraria Center for Higher Education

In regard to the issues concerning Auraria, the committee was responsible for "monitoring developments relative to the reorganization of the Auraria Center for Higher Education as directed under House Bill No. 1493 (1979 Session)". H.B. 1498 concerned possible changes in the administrative and educational structure of the three institutions -- the University of Colorado at Denver (UCD), Metropolitan State College (MSC), and the Community College of Denver - Auraria (CCD-A), as well as the Auraria Higher Education Board. Under H.B. 1498, the CCHE has the responsibility for submitting recommendations to the General Assembly by January 15, 1980, concerning whether the present governance structure should remain unchanged, be changed through merger, be placed under a new form of institutional governance, or be terminated. In view of the January, 1980, deadline, presentations by CCHE served as progress reports to the committee.

Three areas of the CCHE study were reviewed: (a) elimination of duplicative academic programs; (b) consolidation and centralization of academic support services; and (c) the development of a recommendation on a future governance structure of Auraria. It should also be noted that footnote 38 of the 1979 Long Bill directed that the CCHE undertake efforts to eliminate duplicative courses at the Auraria Center.

It was reported that the CCHE and the institutions had developed an approach to the problem of duplicative programs in which four recommendations were utilized to categorize types of action to be
taken. Under Recommendation I, the business and management programs, which are the largest of the programs at each institution (UCD and MSC), would be continued without change. Each institution was reported to have sufficient numbers of students, with justifiable differences in approaches being taken between the institutions, so that no advantage was seen in program consolidation.

Recommendation II continued selected baccalaureate programs (English, Mathematics, and Psychology) at both institutions, but required maximum use of cross-listed courses, notably at the upper division levels. Recommendation III called for the development of a common curriculum of selected courses in order to integrate duplicative baccalaureate programs at Metropolitan State College and the University of Colorado at Denver. The subject areas in Recommendation III included Anthropology, Art and Fine Arts, General Biology, General Chemistry, Earth Sciences, Economics, History, Political Science and Government, Sociology, and Speech.

Finally, Recommendation IV transferred responsibility for baccalaureate programs in Education to MSC, and also recommended the consolidation of departments of Ethnic Studies, Foreign Languages, Philosophy, Physics, and Urban Studies into single departments. These departments would have a single chairman and a single curriculum leading to a joint degree for students from either MSC or UCD.

The commission noted that considerable progress had been made in compliance with the legislative directives in the following areas:

(1) Consolidation and centralization of instructional support services. As addressed by footnote 44a of the 1979 Long Bill, the CCHE was authorized to make transfers of funds between the University of Colorado at Denver, Metropolitan State College, Community College of Denver-Auraria, and the Auraria Higher Education Center for the purpose of implementing consolidations in instructional support services.

(2) The commission reported a common academic calendar was established between all institutions and was put into operation for the 1979-80 academic calendar year.

(3) Also noted was action of the institutions to eliminate the positions of Vice Chancellor or Vice President for Administration at each of the schools. Authority and responsibility for these positions has been transferred to the Executive Director of the Auraria Board.

(4) It was reported that the Auraria Board plans to extend activities for consolidation and centralization to the following areas by the dates indicated below:

   Financial Aid -- July 1, 1980

   Registration -- timetable to be set by institutions
Job Placement -- January 23, 1980

Classified Personnel -- January 23, 1980

Payroll -- Consolidation of the Auraria Higher Education Center (AHEC) payroll with that of either UCD or MSC (no target date given)

Office of the Chief Executive, Senior Academic Offices, and Community Relations Officers -- physical relocation only

Campus Mail -- consolidation implemented

Campus-wide ID Cards -- consolidation implemented

Campus-wide Special Events Scheduling -- consolidation implemented

Printing and Administrative Graphics -- January 23, 1980

Handicapped Student Services -- January 23, 1980

Counseling Services -- Spring, 1980

Foreign Student Services -- Spring, 1980

Veterans Affairs -- Spring, 1980

Consolidated Equipment Inventory -- no target date given

The issue of future governance at Auraria, as raised by H.B. 1498, was discussed, but the recommendations are not due until January 15, 1981. Dr. Lee Kerschner, Executive Director of the CCHE, reported that CCHE has met with faculty, students, the general public, and with members of the various governing boards to solicit opinions on the governance issue. The Commission has developed a group of five governance models, and is in the process of narrowing this list of alternatives. The CCHE recommendation, with a report of benefits and liabilities of each alternative, will be ready for presentation to the legislature by the January deadline.

Faculty Productivity Study

Under the directive of footnote 38a of the 1979 Long Bill, the CCHE was charged with developing "...a plan for assessing and increasing faculty productivity, in conjunction with institutional governing boards." The reporting date for this study is no later than January 8, 1980. As a result, only progress reports were presented to the committee during the interim. The study was reported to be on sched-
ule and is being conducted for CCHE by Dr. Thomas Mason. Dr. Mason is a former administrator of the University of Colorado - Boulder and now a private consultant on higher education.

Among other activities, the study has involved a survey of other state considerations on faculty teaching load, workload, and productivity, and the methods used in analyzing faculty productivity. Personal visits have been made to selected states to examine, in depth, the approaches used in dealing with this complex area. A policy advisory committee of higher education faculty members and administrators, along with private citizens, has been established under the chairmanship of Dr. Guy T. McBride, Jr., President, Colorado School of Mines. Numerous meetings have been held with interested persons, governing board members, and other organizations. Although the committee is pleased with the apparent thoroughness of the study, it is too early to suggest any opinion or to comment even generally on the substance of the final report, which is now in preparation.

Student Redirection

Footnote 39a of the 1979 Long Bill directed the Colorado Commission on Higher Education to develop a program for the systematic referral and transfer of students among Colorado's two-year and four-year colleges and universities. The commission presented a report on the plan which has been developed. This plan is scheduled for implementation in September, 1980, and represents combined efforts of CCHE, governing boards, administrators, and student representatives working on the problems involved with student transfer.

The focus of the report has been on establishing a process which will ensure uniform procedures for the evaluation of credits earned at another of the state's institutions. Early next year the CCHE will seek agreement on the changes in institutional policies and practices which are necessary for the establishment of a comprehensive student transfer program.

The commission reported that monitoring and evaluation of program progress would be performed during the period 1980-1984. The CCHE staff expressed optimism that the plan would encourage the creation of institutional policies and operations which will minimize problems of student transfer and referral.

Committee Recommendations -- Higher Education

Creation of the Division of Information Systems Coordination -- Bill 17

Bill 17 is an updated version of Senate Bill 494 of the 1979 session. The reasons for submitting this bill are similar to the
reasons given last year; namely, there still exist wide disparities between the types and quality of information systems utilized at the state's institutions of higher education. Moreover, much of the existing hardware and software at state institutions is obsolete, handicapping not only students in their educational experiences, but also administrators whose management, budgeting, and accounting functions are adversely effected by lack of modern equipment and appropriate staff training.

The primary purpose of Bill 17 is to create, within the Department of Higher Education, a division of information systems coordination which would be responsible for the following activities:

1. determination of the types of computer hardware and software which will meet the educational and administrative requirements of the state's institutions of higher education, with attention to standard, linkable systems capable of resource sharing, distributive processing capability, and access through telecommunications;

2. submission of a plan to the General Assembly summarizing the hardware/software needs of the institutions and outlining a procedure for acquisition of same;

3. development, with the institutions of higher education, of comprehensive long-range plans for information systems in higher education;

4. development of budgets for higher education information systems;

5. development of appropriate software to support standardized information systems between all institutions;

6. encouragement and promotion of resource sharing between information systems;

7. provision for training faculty on the use of computers in instruction; and

8. encouragement of efforts to establish a higher education information systems directors council.

Several of the informational and coordinative activities are also ascribed to the division, ranging from coordination of multi-institutional acquisition of hardware and software, to advisory functions with other state agencies concerning provision of computer services in higher education.

The second major purpose of this bill is to provide the division an appropriation for the purchase of the appropriate computer hardware. The amount of the appropriation is not included in the bill at this time, since the appropriation can be adjusted depending upon
the level at which the General Assembly would want to initiate this program.

Other Issues

Block Plan for Higher Education

Formal action was not taken, but individual members of the committee are writing to officials of the CCHE and the Trustees of the Consortium of State Colleges to encourage a study of possible implementation of the "Block Plan" at Adams State College or another of the state's four-year colleges.

The block plan, developed ten years ago by Colorado College in Colorado Springs, involves the intensive study of one subject at a time for a three and one-half week period. A highly favorable research report on the results of this plan at Colorado College was recently released by eminent educators who conducted a four-year appraisal of the plan. 1/

Committee members who advocated a study of the block plan suggested that it could be a positive move towards improving the educational vitality of an institution and to providing an alternative education program that would be unique to public higher education in Colorado. The emphasis in such a study could be placed on developing a new educational experience, by using a model that was described in the Colorado College report as "one of the boldest and most exciting" innovations in education ever.

A BILL FOR AN ACT

CONCERNING THE ACCREDITATION OF SCHOOL DISTRICTS.

Bill Summary

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

Establishes the accreditation of school districts as the duty of the state board of education. Provides that the general assembly shall be notified annually of the accreditation status of each school district. Requires that students come from an accredited district if they are to be accepted by institutions of higher education within the state.

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

SECTION 1. 22-2-106 (1) (c), Colorado Revised Statutes 1973, is amended, and the said 22-2-106 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

22-2-106. State board - duties. (1) (c) To appraise AND ACCREDIT the public schools AND EDUCATIONAL PROGRAMS OPERATED BY ALL STATE GOVERNMENTAL AGENCIES FOR PERSONS WHO HAVE NOT COMPLETED THE TWELFTH-GRADE LEVEL OF INSTRUCTION, and TO submit recommendations to the governor and general assembly for improvements in education;
(2) The state board shall withhold its accreditation of any district under subsection (1) (c) of this section if it determines that the district has not discharged its responsibilities under article 7 of this title.

(3) The state board shall annually submit a report to the governor and the general assembly on the accreditation status of all school districts and educational programs described under subsection (1) (c) of this section.

SECTION 2. 22-7-104, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-7-104. Local accountability programs. (4) No student shall be admitted to a state institution of higher education from a Colorado school district whose accreditation has been withheld on the grounds that the district has not implemented a local accountability program in compliance with this article.

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.
BILL 17

A BILL FOR AN ACT

CONCERNING THE CREATION OF THE DIVISION OF INFORMATION SYSTEMS COORDINATION IN THE DEPARTMENT OF HIGHER EDUCATION, AND MAKING AN APPROPRIATION THEREFOR.

Bill Summary

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

Creates a new division in the department of higher education. Creates an advisory council to the new division. Makes an appropriation.

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

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

ARTICLE 90

Division of Information Systems Coordination

23-90-101. Legislative declaration. The general assembly hereby finds, determines, and declares that: Wide differences exist in the availability and quality of information systems and other computing services among institutions of higher education in this state; obsolete equipment and procedures are, in many
cases, providing poor service at unacceptably high costs while
denying to students the experience and training indispensable to
a complete education; lack of suitable management, budgeting, and
accounting procedures imposes undesirable rigidities and
discourages efficient administration; lack of modern equipment,
technical support, and staff training has made it difficult for
smaller institutions to improve their services to students and
their management capabilities; a general skepticism exists that
any significant improvements requiring substantial investments of
money will be made; and a funding level that has remained even in
real terms for seven years has contributed to a lag in updating
equipment and an inability of Colorado colleges and universities
to take advantage of current computing technology in educational,
research, and administrative areas.

23-90-102. Division of information systems coordination -
creation. (1) There is hereby created, as a division of the
department of higher education, the division of information
systems coordination, referred to in this article as the
"division". Pursuant to section 13 of article XII of the state
constitution, the executive director of the Colorado commission
on higher education shall appoint the director of the division
who shall appoint employees of the division.

(2) Said division and office of director shall exercise
their powers and perform their duties and functions specified in
this article under the department of higher education as if the
same were transferred to the department by a type 2 transfer as
such transfer is defined in the "Administrative Organization Act

23-90-103. Duties - powers of the division. (1) Prior to
January 1, 1981, the department of higher education, all
community colleges, state colleges, and the Colorado school of
mines shall be provided with standard computing hardware and
software meeting the educational and administrative requirements
for information systems as determined by the division. Such
systems shall be independently operable to meet specific
institutional needs but shall be linkable for resource sharing,
distributed processing capability, and access through
telecommunications by the division and other institutions.

(2) Prior to January 1, 1982, the division shall submit to
the general assembly a plan for the acquisition of necessary
computer hardware and software to meet the needs of all other
institutions of higher education.

(3) In addition to the provisions of subsections (1) and
(2) of this section, it shall be the duty of the division to:
(a) Work cooperatively with institutions of higher
education to develop comprehensive long-range plans for
information systems in higher education;
(b) Develop budgets for information systems in higher
education;
(c) Develop appropriate software to support standard
information processing systems and management decision-making
among all institutions;
(d) Encourage and promote information systems resource sharing in higher education;

(e) Provide or facilitate training for faculty on the use of the computer in instruction;

(f) Encourage and facilitate the establishment of a higher education information systems directors council;

(g) Advise institutions and their computing center personnel on matters of computing technology, management, and applications;

(h) Provide coordination for multiinstitution acquisitions of hardware and applications software packages;

(i) Develop data communication plans that would allow for cost-effective computer resource sharing;

(j) Keep abreast of technical developments for relevant new hardware and software products and share said information with the institutions of higher education;

(k) Provide continual support for the provision of computer services at all the institutions of higher education in this state;

(l) Advise the department of administration, the Colorado commission on higher education, governing boards, institution presidents, and other agencies related to higher education on all matters concerning the provision of computer services in higher education.

23-90-104. Advisory committee - created. There is hereby created a nine-member information systems coordination advisory
council to advise the director of the division in the performance
of his duties. The advisory council shall be comprised of
members of the association of college and university presidents
and the association of community college presidents or their
designees.

SECTION 2. 24-1-114 (3), Colorado Revised Statutes 1973, as
amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-1-114. Department of higher education - creation.
(3) (d) Division of information systems coordination, the head
of which shall be the director of the division of information
systems coordination, created by article 90 of title 23, C.R.S.
1973. Said division and director shall exercise their powers and
perform their duties and functions as if the same were
transferred to the department by a type 2 transfer.

SECTION 3. Part 6 of article 30 of title 24, Colorado
Revised Statutes 1973, is amended BY THE ADDITION OF A NEW
SECTION to read:

24-30-608. Limitation on authority. Nothing in this part 6
shall be construed in any way to limit the authority, powers, or
prerogatives of the division of information systems coordination
in the department of higher education which shall have exclusive
responsibility for all information systems in the department of
higher education.

SECTION 4. Appropriation. Notwithstanding the provisions
of section 24-75-201.1, Colorado Revised Statutes 1973, there is
hereby appropriated, out of any moneys in the state treasury not
otherwise appropriated, to the department of higher education for allocation to the division of information systems coordination, for the fiscal year commencing July 1, 1980, the sum of ___ dollars ($ ), or so much thereof as may be necessary, for the implementation of section 23-90-103 (1), Colorado Revised Statutes 1973.

SECTION 5. Effective date. This act shall take effect July 1, 1980.

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
FIRE AND POLICE PENSION REFORM COMMISSION

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This report represents the concluding element of a three-year effort by the Colorado General Assembly to address the problems faced by local and state government as a result of the unstable condition of local firemen's and policemen's pension funds. Through the development and passage of two previous legislative proposals -- Senate Bill 46 (1978), the Policemen's and Firemen's Pension Reform Act, and Senate Bill 79 (1979), concerning a benefit plan for firemen and policemen -- the General Assembly has implemented a fundamental change in public pension policy that requires police and fire retirement systems to be funded on a sound actuarial basis rather than on a pay-as-you-go system. In order to put this report into its proper context and allow further explanation of the commission's present recommendations, a brief discussion of the General Assembly's previous efforts follows.

1977 Interim -- Senate Bill 46

In 1977 it was brought to the General Assembly's attention that local fire and police pensions were becoming increasingly unsound. It was then estimated that these local pension plans had accrued a total of $500 million in future pension liabilities for which there were no funds. In addition, these unfunded liabilities appeared to be increasing at an alarming rate. It was apparent then that future pension liabilities of local governments were high and the promised benefits to employees were increasingly in jeopardy. Accordingly, the General Assembly adopted House Joint Resolution 1046 which directed the State Auditor to examine the matter. H.J.R. 1046 also established the 1977 Interim Committee on Fire and Police Pensions to coordinate and assist the State Auditor's office in conducting this study.

The State Auditor was directed to address several matters through the study. These included:

1) the determination of the current costs of present benefit packages;

2) benefit alternatives and related costs necessary to fund proposed benefit packages on an actuarially sound basis;

3) proposed alternatives for current formulae for employee, employer, and state contributions to provide for actuarially sound pension funds within a period not to exceed forty years;

4) a comparative analysis of the firemen's and policemen's pension funds with other state and municipal employee's pension funds; and
5) organizational alternatives for firemen's and policemen's pension funds, to include a proposal for statewide consolidation and a plan for inclusion in the Public Employees Retirement Association.

During the course of this study, it became evident that not all these matters could be adequately addressed. For various reasons, including the lack of uniform detailed actuarial cost data and the great complexity of the proposed benefit structures, the committee concentrated on developing an interim proposal which would adequately fund local pension plans in order to prevent further increases in the levels of unfunded liabilities, and provide a framework within which a permanent solution might be developed. The committee did not address other important issues such as the appropriate levels of financial responsibility which should be imposed on the state, employers, and employees in paying for these plans.

In order to prevent further increases in unfunded liabilities, the committee recommended that fire and police pension funds, beginning in 1979, be adequately funded to cover both unfunded accrued liabilities and current normal service costs. It further recommended that no modification of any pension benefit plan by local action be authorized after October 1, 1978. New employees were to be temporarily covered by the existing statutes, but not vested in the plans. This was intended to freeze existing levels of liability. However, it did allow member contributions to be increased to a maximum of ten percent. The committee also recommended that the state's contribution to fire and police pension funds be increased by $1 million to each fund.

In order to address further issues surrounding local pension plans, the committee also recommended the following: 1) that an actuarial study of each pension fund be conducted to determine the actuarial liability; 2) that procedures to be used in selecting the actuarial firm to conduct these studies, as well as the actuarial methods and assumptions to be used be developed by the State Auditor; and 3) that a statutory policemen's and firemen's pension reform commission be created to study this matter further. The committee determined that, without a complete actuarial study, development of any new pension plan was impossible.

It should be noted that the 1977 committee concluded that the adoption of a policy to fund a public retirement system on a sound actuarial basis was essential. Funding on an actuarial basis would seek to assure that: level contributions will be made over a prolonged period; present taxpayers will pay for the benefits earned by present employees for the services they render; and assets would be accumulated in a manner sufficient to fulfill the benefit commitments if further contributions to the retirement system were to be discontinued.

The General Assembly subsequently adopted Senate Bill 46 which created the Policemen's and Firemen's Pension Reform Commission and directed it to carry out an actuarial valuation of local funds, and to
"... study and develop proposed legislation relating to funding of policemen's and firemen's pensions in this state and benefit designs of such pension plans". Specifically, the commission was to examine normal retirement age and compulsory retirement, rate of accrual of benefits, disability benefits, survivors' benefits, vesting of benefits, employee contributions, postretirement increases, creation of a consolidated statewide system, distribution of state funds, and creation of a volunteer firemen's pension system.

1978 Interim -- Senate Bill 79

Based on the legislative directive of S.B. 46, the commission met throughout the 1978 interim in order to conduct an actuarial study of pension system funds and to develop a pension system which addressed the General Assembly's general goals and principles. As noted previously, Senate Bill 46 required that the actuarial study of all policemen's and firemen's pension funds be conducted under the supervision of the State Auditor. The act permitted each municipality and fire protection district to elect to use the services of its own actuary in conducting the valuation (based on the method and assumptions adopted by the State Auditor) or the services of the Martin E. Segal Company, the actuarial firm designated by the State Auditor to conduct or review all of the studies required.

The purpose of the actuarial valuations was two-fold. The first purpose was to determine the 1979 contribution rates necessary for each pension plan to meet the minimum funding standards established under Senate Bill 46. The second purpose was to determine the actual status of all such pension funds.

The results of these actuarial valuations were made available in February of 1979, and represented the first complete evaluation of local pension funds using a uniform set of assumptions and methodologies. The report presented the results of the valuation performed for 49 firemen's pension plans and 113 policemen's pension plans. The results of valuations of 31 additional municipalities were excluded from the written report because they cover their police officers under social security. Excerpted below is a portion of the report's summary.

As of January 1, 1978, the 167 plans

- Cover 5,826 active members and 1,761 pensioners and beneficiaries. Of these totals, the Denver police and firemen's plans cover 2,270 active members and 1,044 pensioners and beneficiaries.

- Have a combined payroll of $95.4 million and assets of $69.6 million. Of these totals, the two Denver plans have a combined payroll of $42.9 million and assets of $14.1 million.
As of December 31, 1978, the 167 plans have combined unfunded past service liabilities of $431.2 million. Of this amount, the two Denver plans have combined liabilities of $299.2 million, about 70 percent of the total. The four largest cities, Denver, Colorado Springs, Pueblo, and Aurora, account for about 85 percent of the total.

It should be emphasized that the unfunded past service liability is not a liability in the accounting sense. It is not a specific dollar amount owed to anyone as of a certain date. Rather it is the lump-sum present value of contributions employers expect to make in the future in a form other than normal costs. Furthermore, the dollar amount of the unfunded past service liability can change considerably from one actuarial valuation to the next.

During 1977, the 167 plans received combined employer, employee and state contributions of $17.8 million (about 19 percent of total payroll). Of the total contributions of $17.8 million, the two Denver plans received $7.3 million or about 41 percent.

Based on the minimum funding standards established by the 1978 Reform Act, the total contributions (from all sources) necessary to pay the normal cost and amortize the unfunded past service liability over 40 years from January 1, 1979, for all 167 plans is about $49.2 million (based on January 1, 1978, payroll), or about 50 percent of total payroll. For Denver alone, the necessary contribution would be $28.2 million, or about 66 percent of Denver's payroll (January 1, 1978).

Expressed as a percentage of payroll, the total contribution rates vary widely, from 14 percent to 65 percent for police plans and from 18 percent to 78 percent for firemen's plans.

Based on the responses from the municipalities to date, the actual contribution rate for most municipal employers (excluding Denver), calculated pursuant to the hardship exceptions and maximum limitations of the 1978 Reform Act, will be about 150 percent of the rate the employer contributed in 1978. For Denver, which elected a hardship exception for both of its plans, the 1979 contribution rate will apparently be the greater of its 1977 rate or the amount required to pay current pensions because these two amounts are greater than the amount required for the first year under the hardship exception. The 1977 employer rate for Denver's police fund was 18.3 percent and 19.4 percent for Denver's firemen's fund.
In addressing the specific questions raised in Senate Bill 46 relative to the design of a pension benefit structure, the commission considered a number of broad policy issues. These issues included the questions listed below.

1) What should be the role of the state with regards to local firemen's and policemen's pension plans?

2) Should pension plans be administered on a local or state-wide basis?

3) On what basis should death and disability benefits be afforded employees?

4) What should be the relative responsibilities of the state, employees, and employers in funding pension plans?

5) How should a benefit structure for employees hired after April 7, 1978, be modified in order to address both the issue of unfunded liabilities and adequate pension benefits?

6) What degree of autonomy should be provided local governments in modifying any minimum benefit structure?

Based on actuarial reports, input from employees, employers, and other affected parties, the commission developed and recommended the substance of Senate Bill 79. That bill represents a systematic and comprehensive revision of the pension system in Colorado. Its major provisions are summarized as follows. (Summary taken from a Colorado Municipal League publication, "Policemen's and Firemen's Pensions, Analysis of 1978 and 1979 Legislative Reforms").

Retirement

Eligibility. A member is eligible at age 60, with 25 years active service. The member may retire as early as age 55 if the employer certifies that there are no available positions for which the member is qualified. Section 31-30-1006 (1). Options for deferred and early retirement are summarized below.

Benefit. The benefit is two percent of the average of the highest three years salary multiplied by the member's years of service prior to age 65, not to exceed 25 (section 31-30-1006).

Escalator benefit. A post retirement cost of living adjustment (COLA) is applicable to departments providing a COLA, and in lieu of a COLA, the adjustment is tied to changes in the Consumer Price Index. The maximum annual increase is three percent. The rank escalator is frozen effective January 1, 1980. Service is credited pro rata, with the rank escalator benefits paid for pre January 1, 1980, service and a COLA paid for post January 1, 1980, service. Local governments may
continue the full rank escalator as a local obligation (sections 31-30-1010, 31-30-1014 (4) (b)).

Deferred pension. A member may elect to defer receipt of the pension benefit until age 65. In such case, the deferred pension shall be the actuarial equivalent of the normal retirement benefit (section 31-30-1006 (2)).

Early retirement. A member may retire early at age 50 with 30 years of credited service. The benefit award is reduced by one-half of one percent for each month of age less than 55 (section 31-30-1006 (3)).

Pension options. Option 1: A reduced pension is payable to the member and, upon his death, all of such reduced pension is to be paid to his designated beneficiary for life (section 31-30-1006 (4) (a) (I)). Option 2: A reduced pension is payable to the member and, upon his death, one-half of such reduced pension is to be paid to his designated beneficiary for life (section 31-30-1006 (f) (a) (II)). Option 3: A reduced pension is payable jointly to the member and his designated beneficiary and, upon death of either, one-half of such reduced pension is to be paid to the survivor for life (section 31-30-1006 (4) (a) (III)).

Disability

Total disability. The annual benefit is 40 percent of the member's annual base salary and increased by: 1) ten percent of the member's annual base salary for his spouse; and 2) ten percent of the annual base salary for dependent children (section 31-30-1007 (1)).

Occupational disability. The annual benefit is 30 percent of the member's annual base salary and increased by: 1) ten percent of annual base salary for his spouse; and 2) ten percent of the annual base salary for dependent children (section 31-30-1007 (2)).

Offsets. If the member has received an award under workmen's compensation, the disability award is reduced by one-half of the workmen's compensation award. If the workmen's compensation award was in a lump sum, the offset is made under board rules. The disability award is to be reduced by 25 percent of any additional earned income, and is also to be reduced by a pro rata amount of any social security award attributable to earned quarters from employment as a member (section 31-30-1007 (3)).

Determination: The board is to determine disability upon recommendation by a panel of five physicians, three concurring that a disability exists. The board must have such concurrence before an award can be made, but is not bound by the recommendation and may deny claims. The employer must certify there is no available position for which the member is qualified before an occupational disability can be granted (section 31-30-1007 (4)).
Death

Award: 1) A surviving spouse with no dependent children is awarded 25 percent of the monthly base salary (MBS) plus one-half of one percent of such salary for each year of active service in excess of 25 years, not to exceed 35 percent of salary. 2) A surviving spouse with one dependent child is awarded 40 percent of the MBS. 3) A surviving spouse with two or more dependent children is awarded 50 percent of the MBS. 4) Three or more dependent children with no surviving spouse are awarded 50 percent of the MBS. 5) Two dependent children with no surviving spouse are awarded 40 percent of the MBS. 6) One dependent child with no surviving spouse is awarded 25 percent of the MBS (section 31-30-1008).

Mandatory Retirement

Retirement is not mandatory, but no additional service is credited after 25 years for normal retirement or after 30 years for early retirement (section 31-30-1006 (1) and (3)).

Contributions

Employer. The employer's initial rate of contribution is set at eight percent pending future actuarial evaluation (section 31-30-1013 (2)).

Employee. The employee's initial rate of contribution is set at eight percent pending future actuarial evaluations (section 31-30-1013 (1)).

State. The state's contribution includes 100 percent funding of the cost of death and disability benefits for three years. Thereafter, the state contribution of $6,000,000 is phased down at ten percent per year, with local governments picking up the difference. Freed money reverts to use for accrued unfunded liabilities (section 31-30-1014 (1) and (2)).

The state is also to appropriate $14,000,000 which, after funding "hold harmless" provisions, will be credited to each fund in relation to total statewide accrued unfunded liabilities each fund represents (section 31-30-1014 (3) and (4)).

Portability

Establishment of a statewide standard benefit and state fund enhances portability. A member who terminates his employment is entitled to the return of his contributions (see vesting). If he is subsequently employed as a police officer, he must return his contributions in order to gain recognition of prior service. Failure to effect such return of contributions classifies the employee as a new member, without recognition of prior service (section 31-30-1011).
Vesting

Upon termination, a member is entitled to the return of his accumulated contributions together with five percent annual interest. The refund must be made within 120 days. If a member has ten years of credited service, he may leave the accumulated contributions in the fund, and upon reaching age 65, is eligible to receive an annual vested benefit equal to two percent of his average highest three years salary multiplied by his years of credited service not to exceed 25 (section 31-30-1011).

1979 Study Directive

The emphasis of Senate Bill 79 and the issues upon which it focused dealt primarily with paid employees of police and fire departments. Primarily because of the differing manner in which volunteer firemen are treated by statute, and the lack of necessary actuarial data, the examination of pension plans for volunteer firemen was, by mutual agreement, postponed during the development and passage of Senate Bill 79 in 1979. It was recognized, however, that Senate Bill 46 required the examination of the status of these volunteer departments.

In addition it was anticipated that many problems might be encountered during the initial phases of the implementation of Senate Bill 79. Therefore, it was suggested that the commission monitor the bill's implementation in order to identify and recommend any necessary refinements of Senate Bill 79 which were required. These two topics formed the basis for the work of the commission during the 1979 interim.

Actuarial Study

In order to carry out its first function, the commission authorized the Martin E. Segal Company to conduct an actuarial study of volunteer firemen's pension plans in the state of Colorado. The purpose of such a study was much the same as a study conducted on fire and police pensions; i.e., to determine the extent to which pension plans for volunteer firemen may be underfunded, and develop recommendations to remedy these problems. In addition members of volunteer fire departments were asked to suggest matters which required attention.

As suggested above, the statutory provisions regarding volunteer firemen differ from those for paid firemen. While the current statutory provisions are summarized in the Appendix, it is important to note the permissive nature of these statutory provisions. The benefits provided volunteer firemen are not part of a defined benefit plan. Benefits can be altered in order to respond to differing financial conditions in the affected local governments. Consequently, volunteer fire departments have not, generally speaking, acquired an unfunded liability similar to paid departments.
As noted in the actuarial report developed by Martin E. Segal Company:

The statutory plan for volunteers is permissive, that is, it permits any level of benefit up to a certain amount. In this respect it differs from the statutory plans for paid firemen which establish basic benefits, some of which may be increased through local charter or ordinance.

As a result, at least one-third of the known plans which cover volunteers have not established any benefits. For many of these the local board is awaiting its first application for benefits before establishing a schedule of benefits.

For another one-third of the known plans it is unknown whether or not benefit levels have been established.

For the 67 plans which have established benefit levels, the benefits range from $5 per month in Hugo, La Junta, and Limon to $200 per month in Evergreen, but only about one-third have established disability benefits. Almost one-half of the plans have established duty-death benefits, but only about 20 percent (13 plans) have established post-retirement death benefits. The focus on duty-death benefits (however small) seem to indicate that many, if not most, boards are unaware of the $50,000 death benefit provided by the Law Enforcement Assistance Administration under the Public Safety Officers' Benefits Act which covers volunteer firemen.

Although 21 plans provide $100 per month retirement benefits, only 3 funds provide higher benefits. The remaining plans provide between $5 and $75 per month.

Another basic characteristic of existing volunteer firemen pension plans, and a major obstacle which hampered completion of the actuarial study and the commission's deliberations, was the lack of data needed to perform full actuarial calculations. The information required to perform an actuarial review can be grouped into three categories -- census data, benefit information, and financial data. The census data relates to the physical characteristics of the membership, pensioners, and beneficiaries. Benefit information describes the various benefits which a pension plan may provide its members. Financial data includes the assets of the plan, receipts from local and state sources, income from investments, and expenditures.

Despite four separate efforts to develop this information, response by volunteer departments was incomplete. This lack of data may be due to several reasons, but principally because of the nature of volunteer fire departments themselves and the type of pension plans
which many operate. Periodic centralized reporting of membership data is not required by state law. Further, because these fire departments are staffed by volunteers, there are no payroll or other personnel records to survey. In addition, because of the permissive nature of benefit plans, information regarding benefits was also difficult to acquire. The Segal report notes that benefit information from 64 plans was received, or about one-third of known plans covering volunteer firemen.

Based on the surveys conducted, however, the following overview of the state's volunteer firemen's pension plans was provided:

1) there are at least 192 firemen's pension plans in Colorado which cover at least 5,200 volunteer firemen. Not all volunteer fire departments have established pension plans;

2) because state law requires little reporting, the exact number of volunteer fire departments and volunteer firemen's pension plans is not known. The study uncovered almost 30 more pension plans than were recorded with the State Treasurer;

3) for the pension plans which are known, record keeping is often incomplete or unreliable. Accurate record keeping is particularly difficult because a significant source of data for regular government employees -- the payroll system -- is absent in volunteer fire departments;

4) the known pension plans for all-volunteer fire departments cover as few as ten and as many as 89 active members, with the average about 24 members;

5) the pension plans of combined paid and volunteer departments cover as few as three and as many as 133 active volunteer members, with the average about 30 which is slightly larger than the average for all-volunteer plans;

6) with few exceptions, the members covered by volunteer firemen's pension plans are relatively similar, assuming the data available (covering about half of known volunteers) is representative. The average active member is age 38 and has served almost eight years;

7) although state law has established a dollar limit on volunteer firemen's pension benefits, there is no common benefit level. Benefits range from $5 to $200 per month;

8) at least one-third of the plans have not apparently established any benefit levels. Some are awaiting
their first application for retirement, disability, or death benefits;

9) of the plans which have established one or more benefits, almost all have established a retirement benefit, but less than half have established a disability benefit. The remaining plans either provide no disability benefits or participate in the state industrial insurance program;

10) for about 50 percent of the 164 plans for which financial information is available, state contributions in 1977 were at least one-third of total contributions made to the plans. For about 12 percent of these plans, state contributions were more than half of total contributions; and

11) based on the census data for about 2,400 volunteer firemen, the annual per capita normal cost to provide a monthly $1 benefit was: retirement benefit -- $2.39, disability benefit -- $0.66, and pre-retirement death benefit -- $0.27.

Based on their examination of volunteer firemen's pension plans, the Segal Company developed two recommendations for consideration by the commission.

Recommendation 1. Additional information should be required from these plans as a condition for receipt of state contributions.

Recommendation 2. Based on this additional information, and until the legislature determines the future course of these plans, the state (possibly through the Colorado Fire and Police Pension Association) periodically should provide normal cost information to these plans in order to assist their financial planning.

As the Segal report notes, until complete census data on active and retired members, as well as information on benefit levels, is available to permit full actuarial valuations for the volunteer firemen's plans, their total financial condition cannot be fully assessed. The two recommendations were designed to address the absence of information, and assist fire departments in estimating more accurately the financial commitments for which they may be obligated in the future. Further actuarial information would allow the legislature at some future date to make comprehensive policy decisions regarding these plans if that became necessary.

Based on the actuarial report and testimony presented to the commission, however, it appeared that concern over a significant unfunded liability accrued by volunteer plans was, for the most part, unwarranted. Consequently, the commission shifted its emphasis to examination of the benefit structure. The commission was most concerned with determining what changes, if any, should be made to the existing structure in order to better assist volunteer firemen. As a
result, the commission met with representatives of volunteer firemen to solicit their views on this matter.

At these discussions volunteer firemen indicated that the current benefit structure was adequate and needed no substantive changes. These representatives did suggest, however, that three items be recommended by the commission. The items were:

1) authorize the new state board to establish a death and disability program into which the volunteer departments could buy;

2) require the state board to make disability determinations for volunteers under the provisions set down in S.B. 79 for the paid departments; and

3) set the state contribution to volunteer departments for 1981 at 80 percent of one-half mill and increase that annually by two and one-half percent until it reaches 90 percent and thereafter remains level at 90 percent.

Implementation of Senate Bill 79

On September 13, Governor Lamm appointed an eleven member task force to carry on necessary pre-implementation activities related to the Policemen's and Firemen's Pension Association. Since Senate Bill 79 has to be fully operational January 1, 1980, it was thought that extensive preparations would be required prior to January 1.

The requirements provided in Senate Bill 79, regarding the composition of the Police and Fire Pension Board are reflected in the gubernatorial appointments. The task force consists of the following individuals.

1) Representing Colorado municipal employees:
   (a) Jerry Kempf of Denver, Colorado;
   (b) Cappie Fine of Boulder, Colorado;
   (c) John Tasker of Grand Junction, Colorado; and
   (d) Kent Cooper of Greeley, Colorado.

2) Representing professional policemen's organizations:
   (a) Kenneth Harris of Denver, Colorado; and
   (b) Ray Magan of Pueblo, Colorado.

3) Representing professional firemen's organizations:
   (a) Richard Holck of Aurora, Colorado; and
   (b) Fred Knowles of Grand Junction, Colorado.

4) Representing special districts:
   (a) F. A. "Bo" Frye of Evergreen, Colorado.
5) An individual selected from a list prepared by the representatives of municipal employers.

6) An individual selected from a list prepared by the representatives of professional policemen's organizations and professional firemen's organizations:

(a) Robert Bendixen, Denver Fire Department.

These appointments expire on January 1, 1980, at which time the Governor will appoint the permanent association board.

The task force will be responsible for taking the initial steps in implementing Senate Bill 79. These steps include: developing an accurate and complete census of potential association members and employees; developing additional actuarial data; calculating individual benefit levels and contributions levels; developing procedures for accepting local pension funds and making any initial investment decisions; establishing procedures for death and disability determinations; making preliminary administrative decisions regarding staffing; and making other procedural decisions regarding the general operation of the board.

Since its appointment the task force has met several times to carry out these directives. The group has, with the assistance of the Office of State Planning and Budgeting and the Department of Administration, rented office space, obtained staff assistance, and retained the services of an actuary, an attorney, and an accountant. It is also now in the process of completing a contract with the Public Employee's Retirement Association for data services. Finally, the task force is developing forms which will be used for the collection of census and other data.

During these initial meetings it became evident to the task force that certain technical changes needed to be incorporated into Senate Bill 79. At its last meeting of the interim, the task force reviewed these recommended changes with the commission and urged that they be adopted. All of these recommended amendments were adopted by the commission and are reviewed below.

Recommendations

Based on testimony received during the 1979 interim, the commission recommends two bills which affect volunteer firemen and make several clarifying amendments to Senate Bill 79.

Bill 18. In accordance with the recommendations from representatives of the state's volunteer firemen, this proposal would effect three changes of the state's pension plans. First, the bill would require the state Firemen's and Policemen's Pension Board to make disability determinations for volunteer firemen, except for volunteer firemen who are insured by a commercial insurance company.
Currently, local boards of trustees of each pension plan must make these disability determinations. Disability determinations by the state board would presumably help insure a more impartial ruling in these matters, and result in the application of a more uniform set of criteria.

Secondly, Bill 18 requires the state board to establish a statewide insurance policy against death and disability. Local volunteer pension plans may buy into the plan if they so choose. Currently, each pension plan must, if it desires, establish its own death and disability plan. By allowing the state board to create a statewide death and disability plan, individual associations would receive certain benefits relative to the cost of providing such a plan.

Finally, Bill 18 provides that the current state contribution to firemen's pension plans for volunteers be increased over a four-year period, from 1981 to 1984. Currently, the state contribution to municipalities and special districts offering fire protection and utilizing volunteer firemen equals 80 percent of the proceeds of one-half mill on the valuation for assessment in 1979 of the municipality or special district. This contribution would be raised in four equal steps to a level equal to 90 percent of the proceeds of one-half mill on the municipality or special district's valuation for assessment in 1979. The level of state contribution must be increased if the municipality or special district increases its geographic size.

Bill 19. This bill amends certain sections of Senate Bill 79 to effect several changes which are of a "housekeeping" nature. These amendments were developed by the Martin E. Segal Company and the task force. It should be noted, however, that the amendments are intended only to clarify certain provisions of Senate Bill 79. Both the task force and the commission agreed that consideration of substantive amendments to Senate Bill 79 would be ill-advised at this time. Without sufficient experience in administering this new state pension plan, major alterations may not appropriately address emerging needs and result in a great degree of confusion.

The amendments made by the various sections of Bill 19 are explained below:

Section 1. See Section 13.

Section 2. This section clarifies that future changes in population will not affect the level of benefits received by new or affiliating employees.

Section 3. See Section 13.

Section 4. This section clarifies the election procedures for withdrawal or reentry into the state plan. It provides that such actions must be approved by 65 percent of the new and affiliating employees, as well as 65 percent of the employees still covered under the local plan. Without such language, situations may arise in which
one segment of employees imposes its will on another. This section also establishes a presumption of benefits in the case where a member of an affiliating employer fails to make an election of coverage within the required 60 day period following affiliation. Currently, the act is silent on the status if the member fails to take any action. This section clarifies this matter by providing a presumption that the member is under the current plan.

Section 5. This section clarifies the phrase "appoint ... such other employees as may be necessary..." by giving the board more definitive authority to appoint attorneys, actuaries, investment counselors, and other consultants. While the act implies this power, and it can be considered as a logical expansion of the act's provisions, clarification is necessary.

In addition, this section clarifies the powers of the board to pay for its operations, and make payments or refunds to members, payments to survivors, disability and retirement benefits, and for purposes of investment. This appears to be in keeping with the board's general authority. In addition, this section also authorizes the board to promulgate rules and regulations necessary to implement the act.

Section 6. This section provides that, since the board is responsible for seeing that actuarial studies are performed, it may direct that contribution rates be changed based on these studies. This authority is inferred in the current statutes but is not explicitly stated.

Section 7. This section provides that the board will not be making eligibility determinations for death and disability benefits for officers covered by money purchase plans. This is in line with the general philosophy of S.B. 79 which excludes officers covered by money purchase plans.

Section 8. This section clarifies two matters regarding early retirement. The base used in calculating the reduction of pension benefit payments in the case of early retirement is unclear. Section 8 provides specifically that the basis will be a portion of normal retirement benefit.

In addition, the act allows for early retirement at age 50 and 30 years of service at a reduced rate of benefit. The age from which the reduction of a member's pension is determined for this early retirement is 55. The net result is that normal retirement effectively becomes 55 rather than 60 (normal retirement age) because no reduction is applied against a member who takes an "early" retirement at 55. This situation may have significant effects upon the total cost of the new plan. The committee, therefore, recommends that the age from which early retirement reductions are calculated be raised to 65. This is in keeping with the initial decisions regarding normal retirement age.
Section 9. This section clarifies the status of benefits provided to those members who are eligible for normal retirement and become disabled. In this case they are to receive the normal retirement benefits. Currently, it is unclear what benefits these people should receive.

Section 10. This section clarifies the current conflicts which appear to exist regarding pension benefit adjustments. Section 31-30-1010 indicates that the three percent cost of living provision is "in lieu of" any other cost of living adjustment. This section is amended to recognize the rank escalation option allowed to localities in section 31-30-1014 (4) (b). Localities can, if they fund this completely, provide rank escalation to "old hires".

Section 11. Senate Bill 79 authorizes the return of member contributions with interest. The intent of this provision was to allow this return only to those employees who are covered, or who elect to be covered by the retirement provisions in the act. The language of this section is not clear concerning whether the return of contribution applies only to members of the association. To resolve this problem, section 11 states that affiliating employees will receive a refund of contributions for all accumulated service and that interest thereon will be a flat five percent of the total.

Section 12. This section clarifies the conditions on which the state will distribute money to the local funds. Paragraph 31-30-1014 (4) (a) provides that no state money for unfunded liabilities shall be distributed to an employer having rank escalation which is not in the association. The intent of the General Assembly was also to condition the distribution of money to employers with rank escalation on the employer permitting its employees hired before April 8, 1978, to elect the provisions of the new plan. This subparagraph is amended to make it clear that no state money will be distributed to amortize the unfunded liabilities of a fund having rank escalation which is not in the association and which has not affiliated with the association.

Section 13. This section clarifies the termination of state contributions to actuarially sound funds. Paragraph 31-30-1014 (4) (c) provides, "As any employer receiving the state contributions pursuant to this subsection (4) becomes actuarially sound, such state contributions shall cease." This definition, "actuarially sound", refers to a fund which is receiving a stream of contributions sufficient to pay the normal cost and amortize the unfunded past service liabilities over forty years. It is not defined as having no past service liabilities. Consequently, any employer adhering to the funding requirements of part 8 (including an employer who has elected the hardship provision) and part 10 automatically is "actuarially sound" triggering the discontinuance of state contributions. This amendment makes it clear that state contributions end once the level of local contributions exclusive of state contributions is sufficient to fulfill the minimum funding requirements of part 8. Conforming amendments to the intent of this section 13 appear in sections 1 and 3 of the bill.
For over 60 years, the State Legislature has established some guidelines for volunteer firemen's pensions. The current provisions may be summarized as follows:

Normal Retirement -- A volunteer with 20 years of active service and above the age of 50 may receive a pension not to exceed $200 per month. However, pensions in excess of $100 per month must be actuarially sound. A volunteer fireman with 20 years of service who has not attained age 50 is entitled to begin receiving a pension upon the attainment of age 50.

Disability -- A volunteer fireman injured in line of duty may receive an annuity in an amount not to exceed $150 per month for a period of time not to exceed one year. If the disability extends beyond a year and the fireman was deprived of his earning capacity, the local board is authorized to provide monthly annuities "in such an amount as the board determines proper and necessary."

Death Benefits -- A local firemen's pension board may provide a surviving spouse of a volunteer fireman who dies in the line of duty with a monthly annuity in the amount that is "deemed proper and necessary not to exceed $150 per month, or within limits as are prescribed by municipal ordinance..." This language suggests that the death benefits may exceed $150 per month. If there is no surviving spouse but there is a surviving child under the age of 18 or a dependent parent, the same amount of annuity is authorized for such survivors.

Post-Retirement Death -- The local board may grant an annuity not to exceed 50 percent of a pension being received at the time of the fireman's death to his survivors.
A BILL FOR AN ACT

CONCERNING VOLUNTEER FIREMEN, AND PROVIDING BENEFITS THEREFOR AND INCREASING THE STATES' CONTRIBUTION FOR FIRE PROTECTION SERVICE.

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 from 1981 to 1984, the state contribution to firemen's pension plans for volunteer firemen shall increase in four equal steps. Requires the state board of directors of fire and police pensions to set up a statewide death and disability insurance policy for volunteers. Shifts the burden of determining disability of volunteer firemen from the local boards to the state board of directors.

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

SECTION 1. 31-30-415 (2), (3), and (7), Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, are amended to read:

31-30-415. Volunteer firemen's pensions - blanket insurance. (2) All applicants for disability pensions shall be examined by one or more physicians selected for the purpose by the board of DIRECTORS ESTABLISHED BY PART 10 OF THIS ARTICLE FOR THE PURPOSE OF EXAMINING SAID APPLICANTS and may be examined by
one or more physicians selected by the-applicant SAID APPLICANTS FOR SUCH PURPOSE. All expenses of examinations by the--physician PHYSICIANS chosen by the board OF DIRECTORS shall be paid by the board OF DIRECTORS out of the fund.

(3) The board OF DIRECTORS ESTABLISHED BY PART 10 OF THIS ARTICLE shall establish such rules and regulations as it deems proper for the purpose of examination of all persons who have retired for disability or who may be so retired on or after January 1, 1969 1980, to determine from time to time the fitness of such persons. No-such-person-who-has-reaching-the-age-of-fifty years;---either---before---or---after---his---retirement;---shall---be reexamined;---No-such-person-who-has-completed---twenty---years---of active-duty-in-said-department-before-the-date-of-such-retirement shall---be---reexamined;---No-person---on-the-retired-list-shall-be examined-sooner-than-one-year-after-the-date-of-retirement---and not---more---often---than---once---a---year---thereafter;---In---the-event-it-is found-by-said-board-that-any-member---on-the-retired-list-has recovered---sufficiently---from---the---disability---which---caused-his retirement-and-such-person-is-under-the-age-of---fifty---years---and has-served-less-than-twenty-years-of-active-duty;---such-person shall-be-removed-from-the-retired-list;---Any-member---so---removed from-the-retired-list;---within---thirty---days---after---his-removal therefrom;---may-file-a-written-protest-in-which-he-shall-state-any objection-to-his-removal-from-the-retired-list;---The-decision-of said-board-shall-be-suspended-pending-a-hearing-on-said-protest; at-which-hearing-such-member-shall-have-the-right-to-appear---and
to-be-represented-by-counsel:

(7) (a) The board in any municipality or fire protection
district having a paid-or volunteer OR A PAID AND VOLUNTEER fire
department or a fire department aid association is hereby
authorized, with the consent in writing of a majority of the
VOLUNTEER members of such department or association, to insure
the VOLUNTEER members of such paid-or volunteer OR PAID AND
VOLUNTEER fire department or fire department aid association by
insurance policies of individual, group, or blanket life,
endowment, or annuity insurance, variable annuity insurance, or
disability or liability insurance in and from companies
authorized to do business in Colorado and to expend any portion
of such pension fund for the purpose of paying the premiums on
any such policies, but the expending of said funds shall not
impair the ability of such pension funds to pay the annuities to
a VOLUNTEER member OR HIS surviving spouse, or dependent parent
or children receiving such annuities.

(b) IN LIEU OF PROVIDING INSURANCE PURSUANT TO PARAGRAPH
(a) OF THIS SUBSECTION (7), THE BOARD IN ANY MUNICIPALITY OR FIRE
PROTECTION DISTRICT IS AUTHORIZED TO INSURE VOLUNTEERS SERVING IN
ANY VOLUNTEER OR PAID AND VOLUNTEER FIRE DEPARTMENT OR FIRE
DEPARTMENT AID ASSOCIATION BY THE STATEWIDE INSURANCE POLICY
AGAINST DEATH AND DISABILITY WHICH THE STATE BOARD OF DIRECTORS
IS REQUIRED TO PROVIDE PURSUANT TO PART 10 OF THIS ARTICLE.

SECTION 2. 31-30-1005 (2), Colorado Revised Statutes 1973,
1977 Repl. Vol., as amended, is amended, and the said 31-30-1005
is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

31-30-1005. Powers and duties of the board. (2) (a) The board has the sole power to determine eligibility for retirement for disability, whether total or occupational, for any policeman or fireman in this state whether or not such member is covered by the provisions of this part 10, except those policemen and firemen having only social security coverage. The final power to determine disability status is vested in the board, but each employer shall determine whether positions are available for disabled members and shall make such appointments to said positions as it deems necessary.

(b) THE BOARD HAS THE SOLE POWER TO DETERMINE DISABILITY FOR VOLUNTEER FIREMEN UNDER THE PROVISIONS OF SECTION 31-30-415, EXCEPT FOR VOLUNTEER FIREMEN INSURED UNDER COMMERCIAL INSURANCE PLANS.

(4) The board shall provide for and determine the cost of a statewide death and disability insurance policy to be purchased by volunteers serving in volunteer or paid and volunteer fire departments.

SECTION 3. 31-30-1014 (3) (a), Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

31-30-1014. State contribution. (3) (a) (I) (A) In 1981 contributions to municipalities and special districts offering fire protection service and having volunteer firemen shall equal eighty-two and one-half percent of the proceeds of one-half mill
on the valuation for assessment in 1979 of the municipality or special district.

(B) In 1982 contributions to municipalities and special districts offering fire protection service and having volunteer firemen shall equal eighty-five percent of the proceeds of one-half mill on the valuation for assessment in 1979 of the municipality or special district.

(C) In 1983 contributions to municipalities and special districts offering fire protection service and having volunteer firemen shall equal eighty-seven and one-half percent of the proceeds of one-half mill on the valuation for assessment in 1979 of the municipality or special district.

(D) In 1984 and each year thereafter contributions to municipalities and special districts offering fire protection service and having volunteer firemen shall equal ninety percent of the proceeds of one-half mill on the valuation for assessment in 1979 of the municipality or special district.

(II) In calculating the contribution by the state provided in subparagraph (I) of this paragraph (a), there shall be subtracted from said amounts the cash equivalent of the death and disability benefit for each employer having members as well as volunteers. If the death and disability benefit is equal to or greater than the amount scheduled to be contributed to the municipality or special district offering fire protection service, no contribution shall be made by the board, and state payment of death and disability benefits shall be in lieu of any
contribution previously made to such employer.

(III) If any municipality or special district offering fire protection service and having volunteer firemen increases the geographic region for which it provides such fire protection service, the state contribution to such municipality or special district shall be increased based upon the valuation for assessment in 1979 of the region.

SECTION 4. Effective date. This act shall take effect July 1, 1980.

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.
BILL 19

A BILL FOR AN ACT

CONCERNING THE PROVISION OF BENEFITS FOR FIREMEN AND POLICEMEN.

Bill Summary

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

Makes various technical and conforming amendments to existing, new legislation on fire and police benefits, including:

Expanding and refining the powers of the state board, clarifying provisions for entry into the benefits plan, clarifying provisions for eligibility and payment of benefits for disability and retirement under the plan, defining and explaining the extent and conditions for state contributions to the plan, and various other minor, technical changes.

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

SECTION 1. 31-30-804 (8) (a) (II), Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, is amended to read:

31-30-804. Limitation on existing funds - procedures.

(8) (a) (II) A rate of contribution lower than the minimums set forth in this paragraph (a) may be established by the governing body if, considering EXCLUDING any state contribution, the lower rate would meet the minimum funding provisions of subsection (2) of this section and if the rate of contribution of the employer
at least equals the employee rate.

SECTION 2. Part 8 of article 30 of title 31, Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

31-30-805.5. Population changes not to affect benefits. Notwithstanding any other provision of this article, no change in the population of any municipality which is certified pursuant to the 1980 federal census or any other census taken thereafter shall cause any change in the levels of benefits to which employees of such municipality are entitled pursuant to part 3, 4, 5, 6, or 10 of this article.

SECTION 3. 31-30-1002 (1), Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, is amended to read:

31-30-1002. Definitions. (1) "Actuarially sound" means a policemen's or firemen's pension fund determined by the board to be receiving or scheduled to receive EMPLOYER AND MEMBER contributions in each fiscal year from-any-source equal to the annual contributions actuarially determined to be necessary to pay the annual current service cost of pension benefits attributable to active employees and to pay the annual contribution necessary to amortize any unfunded accrued liability over a period not to exceed forty years. The actuarial cost method to be utilized shall be the entry age-normal cost method. The date from which unfunded liabilities shall be amortized shall be determined pursuant to part 8 of this article.

SECTION 4. 31-30-1003 (2) (b) (III) and (3) (b), Colorado
Revised Statutes 1973, 1977 Repl. Vol., as amended, are amended to read:

31-30-1003. Applicability of plan. (2) (b) (III) Any reentry or both the withdrawal and the alternative pension plan, together with any amendments thereto, shall be approved by at least sixty-five percent of all members WHO HAVE ELECTED TO BE COVERED BY A LOCAL PLAN IN EFFECT ON JANUARY 1, 1979, AND BY AT LEAST SIXTY-FIVE PERCENT OF ALL MEMBERS WHO WERE FIRST HIRED ON APRIL 8, 1978, OR LATER OR WHO HAVE MADE THE IRREVOCABLE ELECTION PURSUANT TO PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION TO BECOME COVERED UNDER THE PROVISIONS OF THE STATEWIDE PLAN ESTABLISHED BY THIS PART 10.

(3) (b) Each member hired by an affiliating employer prior to April 8, 1978, shall irrevocably elect, not later than sixty days after affiliation, either to remain covered under the provisions of the local plan in effect on January 1, 1979, or to become covered under the provisions of the statewide plan established by this part 10. IF A MEMBER HIRED BY AN AFFILIATING EMPLOYER BEFORE APRIL 8, 1978, FAILS TO MAKE SUCH AN ELECTION FOR ANY REASON, SAID MEMBER SHALL BE DEEMED TO HAVE ELECTED TO REMAIN COVERED UNDER THE PROVISIONS OF THE LOCAL PLAN IN EFFECT ON JANUARY 1, 1979. A member who elects to become covered under the statewide plan established by this part 10 shall be deemed to have waived all rights to benefits under the local plan but shall receive full credit for all service credited under the local plan, and a member electing to remain covered under the local plan...
plan shall not be governed by the provisions of this part 10 relating to defined retirement benefits.

SECTION 5. 31-30-1004 (3) (b), Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, is amended to read:

31-30-1004. Association - creation - board - organization.

(3) (b) The board shall elect a chairman and a vice-chairman, shall appoint a secretary and such other employees as may be necessary, and shall fix the compensation for said appointees. THE BOARD SHALL HAVE THE AUTHORITY TO RETAIN ACTUARIES, INVESTMENT COUNSELORS, PRIVATE LEGAL COUNSEL, AND OTHER CONSULTANTS AS DEEMED NECESSARY. THE FEES OF SUCH PERSONS SHALL BE CONSIDERED EXPENSES OF THE ASSOCIATION.

SECTION 6. 31-30-1005 (1), Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

31-30-1005. Powers and duties of the board.

(1) (h) Provide for disbursements from the fire and police members' benefit fund created by section 31-30-1012. Such disbursements shall be made only for payment of the expenses of the association, payment of refunds to members, payment of survivor, disability, or retirement benefits, or for purposes of investment.

(1) (i) Make such modifications to the minimum annual rates of contribution certified to municipalities and fire protection districts as may be justified by actuarial studies approved by the board, subject to the requirements of section 31-30-804. In
addition, the board shall supervise the establishment of such minimum annual rates of contribution for any municipalities or fire protection districts which, for any reason, did not receive such a minimum annual rate of contribution. Such establishment of minimum annual rates of contribution shall be conducted substantially in the manner provided by procedural regulations promulgated by the board.

(j) Promulgate such rules and regulations as may be necessary to implement the provisions of this part 10.

SECTION 7. 31-30-1005 (2), Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, is amended to read:

31-30-1005. Powers and duties of the board. (2) The board has the sole power to determine eligibility for retirement for disability, whether total or occupational, for any policeman or fireman in this state whether or not such member is covered by the provisions of this part 10, except those policemen and firemen having only social security coverage AND EXCEPT THOSE POLICEMEN AND FIREMEN WHOSE EMPLOYERS HAD ESTABLISHED MONEY PURCHASE PLANS ON OR BEFORE DECEMBER 1, 1978, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 31-30-325, 31-30-417, 31-30-522, OR 31-30-621. The final power to determine disability status is vested in the board, but each employer shall determine whether positions are available for disabled members and shall make such appointments to said positions as it deems necessary.

SECTION 8. 31-30-1006 (3), Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, is amended to read:
31-30-1006. Normal retirement. (3) Any member who has completed at least thirty years of active service or has attained the age of fifty years may elect to retire from active service and shall be eligible for an early retirement pension. The annual early retirement pension for a member shall be the normal retirement pension provided by subsection (1) of this section reduced by one-half of one percent of the normal retirement pension per month for each month or portion thereof that such member is less than age-fifty-five-sixty-five years of age at the time of such election.

SECTION 9. The introductory portion to 31-30-1007 (I), Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, is amended to read:

31-30-1007. Retirement for disability. (1) Any member hired before, on, or after April 7, 1978, who is not eligible for the retirement pension described in section 31-30-1006 and who becomes totally disabled shall be retired from active service for disability and shall be eligible to receive the disability benefit provided by this subsection (1). The annual disability benefit for total disability for such member shall be forty percent of the annual base salary paid to such member immediately preceding retirement for disability, which shall be increased by:

SECTION 10. 31-30-1010 (1), Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, is amended to read:

31-30-1010. Adjustment of benefits. (1) The benefits payable under this part 10 shall be redetermined effective
October 1 each year, and such redetermined amount shall be payable for the following twelve months. To be eligible for redetermination, such benefits shall have been paid for at least twelve calendar months prior to the effective date of redetermination. The annual redetermination of benefits provided in this section shall be required only for those employers not exempted by section 31-30-1003 (2) which, on January 1, 1980, were providing an annual cost of living adjustment to pension benefits provided pursuant to this article, and, EXCEPT AS PROVIDED IN SECTION 31-30-1014 (4) (b), the annual redetermination of benefits made pursuant to this section shall be in lieu of any other annual cost of living adjustment.

SECTION 11. 31-30-1011 (1) (a), Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, is amended to read:

31-30-1011. Return or transfer of contributions.

(1) (a) Any member terminating his service may elect to have his accumulated contributions, REGARDLESS OF WHEN MADE, together-with interest-earned-thereon-at-five-percent-per-annum refunded to him in a lump sum and shall sign a statement to be filed with his employer evidencing such election and acknowledging that said member has no right to benefits provided by this part 10. IN ADDITION TO RECEIVING HIS ACCUMULATED CONTRIBUTIONS, THE MEMBER SHALL ALSO RECEIVE, AS INTEREST, FIVE PERCENT OF HIS TOTAL ACCUMULATED CONTRIBUTIONS. The contributions refunded pursuant to this subsection (1) shall not include contributions other than those required to be made by the member, and the return of
contributions shall be made within one hundred twenty days.

SECTION 12. 31-30-1014 (4) (a), Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended, is amended to read:

31-30-1014. State contribution. (4) (a) After the disbursements made pursuant to subsections (2) and (3) of this section, any moneys allocated for distribution remaining in the fund shall be distributed by the board annually to any employer having an accrued unfunded liability to assist in amortizing such accrued unfunded liability as determined pursuant to the provisions of part 8 of this article. Moneys shall be credited to the various employers in proportion to the percentage of aggregate accrued unfunded liabilities each employer represents, but no money shall be distributed pursuant to this subsection (4) to an employer having rank escalation for members hired before April 8, 1978, which is not in the association. AFTER JUNE 30, 1981, NO MONEY SHALL BE DISTRIBUTED PURSUANT TO THIS SUBSECTION (4) TO ANY EMPLOYER WHICH HAS NOT AFFILIATED WITH THE ASSOCIATION. For the purposes of this subsection (4), "rank escalation" means the addition to the amount of the retirement pension or disability benefit being received of a fixed percentage of any increase in salary, as well as longevity or additional pay based on length of service, granted the rank a member occupied before retiring or being disabled.

SECTION 13. 31-30-1014 (4) (c), Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended is REPEALED AND REENACTED, WITH AMENDMENTS, to read:
31-30-1014. State contribution. (4) (c) State contributions to an employer pursuant to this subsection (4) shall cease when the minimum employer and employee contributions required pursuant to the provisions of part 8 of this article result in an actuarially sound fund.


SECTION 15. Effective date. This act shall take effect July 1, 1980.

SECTION 16. 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 - WATER

Members of the Committee

Chairman Rep. John Davoren
Vice-Chairman Rep. W. P. "Wad" Hinman
Rep. Nick Theos

Council Staff

Duane L. Barnard Dianna Y. Martinez
Research Associate Research Assistant
The Committee on Agriculture - Water was charged with conducting a "comprehensive study of the state's statutes concerning water and its use, including consultation with the state engineer, the Colorado Water Conservation Board, and water users throughout the state."

Introduction

At its first meeting, the committee received specific study suggestions from the State Engineer, the Colorado Water Conservation Board, and others in attendance. The suggested topics were listed and prioritized by the committee. The list, reflecting the committee's interpretation of the charge in House Joint Resolution 1052, contains a broad range of water issues and problems facing Colorado. The topics are listed below in order of priority.

1. Form legal and engineer committees to study matters of law and fact concerning the administration of nontributary underground water not located in designated groundwater basins.

2. Impact of energy development on water resources.

3. Prioritize water project funds.

4. Study alternative sites for water storage projects on the South Platte River.

5. Protect ability to appropriate water to which Colorado is entitled.

6. Identify conflicts and loopholes in the state's water law.

7. Rio Grande Compact: inability of the river channel to deliver the required amount of water to the State of New Mexico; amend the compact to provide administrative flexibility to handle unusual natural occurrences.

8. The effect of the expansion of irrigated acreage and increased irrigation efficiency on return flows to the river.

9. The advantages and disadvantages of a concept to lease underground water as opposed to granting water rights to underground water.

10. River channel rehabilitation.

12. Determine who is responsible for the cost of complying with the new dam safety criteria.


14. Appointment of a subcommittee — follow the water study being conducted by the Colorado Department of Natural Resources.

15. Reudi Reservoir — possible state purchase of 47,700 acre feet of water.

16. Senator Hart — cooperative effort on his initiative with the federal government to reexamine water development alternatives on the South Platte River.

17. Well drillers — examine severity of penalties for violations.


19. Phreatophyte control.

20. High plains study.

21. Platora Reservoir — agreement with federal government is needed to clarify who is responsible for the administration of the reservoir.

22. Radioactive contamination of underground water — regulation of mining test holes.

In addition to the study of the above topics, the committee devoted one meeting to water quality issues facing the state, and a portion of one meeting to gasohol.

Realizing that a thorough review of each of the topics would be impossible, the committee endeavored to briefly review as many areas as possible in order to identify and make recommendations on problems of immediate concern. On this basis, the committee recommends eight bills for consideration by the General Assembly in the areas of water project funding, water quality, river channel rehabilitation, and gasohol. The committee further recommends three resolutions concerning federal land acquisitions in Colorado.

Water Project Funding

The committee recommends two alternative proposals for funding water projects through the Colorado Water Conservation Board Construction Fund. One proposal would allocate a percentage of revenues from
sales and use taxes to the fund. The alternative proposal would allocate a percentage of the special reserve fund, established for tax relief, to the Colorado Water Conservation Board Construction Fund.

The Need for Increased Funding

The committee learned from the Colorado Water Conservation Board that the increased funding provided by the General Assembly in 1979 is sufficient for funding the present two-year backlog of projects. However, an increased number of applications for financial assistance is expected. Four factors contributing to the increased demand on the fund in the future are discussed below.

1) Water quality standards, resulting from federal and state water quality legislation, have placed financial burdens on water users throughout the state, particularly municipalities.

2) The Dam Safety Act requires that dams meet certain safety standards. The State Engineer testified that 25 percent of the 94 dams inspected in 1978 failed to meet the standards. The State Engineer estimated that the total cost of bringing 134 dams up to the established standards would exceed $35 million over the next three to four years. Many of the special districts and municipalities will not be able to secure financing through private means and will apply to the Colorado Water Conservation Board for assistance.

3) Energy development, primarily in the Colorado River Basin, will impact the availability of water to meet the needs of existing domestic, agricultural, and industrial enterprises. Growth associated with energy development will necessitate the building of water storage projects and municipal water supply systems.

4) Several federal reclamation projects authorized by Congress have not been funded, and it appears that some may never be funded. The committee concluded that these projects are vital to Colorado and may eventually have to be built using state funds. The Colorado Water Conservation Board is the logical agency to administer the funds and oversee the construction of the projects.

Allocation of Revenues from Sales and Use Taxes to the Colorado Water Conservation Board Construction Fund -- Bill 20

Revenues provided by Bill 20 to the Colorado Water Conservation Board Construction Fund would be in addition to moneys appropriated by Senate Bill 537 enacted in 1979. Senate Bill 537 credits a fixed dollar amount to the fund for each fiscal year beginning in July, 1979, and ending in June of 1982. For fiscal year 1979-80, $8 million is credited to the construction fund, and $10 million will be credited to the fund in each of the following two years.
The method of funding proposed in Bill 20 was originally conceived in S.B. 325, which was considered but not enacted by the General Assembly in 1979. Many of the provisions of S.B. 325 were added to S.B. 537 before enactment, including specific projects to be funded.

Bill 20 would divert a portion of the fifteen percent of net revenue, not required by the State Constitution to be credited to the Old Age Pension Fund, to the Colorado Water Conservation Board Construction Fund beginning in FY 1979-1980 and ending in FY 1988-1989. Presently, the fifteen percent of revenue not required for the Old Age Pension Fund is divided between the General Fund and the Highway Users Tax Fund, pursuant to S.B. 536, enacted by the General Assembly in 1979.

The allocations to the Highway Users Tax Fund would probably not be affected by this proposal. It is the committee's intent that the allocations to the Colorado Water Conservation Board Construction Fund impact only on the General Fund's share of the 15 percent of total net revenues from sales and use taxes as allocated by S.B. 537. The table below shows the proposed percentage distribution of the General Fund portion of the 15 percent of sales and use taxes not required for the Old Age Pension Fund. The last column contains an estimate of the maximum amount of revenue accruing to the construction fund for the first five fiscal years, using Office of State Planning and Budgeting estimates of sales and use taxes. Projections further into the future are too speculative to use.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Percentage Allocated to the General Fund by S.B. 536</th>
<th>Percentage Allocated to the General Fund Under the Proposal</th>
<th>Percentage Allocated to the Construction Fund Under the Proposal</th>
<th>Revenue Accruing to the Construction Fund Under the Proposal</th>
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<tbody>
<tr>
<td>1979-80</td>
<td>9%</td>
<td>9%</td>
<td>0</td>
<td>$26 M</td>
</tr>
<tr>
<td>1980-81</td>
<td>8</td>
<td>3</td>
<td>3</td>
<td>$30 M</td>
</tr>
<tr>
<td>1981-82</td>
<td>7</td>
<td>2</td>
<td>5</td>
<td>$34 M</td>
</tr>
<tr>
<td>1982-83</td>
<td>6</td>
<td>1</td>
<td>5</td>
<td>$31 M</td>
</tr>
<tr>
<td>1983-84</td>
<td>5</td>
<td>0</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>1984-85</td>
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<td>0</td>
<td>4</td>
<td></td>
</tr>
<tr>
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<td>0</td>
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<td>15 1/</td>
<td>10 - 12</td>
<td>3 - 5</td>
<td></td>
</tr>
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<td>1988-89</td>
<td>15 1/</td>
<td>10 - 12</td>
<td>3 - 5</td>
<td></td>
</tr>
</tbody>
</table>

1/ After distribution to the Highway Users Tax Fund.
Utilization for Water Resource Development of a Portion of the Special Reserve Fund -- Bill 21

Bill 21 provides that a percentage of the special reserve fund for tax relief be utilized for water resource development. The committee submits this bill as an alternative to the method of funding proposed in Bill 20.

Bill 21 provides that thirty percent of the reserve fund on or after July 1, 1980, would be credited to the Colorado Water Conservation Board Construction Fund. The diversion of thirty percent would continue indefinitely, in contrast to the July 1, 1990 cut off proposed in Bill 20.

The Governor's Revenue Estimating Committee, recognized as the official authority for estimating state revenues and expenditures, developed in September 1979, estimates of the reserve fund for the next five fiscal years. Below is a table showing projections of the reserve fund, the amount anticipated to be credited (30%) to the Colorado Water Conservation Board Construction Fund, and the amount that would be available (70%) for tax relief if Bill 21 was enacted (amounts are in millions of dollars).

The table is presented to show the maximum amount that could be credited to the construction fund under the proposed bill. The above allocation to the Colorado Water Conservation Board Construction Fund assumes that no portion of the reserve fund is actually allocated for tax relief. Any amount allocated for tax relief would reduce the balance in the reserve fund by the same amount, as the reserve fund balances in the table are cumulative over the five years and only reflect reductions due to allocations to the Construction Fund. The allocations to the Construction Fund appearing in the table would therefor be reduced if allocations are made from the fund for tax relief.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Reserve Fund Estimate 1/</th>
<th>70% Available for Tax Relief But Not Used</th>
<th>30% Allocated for Water Projects</th>
</tr>
</thead>
<tbody>
<tr>
<td>1979-80</td>
<td>$254</td>
<td>$254</td>
<td>$0</td>
</tr>
<tr>
<td>1980-81</td>
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<td>62</td>
</tr>
<tr>
<td>1981-82</td>
<td>208</td>
<td>146</td>
<td>62</td>
</tr>
<tr>
<td>1982-83</td>
<td>495</td>
<td>346</td>
<td>149</td>
</tr>
<tr>
<td>1983-84</td>
<td>582</td>
<td>407</td>
<td>175</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>$448</td>
</tr>
</tbody>
</table>

1/ These estimates are cumulative from year-to-year and assume that no funds are allocated for tax relief. If funds are allocated for tax relief the reserve fund estimates would be reduced and less money would be available for water projects.
Water Quality

The committee recommends three bills concerning water quality. One bill would amend the "Colorado Water Quality Control Act" in substantially the same manner as proposed by S.B. 480, which was considered but not enacted by the General Assembly in 1979. However, two major provisions of S.B. 480 are recommended as separate bills. One bill would require Senate confirmation of appointments to the Colorado Water Quality Control Commission. The second bill would provide the enabling legislation necessary for the state to assume the dredge and fill permit program contained in section 404 of the federal "Clean Water Act."

Concerning Water Quality -- Bill 22

Bill 22 would repeal and reenact the "Colorado Water Quality Control Act" to make the law consistent with the legislative intent expressed in S.B. 480 and affirmed by the committee as a result of testimony received at the meeting devoted to water quality. The legislative declaration in the present water quality act does not contemplate the conflict arising between the doctrine of prior appropriation and water quality requirements of federal and state law.

The legislative declaration in Bill 22 defines the relationship between water quality and the constitutional right to appropriate water and apply it to beneficial use. Key expressions of legislative intent are enumerated below.

1) It is the policy of the state to prevent injury to beneficial uses made of state water and to develop waters to which Colorado and its citizens are entitled, and within that context, to achieve the maximum practical degree of water quality.

2) To develop a water quality control program in which the benefits of water quality control measures utilized bears a reasonable relationship to the economic, environmental, and energy costs of such measures.

3) Control new or existing water pollution so as to obtain the highest water quality which is technically feasible and economically reasonable.

4) No provision of the article is to be interpreted in derogation or contravention of the provisions of sections 5 and 6 of article XVI of the Constitution of the State of Colorado. In recognition of the supremacy of these constitutional provisions and guarantees, the General Assembly declares that nothing in the article shall be construed, enforced, or applied to, in any manner, supersede, abrogate, impair, affect, or impose restrictions or conditions upon the rights to quantities of water which have been appropriated, the right to apply such waters to beneficial uses, or the right to the appropriation of water in the future.
The bill consistent with this declaration, would make several changes to the existing water quality control act. The major changes are summarized below.

1) Members of the commission would no longer be authorized to designate someone from their staff to serve in their place on the commission.

2) Members of the commission appointed after July 1, 1990, would be subject to Senate confirmation.

3) The commission would be prohibited from taking any action which would interfere with the constitutional right to appropriate state waters and apply them to beneficial use. No such restriction exists.

4) The bill would specify considerations for the commission to observe when promulgating standards and regulations, including benefits achieved as compared to costs, and present uses of water in particular streams. In addition, a fiscal impact statement would be required whenever a standard or regulation is adopted.

5) Standards, regulations, or permits would be required to be no more stringent than those required by federal law or regulation.

6) Part 7 of the act concerning sewage treatment works would be rewritten.

Appointments to the Colorado Water Quality Control Commission -- Bill 23

The testimony of experts in water law who have been involved in proceedings before the commission, indicated that the commission's decisions profoundly affect the citizens of Colorado. As a result, the committee concludes that increased public accountability of the commission is necessary.

Bill 23 would require that the citizen members of the commission appointed by the Governor on or after July 1, 1980, be confirmed by the Senate. The bill would prohibit the members of the commission representing state agencies from appointing or designating another person on their agency staff to serve on the commission.

Permits for Discharge of Dredged or Fill Material -- Bill 24

The committee concluded that the state should assume the dredge and fill permit system presently administered by the Environmental Protection Agency (EPA) and the Army Corp of Engineers pursuant to section 404 of the federal "Clean Water Act". Administration by the state would have several advantages:
1) persons would not encounter unreasonable delays in obtaining permits;

2) unique characteristics and behaviors of streams in Colorado would be recognized;

3) flexibility in the granting of permits in response to unanticipated events could be built into the program; and

4) the state would be more responsive to the needs of permit applicants, and more cognizant of the kinds of problems faced by applicants in Colorado.

Bill 24 would provide the statutory authority for the State Engineer and the Division of Water Resources to assume control of the dredge and fill permit program required by section 404 of the federal "Clean Water Act". The Environmental Protection Agency by federal law would have to approve a plan for the program submitted by the state. The EPA would also retain authority to review permits issued by the state, and have final authority regarding any permit issued.

The committee was advised that the fiscal impact of state administration of the dredge and fill permit program is difficult to estimate. Estimates range from $90,000 to $900,000 per year. The cost of the program would be directly related to the number of applications for permits received, and the size and nature of the projects contemplated.

River Channel Restoration

The State Engineer expressed concern over problems he is encountering in the administration of the Rio Grande River Compact. Colorado is alleged to have a 695,000 acre feet deficit in water delivery to the State of New Mexico under the compact. Although the deficit has been reduced over the past few years from an estimated one million acre feet, there is a real potential that the deficit will increase in the immediate future. If the deficit reaches a million acre feet, a federal water master would assume the administration of the compact. This could have an adverse impact on water users located on the Conejos and Rio Grande rivers.

The Rio Grande Compact differs from all other river compacts to which Colorado belongs. Instead of a set amount of water that must be delivered each year, the Rio Grande Compact requires a percentage of the water to be delivered each year. The amount of water to be delivered is not precisely known until December 31 of the year of delivery. In addition, as the volume of the flow increases, the percentage that Colorado must deliver increases correspondingly.

According to the State Engineer, the condition of the Rio Grande channel and the channel of the tributary Conejos River are
major factors contributing to the deficit under the compact. At the committee's meeting in Alamosa, local citizens and officers of water conservation districts confirmed the State Engineer's opinion. They indicated that the channel cannot convey the amount of water necessary to meet the compact commitment, particularly during the spring runoff. The water overruns the banks and is lost for all practical purposes. Because of the condition of the channel, the State Engineer has found it necessary to put "calls" on the river, causing hardships to junior appropriators during the irrigation season.

The committee concluded from the testimony of the State Engineer and residents of the San Luis Valley that channel improvements are necessary. Limited work to remove dead trees and sand bars would be preferable to major channel restoration both from an environmental and economic standpoint. Furthermore, such work should be completed before the spring runoff begins next year. Representatives of the Rio Grande Water Conservation District informed the committee that improvements should be made to the channels of both the Rio Grande River and the Conejos River. They added that the district would actively participate in the effort.

Supplemental Appropriations to the Colorado Water Conservation Board for Channel Rehabilitation -- Bills 25 and 26

Bill 25 would provide a $10,000 supplemental appropriation to the Colorado Water Conservation Board for rehabilitation of the channel of the Conejos River. Bill 26 would provide a supplemental appropriation in an equal amount for rehabilitation of the channel of the Rio Grande.

The committee recommends the use of supplemental appropriations to enable the rehabilitation projects to be completed prior to the spring runoff next year. The State Engineer estimated that the combined flow of the two rivers would be increased by 900 second feet when the projects contemplated by these two proposals are completed. According to the State Engineer, this increased flow would provide considerable relief to the problems of meeting Colorado's commitment to the Rio Grande Compact.

Problem Areas in Present Water Law

The committee focused its efforts on the problems associated with the administration of nontributary underground water as defined by Senate Bill 213, enacted by the General Assembly in 1973. The committee concluded, with the advice of the State Engineer, that recommendations for legislation in this area is premature and inadvisable at this time. Litigation involving applications for nontributary underground water rights, commonly referred to as the Huston filings, has not been completed. Until the questions involved in the litigation are resolved and the courts reach a decision, legislation is
inappropriate and could conceivably jeopardize the position taken by the state in the proceedings.

Although no recommendations for legislation are proposed, the committee concluded that particular problems encountered in the management of nontributary underground water should be addressed.

**Senate Bill 213**

In 1973, the General Assembly adopted S.B. 213 which added a new provision to Colorado's water law. This provision was meant to provide for the management of those underground aquifers which:

1) are not defined as "designated ground water" (37-90-103 (6), C.R.S. 1973);

2) are not defined as "underground water" (37-90-103 (11), C.R.S. 1973);

3) do not meet the qualifications for exemption for small capacity wells under the "Colorado Underground Water Management Act" (37-90-105, C.R.S. 1973); and


Senate Bill 213 stated that to construct a well in those aquifers which do not fall under the above definitions, the user must obtain a permit from the State Engineer. The applicant for a permit must specify the aquifer from which the water is to be diverted; the beneficial use to which the water is to be applied; the location of the well; the average annual amount of water to be used in acre feet; and, if the proposed use is irrigation, a description of the land to be irrigated, the name of the owner, and any other reasonable information as the State Engineer may designate (37-90-137 (1), C.R.S. 1973).

The State Engineer must make a determination as to whether the exercise of the permit will materially injure the vested water rights of others. If the State Engineer finds that there is unappropriated water available and that vested water rights will not be materially injured (substantiated by hydrological and geological facts), he shall issue a permit to construct a well (37-90-137 (2), C.R.S. 1973).

In addition to the above requirements for those certain aquifers the State Engineer must, in considering whether the permit shall be issued, consider:

... only that quantity of water underlying the land owned by the applicant or by the owners of the area, by their consent, to be served is considered to be unappropriated; the minimum useful life of the aquifer is one
hundred years, assuming that there is no substantial artificial recharge within said period; and no material injury to vested water rights would result from the issuance of said permit .... (37-90-137 (4), C.R.S. 1973)

It is presumed that S.B. 213 was passed to protect existing wells in nontributary, nondesignated groundwater basins and to conserve these waters to ensure an adequate supply. However, it has been maintained that S.B. 213 has not provided a workable framework for the administration and withdrawal of nontributary, nondesignated groundwater.

The ability of the State Engineer to administer the waters delineated by S.B. 213 is dependent upon the availability of accurate hydrological and geological data. The committee received testimony from the State Engineer and others that the data is incomplete and inaccurate in many cases. Based on this testimony, the committee adopted the following motion:

Request the State Engineer to form a committee of engineers and lawyers to investigate the engineering and geological parameters necessary to allow [for] the equitable depletion and maximum utilization of the waters of the confined aquifers of the state.

The State Engineer agreed to conduct the study and will submit findings and recommendations to the standing Agriculture Committees next session, or to the appropriate interim committee if the study has not been completed before the General Assembly adjourns.

Exemptions for Wells Used in the Production of Alcohol for Use in Motor Fuel and Derived from Agricultural Commodities and Forest Products — Bill 27

The committee learned that the State Engineer had denied a small capacity well permit for a gasohol plant in southeastern Colorado. The individual seeking a permit had applied for a permit for a well not exceeding fifty gallons per minute used in commercial businesses. Such a well is exempted from the permit requirements of the "Colorado Ground Water Management Act" (section 37-90-105 (1) (c), Colorado Revised Statutes 1973).

The State Engineer pointed out to the committee that the term "commercial businesses" was not defined in the "Colorado Ground Water Management Act". In denying the application for the well permit, the State Engineer applied the restriction on the use of wells by commercial businesses found in section 37-90-602 of the "Colorado Water Right Determination and Administration Act of 1969". Section 37-92-602 exempts wells used by commercial businesses for drinking and sanitary purposes. The State Engineer added that granting a well permit in such cases only invites litigation.
It was the committee's conclusion that an exemption for gasohol plants is necessary in view of the energy shortages facing Colorado and the rest of the nation. The impact of permits granted under this exemption would be negligible, as a maximum of twelve gasohol plants are proposed to be built.

Bill 27 exempts small capacity wells used by facilities engaged in the production of alcohol for use in motor fuel from the provisions of the "Colorado Ground Water Management Act" and the "Water Right Determination and Administration Act of 1969".

**Federal Land Acquisitions in Colorado**

The committee adopted three resolutions concerning federal land acquisition in Colorado. One resolution would call for Colorado to support the "Sagebrush Rebellion". A second resolution would call for the federal government to offer federal land to private ownership in an amount equal to that amount of land the federal government proposes to acquire. A third resolution would oppose the acquisition of an estimated 200,000 acres of land by Fort Carson (to be used for military training purposes) until the acquisition is reviewed and an equitable settlement can be reached.
A BILL FOR AN ACT

CONCERNING AN ALLOCATION OF REVENUES FROM SALES AND USE TAXES TO 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.)

Diverts a percentage of sales and use tax revenues from the general fund to the Colorado water conservation board construction fund.

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

SECTION 1. 39-26-123(2)(b), the introductory portion to 39-26-123 (2)(c)(I), and 39-26-123 (2)(c)(I)(B), (2)(c)(I)(C), (2)(c)(I)(D), (2)(c)(I)(E), (2)(c)(I)(F), (2)(c)(I)(G), (2)(c)(II), and (2)(c)(IV), Colorado Revised Statutes 1973, as amended, are amended, and the said 39-26-123 (2) (c) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

39-26-123. Receipts - disposition. (2) (b) For the fiscal year commencing July 1, 1979, and for each fiscal year thereafter, the state treasurer shall credit an amount equal to sales and use taxes attributable to sales or use of vehicles and
related items to the highway users tax fund A PERCENTAGE OF THE TOTAL NET REVENUE FROM SALES AND USE TAXES TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND CREATED PURSUANT TO SECTION 37-60-121, C.R.S. 1973, AS PROVIDED IN paragraph (c) of this subsection (2). Such credit CREDITS shall be out of the fifteen percent of net revenue from sales and use taxes not required by section 2 of article XXIV of the state constitution to be credited to the old age pension fund.

(c)(I) In each of the following fiscal years, the remaining fifteen percent of net revenue from sales and use taxes shall be allocated between and credited to the general fund, THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND, and the highway users tax fund (as a portion of the sales and use taxes attributable to sales or use of vehicles and related items) as follows:

(B) For the fiscal year beginning July 1, 1980, seven percent of net revenue from sales and use taxes to the highway users tax fund, FIVE PERCENT TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND, and eight THREE percent thereof to the general fund; except that such moneys credited to the highway users tax fund shall not exceed thirty-three million dollars, and any excess shall be credited to the general fund;

(C) For the fiscal year beginning July 1, 1981, eight percent of net revenue from sales and use taxes to the highway users tax fund, FIVE PERCENT TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND, and seven TWO percent thereof to the
general fund; except that such moneys credited to the highway
users tax fund shall not exceed thirty-six million dollars, and
any excess shall be credited to the general fund;
(D) For the fiscal year beginning July 1, 1982, nine
percent of net revenue from sales and use taxes to the highway
users tax fund, FIVE PERCENT TO THE COLORADO WATER CONSERVATION
BOARD CONSTRUCTION FUND, and six ONE percent thereof to the
general fund;
(E) For the fiscal year beginning July 1, 1983, ten percent
of net revenue from sales and use taxes to the highway users tax
fund five percent thereof to the general fund COLORADO WATER
CONSERVATION BOARD CONSTRUCTION FUND;
(F) For the fiscal year beginning July 1, 1984, eleven
percent of net revenue from sales and use taxes to the highway
users tax fund and four percent thereof to the general--fund
COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND;
(G) For the fiscal year beginning July 1, 1985, twelve
percent of the net revenue from sales and use taxes to the
highway users tax fund three percent thereof to the general--fund
COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND.
(II) (A) For the fiscal year beginning July 1, 1986, and
each fiscal year thereafter, all sales and use taxes attributable
to sales or use of vehicles and related items shall be allocated
and credited to the highway users tax fund; EXCEPT THAT, BEFORE
THE FISCAL YEAR BEGINNING JULY 1, 1990, SUCH MONEYS CREDITED TO
THE HIGHWAY USERS TAX FUND SHALL NOT EXCEED TWELVE PERCENT OF THE
TOTAL NET REVENUE FROM SALES AND USE TAXES.

(B) FOR THE FISCAL YEARS BEGINNING JULY 1, 1986, JULY 1, 1987, JULY 1, 1988, AND JULY 1, 1989, NOT LESS THAN THREE PERCENT NOR MORE THAN FIVE PERCENT OF THE TOTAL NET REVENUE FROM SALES AND USE TAXES SHALL BE ALLOCATED AND CREDITED TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND.

(C) FOR THE FISCAL YEAR BEGINNING JULY 1, 1986, AND EACH FISCAL YEAR THEREAFTER, ANY PORTION OF THE FIFTEEN PERCENT OF NET REVENUE FROM SALES AND USE TAXES, NOT REQUIRED BY SECTION 2 OF ARTICLE XXIV OF THE STATE CONSTITUTION TO BE CREDITED TO THE OLD AGE PENSION FUND, WHICH REMAINS AFTER THE ALLOCATIONS AND CREDITS REQUIRED BY SUB-SUBPARAGRAPHS (A) AND (B) OF THIS SUBPARAGRAPH (II) ARE MADE SHALL BE ALLOCATED AND CREDITED TO THE GENERAL FUND.

(IV) Sub-subparagraphs (D) to (G) of subparagraph (I) of this paragraph (c) and subparagraph (II) of this paragraph (c) are repealed, effective July 1, 1982, and, on and after said date, AND BEFORE JULY 1, 1990, OF the remaining fifteen percent of net revenue from sales and use taxes, TEN PERCENT shall be credited to the general fund AND FIVE PERCENT SHALL BE CREDITED TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND. ON AND AFTER JULY 1, 1990, THE REMAINING FIFTEEN PERCENT OF NET REVENUE FROM SALES AND USE TAXES SHALL BE CREDITED TO THE GENERAL FUND.

(V) Notwithstanding sections 37-60-121 and 37-60-122, C.R.S. 1973, personal services, operating expenses, and travel
and subsistence expenses associated with a project which is
funded using revenues allocated and credited to the Colorado
water conservation board construction fund pursuant to this
section may be paid from such revenues. Any proposed use of such
revenues for personal services, operating expenses, and travel
and subsistence expenses shall be included in the annual report
to the general assembly pursuant to section 37-60-122, C.R.S.

SECTION 2. Effective date. This act shall take effect July
1, 1980.

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.
BILL 21

A BILL FOR AN ACT

CONCERNING UTILIZATION FOR WATER RESOURCE DEVELOPMENT OF A
PORTION OF THE SPECIAL RESERVE FUND CREATED PURSUANT TO
SECTION 24-75-201.1, COLORADO REVISED STATUTES 1973.

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 percentage of the special reserve fund for
tax relief shall be utilized for water resource development.

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

SECTION 1. 24-75-201.1, Colorado Revised Statutes 1973, as
amended, is amended to read:

24-75-201.1. Restriction on state spending. For the fiscal
year 1978-79 and each fiscal year thereafter, state general fund
spending shall be limited to seven percent over the previous
year. ON AND AFTER JULY 1, 1980, OF any amount of general fund
revenues in excess of seven percent, and REMAINING after
retention of unrestricted general fund year-end balances of no
less than four percent of the amount appropriated for expenditure

-139-
from the general fund for the current fiscal year, SEVENTY
PERCENT shall be placed in a special reserve fund to be utilized
for tax relief AND THIRTY PERCENT SHALL BE PLACED IN THE COLORADO
WATER CONSERVATION BOARD CONSTRUCTION FUND CREATED PURSUANT TO

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.
BILL 22

A BILL FOR AN ACT

CONCERNING WATER QUALITY.

Bill Summary

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

States the policy of the state to be to obtain the highest water quality which is technically feasible and economically reasonable. Provides that no water quality statute shall be construed to supersede the state constitutional right to appropriate waters and apply them to beneficial uses. Prohibits the imposition of a permit or fee requirement for the diversion of water from natural surface streams. Requires senate confirmation of members of the water quality control commission in the department of health.

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

4 SECTION 1. Article 8 of title 25, Colorado Revised Statutes 1973, as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

7 ARTICLE 8

8 Water Quality Control

9 PART 1

10 GENERAL PROVISIONS

-141-
25-8-101. Short title. This article shall be known and may be cited as the "Colorado Water Quality Control Act".

25-8-102. Legislative declaration. (1) In order to foster the health, welfare, convenience, and comfort of the inhabitants of the state of Colorado and to facilitate the enjoyment and use of the scenic and natural resources of the state, it is declared to be the policy of this state to prevent injury to beneficial uses made of state waters and to develop waters to which Colorado and its citizens are entitled and, within that context, to achieve the maximum practical degree of water quality in the waters of the state consistent with the welfare of the state. It is the purpose of this article to require the use of all available practical methods which are technically feasible and economically reasonable to reduce, prevent, and control water pollution throughout the entire state of Colorado; to require the development of a water quality control program in which the water quality benefit of the pollution control measures utilized bears a reasonable relationship to the economic, environmental, and energy costs of such measures; and to maintain a cooperative program between the state and units of local government. It is further declared that pollution of state waters may constitute a menace to public health and welfare, may create public nuisances, may be harmful to wildlife and aquatic life, and may impair beneficial uses of state waters and that the problem of water pollution in this state is closely related to
the problem of water pollution in adjoining states.

(2) It is further declared to be the public policy of this state to conserve state waters and to protect, maintain, and improve, where necessary and reasonable, the quality thereof for public water supplies, for protection and propagation of wildlife and aquatic life, and for domestic, agricultural, industrial, recreational, and other beneficial uses, taking into consideration the requirements of such uses; to provide that no pollutant be released into any state waters without first receiving the treatment or other corrective action necessary to reasonably protect the legitimate and beneficial uses of such waters; to provide for the prevention, abatement, and control of new or existing water pollution so as to obtain the highest water quality which is technically feasible and economically reasonable; and to cooperate with other states and the federal government in carrying out these objectives.

(3) It is further declared that protection of the quality of state waters and the prevention, abatement, and control of water pollution to obtain the highest water quality which is technically feasible and economically reasonable are matters of statewide concern and affected with a public interest, and the provisions of this article are enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.
(4) This article and the agencies authorized under this article shall be the final authority in the administration of water pollution prevention, abatement, and control. Notwithstanding any other provision of law, no department or agency of the state, and no municipal corporation, county, or other political subdivision, having jurisdiction over water pollution prevention, abatement, and control, shall issue any authorization for the discharge of pollutants into state waters unless authorized to do so in accordance with this article.

(5) The general assembly further determines and declares that no provision of this article shall be interpreted in derogation or contravention of the provisions of sections 5 and 6 of article XVI of the constitution of the state of Colorado. In recognition of the supremacy of these constitutional provisions and guarantees, the general assembly declares that nothing in this article shall be construed, enforced, or applied to in any manner supersede, abrogate, impair, affect, or impose restrictions or conditions upon the rights to quantities of water which have been appropriated, the right to apply such waters to beneficial uses, or the right to the appropriation of water in the future. The general assembly further declares that nothing in this article shall be construed as enhancing or diminishing rights to the use of property guaranteed or protected by the state constitution or the constitution of the United States nor as
modifying or amending existing laws or court decrees with respect to the determination and administration of water rights nor shall anything in this article supersede or abrogate the provisions of articles 80 to 93 of title 37, C.R.S. 1973.

25-8-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Commission" means the water quality control commission created by section 25-8-201.

(2) "Control regulation" means any regulation promulgated pursuant to section 25-8-205.

(3) "Department" means the department of health.

(4) "Discharge of pollutants" means the introduction or addition of a pollutant into state waters, but the term does not include the diversion, conveyance, impoundment, release, or nonrelease of water for the exercise of water rights in accordance with articles 80 to 93 of title 37, C.R.S. 1973.

(5) "Effluent limitation" means any restriction or prohibition established under this article or federal law on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into state waters, including but not limited to standards of performance for new sources, toxic effluent standards, and schedules of compliance.

(6) "Executive director" means the executive director of the department of health.
(7) "Federal act" means the "Federal Water Pollution Control Act", commonly referred to as the "Clean Water Act".
(8) "Individual sewage disposal system" means a system or facility for treating, neutralizing, stabilizing, or disposing of sewage which is not a part of or connected to a sewage treatment works.
(9) "Irrigation return flow" means tailwater, tile drainage, or surfaced groundwater flow from irrigated land in a system operated by individuals or public or private organizations.
(10) "Municipality" means any regional commission, county, metropolitan district offering sanitation service, sanitation district, water and sanitation district, water conservancy district, metropolitan sewage disposal district, service authority, city and county, city, town, Indian tribe or authorized Indian tribal organization, or any two or more of them which are acting jointly in connection with a sewage treatment works.
(11) "Permit" means a permit issued under this article.
(12) "Person" means an individual, corporation, partnership, association, state or political subdivision thereof, federal agency, state agency, municipality, commission, or interstate body.
(13) "Point source" means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure,
container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. "Point source" does not include irrigation return flow.

(14) "Pollutant" means dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, chemical waste, biological nutrient, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, or any industrial, municipal, or agricultural waste.

(15) "Pollution" means the man-made, man-induced, or natural alteration of the physical, chemical, biological, and radiological integrity of water.

(16) "Promulgate" means and includes authority to adopt, and from time to time amend, modify, publish, and put into effect.

(17) "Schedule of compliance" means a schedule of remedial measures and times including an enforceable sequence of actions or operations leading to compliance with any control regulation or effluent limitation.

(18) "Sewage treatment works" means a system or facility for treating, neutralizing, stabilizing, or disposing of sewage which system or facility has a designed capacity to receive more than two thousand gallons of sewage per day. The term "sewage treatment works" includes appurtenances such as outfall and outlet sewers, pumping stations, interceptors,
collection lines, and related equipment.

(19) "State waters" means any and all surface and subsurface waters which are contained in or flow in or through this state and wetlands adjacent thereto, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, water in irrigation ditches, reservoirs, or systems, and all other water withdrawn for use until use or reuse and treatment have been completed.

(20) "Water quality standard" means any standard promulgated pursuant to section 25-8-204.

(21) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

PART 2

WATER QUALITY CONTROL COMMISSION

25-8-201. Water quality control commission created. (1) There is hereby created in the department a water quality control commission which shall exercise its powers and perform its duties and functions as if it were transferred to said department by a type 1 transfer. The commission shall consist of eleven members as follows:

(a) the executive director of the department of health;
(b) The commissioner of agriculture;
(c) The executive director of the department of natural resources;
(d) One member of the Colorado water conservation board;
(e) Seven citizens of the state who shall be appointed by the governor, with the consent of the senate, for terms of three years each, as follows:
(I) The governor shall appoint one member from each congressional district and the remainder from the state at large.
(II) Appointed members of the commission serving on July 1, 1980, shall continue to serve the remainder of the terms to which they were appointed. On and after July 1, 1980, citizen appointments shall be made in accordance with the provisions of this paragraph (e).
(III) Whenever a vacancy exists, the governor shall appoint a member for the remaining portion of the unexpired term created by the vacancy, subject to confirmation by the senate.

(2) (a) The governor may remove any appointed member of the commission for malfeasance in office, failure to regularly attend meetings, or for any cause that renders such a member incapable or unfit to discharge the duties of his office; and any such removal, when made, shall not be subject to review.
(b) If any member of the commission, ex officio or appointed, is absent from two consecutive meetings, the
chairman of the commission shall determine whether the cause of such absences was reasonable. If he determines that the cause of the absences was unreasonable, he shall so notify the governor, who may remove him and appoint a qualified person for the unexpired portion of the regular term.

(3) Each member of the commission not otherwise in full-time employment of the state shall receive a per diem equal to that received by members of the general assembly pursuant to the provisions of section 2-2-307 (9) (a), C.R.S. 1973; and all members, ex officio and those appointed by the governor, shall receive traveling and other necessary expenses actually incurred in the performance of his official duties.

(4) The commission shall select from its own membership a chairman, a vice-chairman, and a secretary. The commission shall keep a record of its proceedings.

(5) The commission shall hold regular public monthly meetings and may hold special meetings on the call of the chairman or vice-chairman at such other times as deemed necessary. At least five days advance written notice of the time and place of each meeting shall be mailed to each member.

(6) All members, both ex officio and those appointed by the governor, shall have a vote. A majority of the commission shall constitute a quorum, and the concurrence of a majority of the whole commission in any matter within its powers and duties shall be required for any determination made by the commission.
25-8-202. Duties of the commission. (1) The commission shall develop and maintain a comprehensive and effective program for prevention, control, and abatement of water pollution and for water quality protection throughout the entire state and, in connection therewith, shall:

(a) Classify state waters in accordance with section 25-8-203;

(b) Promulgate water quality standards in accordance with section 25-8-204;

(c) Promulgate control regulations in accordance with section 25-8-205;

(d) Promulgate waste discharge permit regulations in accordance with sections 25-8-501 to 25-8-506;

(e) Perform duties assigned to the commission in part 7 of this article with respect to the location, design, construction, financing, and operation of sewage treatment plants;

(f) Perform duties assigned to the commission in section 25-8-207 with respect to the location, design, construction, and operation of individual sewage disposal systems;

(g) Review applications for underground detonations and discharges in accordance with section 25-8-505;

(h) Review from time to time, at intervals of not more than three years, classification of waters, water quality standards, and control regulations which it has promulgated;

(i) Perform such other duties as may lawfully be
assigned to it.

(2) The commission shall hold a public hearing during the month of October of each year in order to hear public comment on water pollution problems within the state, alleged sources of water pollution within this state, and the availability of practical remedies therefor; and at such hearing the commission and department personnel shall answer reasonable questions from the public concerning administration and enforcement of the various provisions of this article, as well as rules and regulations promulgated under the authority of this article.

(3) On or before November 1 of each year, the commission shall report to the governor on the effectiveness of the provisions of this article in carrying out the legislative intent, as declared in section 25-8-102, and shall include in such report such recommendations as it may have with respect to any legislative changes that may be needed or desirable.

(4) The commission is hereby designated as the state water pollution control agency for this state for all purposes of the federal act and is hereby authorized to take all action necessary and appropriate to secure to this state, its municipalities, or intermunicipal or interstate agencies the benefits of said act.

(5) In fulfilling its duties and responsibilities, the commission shall recognize and uphold the decisions of cities and counties regarding land use, planning, zoning, special
permits, and other matters which normally are the responsibility of local government, so long as such decisions are not contrary to federal and state laws and regulations and local ordinances.

(6) The commission shall perform its duties in such manner as to protect and promote the water appropriation and allocation system of the state. The commission shall not take any action which would interfere with the constitutional right to appropriate the waters of the state and to apply them to beneficial use. The commission shall not take any action which would have the effect of superseding or abrogating the provisions of articles 80 to 93 of title 37, C.R.S. 1973.

25-8-203. Classification of state waters. (1) The commission shall classify all state waters. (2) The types of classes shall be determined by regulations and may be based upon or intended to indicate or describe any relevant characteristic, such as:
   (a) The existing extent of pollution or the maximum extent of pollution to be tolerated as a goal;
   (b) Whether or not pollution arises from natural sources;
   (c) Present uses of the water, the uses for which the water is suitable in its present condition, or the uses for which it is to become suitable as a goal;
   (d) The character and uses of the land area bordering the water;
(e) The need to protect the quality of the water for human purposes and also for the protection and propagation of wildlife and aquatic life; or

(f) Type and character of the water, such as surface or subsurface, lake, stream or ditch, together with volume, flow, depth, stream gradient, temperature, surface area involved, and daily or seasonal variability of any of such characteristics.

(3) The particular class into which any particular segment of state waters is placed shall be determined by regulation.

25-8-204. Water quality standards. (1) Water quality standards shall be promulgated by the commission by regulations which describe water characteristics or the extent of specifically identified pollutants for state waters.

(2) Water quality standards may be promulgated with respect to any measurable characteristic of water, such as:

(a) Toxic substances;

(b) Suspended solids, colloids, and combinations of solids with other suspended substances;

(c) Bacteria, fecal coliform, fungi, viruses, and other biological constituents and characteristics;

(d) Dissolved oxygen, and the extent of oxygen demanding substances;

(e) Phosphates, nitrates, and other dissolved nutrients;

(f) pH and hydrogen compounds;
(g) Chlorine, heavy metals, and other chemical constituents;
(h) Salinity, acidity, and alkalinity;
(i) Trash, refuse, oil and grease, and other foreign material;
(j) Taste, odor, color, and turbidity;
(k) Temperature.

(3) Water quality standards may be promulgated for use in connection with any one or more of the classes of state waters established by the commission pursuant to section 25-8-203 and may be made applicable with respect to any designated portion of state water or to all state waters.

25-8-205. Control regulations. (1) The commission shall promulgate control regulations for the following purposes:
(a) To describe prohibitions, standards, concentrations, and effluent limitations on the extent of specifically identified pollutants, such as any of those mentioned in section 25-8-204, that any person may discharge into any specified class of state waters;
(b) To describe pretreatment requirements, prohibitions, standards, concentrations, and effluent limitations on wastes any person may discharge into any specified class of state water from any specified type of facility, process, activity, or waste pile including, but not limited to, all types specified in Section 306 (b) (1) (A) of the federal act;
(c) To describe precautionary measures, both mandatory
and prohibitory, that must be taken by any person owning, operating, conducting, or maintaining any facility, process, activity, or waste pile that does or might cause pollution of any state waters in violation of control regulations or cause the quality of any state waters to be in violation of any applicable water quality standard;

(d) To adopt toxic effluent standards and pretreatment standards for pollutants which interfere with, pass through, or are otherwise incompatible with sewage treatment works.

(2) In the formulation of each control regulation the commission shall consider the following:

(a) The need for regulations that control discharges of specified pollutants that are the subject of water quality standards for the receiving state waters;

(b) The need for regulations that specify treatment requirements for various types of discharges;

(c) The degree to which any particular type of discharge is subject to treatment, the availability, practicality, and technical and economic feasibility of treatment techniques, and the extent to which the discharge to be controlled is significant;

(d) Control requirements promulgated by agencies of the federal government;

(e) The continuous, intermittent, or seasonal nature of the discharge to be controlled;

(f) Whether a regulation that is to be applicable to
discharges into flowing water should be written in such a way that the degree of pollution tolerated or treatment required will be dependent upon the volume of flow of the receiving water or the extent to which the discharge is diluted therein, or the capacity of the receiving water to assimilate the discharge; and

(g) The need for specification of safety precautions that should be taken to protect water quality including, but not limited to, requirements for the keeping of logs and other records, requirements to protect subsurface waters in connection with mining and the drilling and operation of wells, and requirements as to settling ponds, holding tanks, and other treatment facilities for water that will or might enter state waters.

(3) Control regulations may be promulgated for use in connection with any one or more of the classes of state waters authorized pursuant to section 25-8-203 and may be made applicable with respect to any designated portion of state waters or to all state waters.

(4) The commission shall consult with the state engineer, the Colorado water conservation board, the oil and gas commission, the state board of health, and other state agencies having regulatory powers in order to avoid adopting control regulations that would be either redundant or unnecessary.

25-8-206. Considerations in classifying state waters and
promulging standards and regulations. (1) In classifying
state waters, promulging water quality standards, and
promulging control regulations, the commission shall
consider the objectives and intent of the general assembly as
set forth in section 25-8-102 and particularly shall consider
the following:

(a) The benefits to be achieved by the classification,
standard, or regulation and the relationship of such benefits
to the cost to the state and citizens of the state in
complying with the requirements imposed by the classification,
standard, or regulation;

(b) The availability, practicality, and technical and
economic feasibility of treatment techniques required to
comply with the requirements imposed by the classification,
standard, or regulation;

(c) The present actual uses of water in a particular
stream or stream segment, the reasonableness of classifying
such water in accordance with such uses, and the need to
impose additional restrictions or requirements in order to
protect such uses and other reasonably foreseeable needs and
uses.

(2) Whenever a stream classification, water quality
standard, or control regulation is adopted under sections
25-8-203 to 25-8-205, a fiscal impact statement as set forth
in section 24-4-103 (8) (d), C.R.S. 1973, is required.

(3) Water quality standards and control regulations
shall not be more stringent than required by the federal act
or final regulations issued pursuant to the federal act, nor
shall any permit be more stringent than or contain any
condition or requirement for monitoring or reporting in excess
of the requirements of the federal act or any final
regulations issued pursuant to the federal act.

25-8-207. Individual sewage disposal system. Upon
request of any person, the commission shall review the
adequacy of local governmental regulations for individual
sewage disposal systems that are applicable in any portion of
the state in which the soil, geological conditions, or other
factors indicate that unregulated outflow from one or more
individual sewage disposal systems would or might pollute the
waters of the state. After such review and upon any finding
of inadequacy, the commission shall promulgate a control
regulation for the area involved which shall identify such
area by legal description and shall also specify the terms and
conditions for individual sewage disposal systems
construction, use, design, maintenance, spacing, and location
that shall be applicable in such area.

25-8-208. Additional authority of the commission. (1)
In addition to the other powers and duties of the commission
specified in this article, the commission has power to:
(a) Accept and supervise the administration of loans and
grants from the federal government and from other public
sources, which loans and grants shall not be expended for
other than the purposes for which provided;

(b) Advise, consult, cooperate, and enter into agreements with other agencies of the state, the federal government, and other states, and with groups, political subdivisions, and industries affected by the provisions of this article and the policies of the commission, but any such agreement involving authorizing, or requiring compliance in this state with any water quality standard or control regulation shall not be effective unless or until the commission has held a hearing with respect to such standard or regulation and has adopted the same in compliance with section 25-8-402.

(c) Exercise all incidental powers necessary or proper for the carrying out of the purposes of the article including the powers to issue and enforce rules and orders, but the commission shall not act as an appellate body to review determinations of the department.

25-8-209. Prior acts validated. All acts, hearings, orders, rules, regulations, and standards adopted by the water pollution control commission as constituted and empowered by the laws of this state prior to July 6, 1973, and adopted by the commission as constituted and empowered by the laws of this state prior to July 1, 1980, shall be deemed and held to be legal and valid in all respects, as though issued by the commission under the authority of this article, and no provision of this article shall be construed to repeal or in
any way invalidate any actions, orders, rules, regulations, or water quality standards adopted by said commission prior to said date.

PART 3

ADMINISTRATION

25-8-301. Administration of water quality control programs. The department shall administer and enforce the water quality control programs adopted by the commission. The executive director shall employ such technical, clerical, and other personnel as may be necessary pursuant to section 13 of article XII of the state constitution.

25-8-302. Duties of the department. (1) The department shall:

(a) Carry out the enforcement provisions of this article, including the seeking of criminal prosecution of violations and such other judicial relief as may be appropriate;

(b) Administer the waste discharge permit system as provided in sections 25-8-501 to 25-8-506;

(c) Monitor waste discharges and the state waters as provided in section 25-8-303;

(d) Submit an annual report to the commission as provided in section 25-8-305;

(e) Perform such other duties as may lawfully be assigned to it.

25-8-303. Monitoring. (1) The department shall take
such samplings as may be necessary to enable it to determine the quality of every reasonably accessible segment of state waters. In sampling such waters the department shall give consideration to characteristics such as those listed in section 25-8-204 (2), but if pollution is suspected the sampling shall not be limited or restricted by reason of the fact that no water quality standard has been promulgated for the suspected type of pollution.

(2) As to every segment of state waters so sampled, the department shall endeavor to determine the nature and amount of each pollutant, whether a new or different water quality standard is needed, the source of each pollutant, the place where each such pollutant enters the water, and the names and addresses of each person responsible for or in control of each entry.

(3) As to each separate pollution source identified, the department shall:

(a) Determine what control regulation is applicable, if any;

(b) Determine whether the discharge is covered by a permit and whether or not any condition of the permit is being violated;

(c) Determine what further control measures with respect to such pollution source are practicable.

(4) The department shall inform the commission of any unusual problem which creates difficulties in abating
25-8-304. Monitoring, recording, and reporting. (1) The owner or operator of any facility, process, or activity from which a discharge of pollutants is made into state waters or into any municipal sewage treatment works shall, in such form and in accordance with such specifications as the department may require:

(a) Establish and maintain records;
(b) Make reports;
(c) Install, calibrate, use, and maintain monitoring methods and equipment, including biological monitoring methods;
(d) Sample discharges;
(e) Provide additional reasonably available information relating to discharges into public sewage treatment works.

25-8-305. Annual report. On or before October 1 of each year, the department shall report to the commission on the effectiveness of the provisions of this article and shall include in such report such recommendations as it may have with respect to any regulatory or legislative changes that may be needed or desired. Such report shall include the then current information that has been obtained pursuant to section 25-8-303.

25-8-306. Authority to enter and inspect premises and records. (1) The department has the power, upon presentation of proper credentials, to enter and inspect at any reasonable...
time and in a reasonable manner any property, premise, or place for the purpose of investigating any actual, suspected, or potential source of water pollution, or ascertaining compliance or noncompliance with any control regulation or any order promulgated under this article. Such entry is also authorized for the purpose of inspecting and copying of records required to be kept concerning any effluent source.

(2) In the making of such inspections, investigations, and determinations, the department, insofar as practicable, may designate as its authorized representatives any qualified personnel of the department of agriculture. The department may also request assistance from any other state or local agency or institution.

(3) If such entry or inspection is denied or not consented to, the department is empowered to and shall obtain, from the district or county court for the judicial district or county in which such property, premise, or place is located, a warrant to enter and inspect any such property, premise, or place prior to entry and inspection. The district and county courts of the state of Colorado are empowered to issue such warrants upon a proper showing of the need for such entry and inspection.

25-8-307. Emergencies. Whenever the department determines, after investigation, that any person is discharging or causing to be discharged or is about to discharge into any state waters, directly or indirectly, any
pollutant which in the opinion of the department constitutes a clear, present, and immediate danger to the health or livelihood of members of the public, the department shall issue its written order to said person that he must immediately cease or prevent the discharge of such pollutant into such waters and thereupon such person shall immediately discontinue such discharge. Concurrently with the issuance of such order the department may seek a restraining order or injunction pursuant to section 25-8-607.

25-8-308. Additional authority and duties of the department. (1) In addition to the authority specified elsewhere in this article, the department has the power to:

(a) Conduct or cause to be conducted studies, research, and demonstrations with respect to water pollution and the control, abatement, or prevention thereof, as requested by the commission;

(b) Furnish technical advice and services relating to water pollution problems and control techniques;

(c) Designate one or more persons or agencies in any area of the state as a water quality control authority, as agent of the department, to exercise and perform such powers and duties of the department as may be specified in such designation;

(d) To administer loans and grants from the federal government and from other sources;

(e) To advise, consult, cooperate, and enter into
agreements with other agencies of the state, the federal
government, other states, and interstate agencies, and with
groups, political subdivisions, and industries affected by the
provisions of this article and the policies of the commission;
but any such agreement involving, authorizing, or requiring
compliance in this state with any standard or regulation shall
not be effective unless or until the commission has held a
hearing with respect to such standard or regulation and has
adopted the same in compliance with this article;

(f) To certify, when requested, the existence of any
facility, land, building, machinery, equipment, treatment
works, sewage or disposal systems, as have been acquired,
constructed, or installed in conformity with the purposes of
this article;

(g) To take such action in accordance with rules and
orders promulgated by the commission as may be necessary to
prevent, abate, and control pollution.

(2) All fees and penalties collected by the department
shall be transmitted to the department of the treasury for
deposit to the credit of the general fund.

PART 4

PROCEDURES

25-8-401. Authority and procedures for hearings. (1)
The commission or, upon designation by the commission, the
department may hold public hearings, issue notice of hearings,
issue subpoenas requiring the attendance of witnesses and the
production of evidence, administer oaths, take such testimony as is deemed necessary, make findings and determinations, and issue orders, all in conformity with article 4 of title 24, C.R.S. 1973, and with this article.

(2) The commission may adopt such rules and regulations governing procedures and hearings before the commission or department as may be necessary to assure that such procedures and hearings will be fair and impartial.

(3) At any hearing, any person who is affected by the proceeding and whose interests are not already adequately represented, shall have the opportunity to be a party thereto upon prior application to and in the sole discretion of and approval by the commission or department, as the case may be, and such person shall have the right to be heard and to cross-examine any witness.

(4) After due consideration of the written and oral statements, the testimony, and the arguments presented at any such hearing, the commission or department shall enter its written findings and final order, based upon evidence in the record.

(5) In all proceedings before the commission or the department with respect to any alleged violation of any control regulation, permit, or order, the burden of proof shall be upon the department.

(6) The commission or department may designate a hearing officer pursuant to part 10 of article 30 of title 24, C.R.S.
1973, subject to appropriations made to the department of
administration, who shall have the power to issue notices of
hearing, to issue subpoenas requiring the attendance of
witnesses and the production of evidence, to administer oaths,
and to take such testimony as may be necessary or in
conformity with article 4 of title 24, C.R.S. 1973; and such
hearing officer shall certify and file recommended findings
and conclusions and a proposed order with the commission or
department, as appropriate, for adoption or modification by
such commission or department. If the hearing for which a
hearing officer is to be designated is a hearing for the
purpose of developing control regulations or for the purpose
of a hearing held pursuant to section 25-8-502, the hearing
officer may be an employee of the department.

25-8-402. Procedures to be followed in setting standards
and control regulations. (1) Prior to promulgating any water
quality standard or any control regulation authorized in this
article, the commission shall conduct a public hearing thereon
as provided in section 24-4-105, C.R.S. 1973. Notice of any
such hearing shall conform to the requirements of section
24-4-103, C.R.S. 1973, but such notice shall be given at least
sixty days prior to the hearing, shall include each proposed
regulation, and shall be mailed to all persons who have filed
with the commission a written request to receive such notices.

(2) Any person desiring to propose a regulation
differing from the regulation proposed by the commission shall
file such other written proposal with the commission not less than twenty days prior to the hearing, and, when on file, such proposal shall be open for public inspection.

(3) Witnesses at the hearing shall be subject to cross-examination by or on behalf of the commission, and by or on behalf of persons who have proposed regulations pursuant to subsection (2) of this section.

(4) Regulations promulgated pursuant to this section shall not take effect until thirty days after they have been filed with the secretary of state.

25-8-403. Administrative reconsideration. During the time permitted for seeking judicial review of any final order or determination of the commission or department, any party directly affected by such order or determination may apply to the commission or department, as appropriate, for a hearing or rehearing with respect to, or reconsideration of, such order or determination. The determination by the commission or department of whether to grant or deny the application for a hearing, rehearing, or reconsideration shall be made within ten days after receipt by the commission or department of such application. Such determination by the commission may be made by telephone, mail, or at a meeting, but in any event, shall be confirmed at the next meeting of the commission. If the application for a hearing, rehearing, or reconsideration is granted, the order or determination to which such application pertains shall not be considered final for purposes of
judicial review, and the commission or the department may affirm, reverse, or modify, in whole or in part, the pertinent order or determination; thereafter such order or determination shall be final and not subject to stay or reconsideration under this section.

25-8-404. Enforcement hearings - judicial review. (1) Any final order or determination by the department or the commission (including classification of state waters, approval of areawide waste treatment management plans, promulgation of water quality standards, and promulgation of control regulations) shall be in writing and subject to judicial review in accordance with the provisions of this article and the provisions of article 4 of title 24, C.R.S. 1973. Any enforcement order or similar determination shall be supported by written findings. Any party to a proceeding which results in classification of state waters, promulgation of water quality standards, approval of an areawide waste treatment management plan, or promulgation of control regulations shall be entitled to initiate judicial review of such proceeding.

(2) Any proceeding for judicial review of a determination by the commission, including classification of state waters, approval of areawide waste treatment management plans, promulgation of water quality standards, and promulgation of control regulations, shall be filed in accordance with the provisions of this article and article 4 of title 24, C.R.S. 1973, except that any such proceeding
concerning determinations which have a statewide impact or
effect may be filed in the district court of the district in
which any party to such proceeding has his residence.

(3) Any proceeding for judicial review of an
enforcement-type order or a determination of the department or
commission shall be filed in the district court for the
district in which the pollution source affected is located.

Any such proceeding for judicial review shall be filed within
thirty days after said order or determination has been served
upon the party affected. Such period shall be stayed while
any application for a hearing, rehearing, or reconsideration
is pending pursuant to section 25-8-403, and the period during
which any such application is pending shall extend the time
for filing a proceeding for judicial review an equal length of
time.

(4) (a) Except with respect to emergency orders issued
pursuant to section 25-8-307, any person to whom a cease and
desist order, clean-up order, or other order has been issued
by the department or commission, or against whom an adverse
determination has been made, may petition the district court
for a stay of the effectiveness of such order or
determination. Such petition shall be filed in the district
court in which the pollution source affected is located.

(b) Such petitions may be filed prior to any such order
or determination becoming final or during any period in which
such order or determination is under judicial review.
Such stay shall be granted by the court if there is probable cause to believe that refusal to grant a stay will cause serious harm to the affected person or any other person, and:

(I) That the alleged violation or activity to which the order or determination pertains will not continue, or if it does continue, any harmful effects on state waters will be alleviated promptly after the cessation of the violation or activity; or

(II) That the refusal to grant a stay would be without sufficient corresponding public benefit.

(5) Any party may move the court to remand the case to the department or the commission in the interests of justice, for the purpose of adducing additional specified and material evidence, and findings thereon; but such party shall show reasonable grounds for the failure to adduce such evidence previously before the department or the commission.

(6) If the court does not stay the effectiveness of an order of the commission or department, the court shall enforce compliance with that order by issuing a temporary restraining order or injunction at the request of the commission or department.

25-8-405. Samples, secret processes. (1) If samples of water or water pollutants are taken for analysis and a violation of any permit or control regulation is suspected, a representative portion of the sample shall be furnished upon
request to the person who is believed to be responsible for such suspected violation. A representative portion of such sample shall be furnished to any suspected violator whenever any remedial action is taken with respect thereto by the department. A duplicate of every analytical report pertaining to such sample shall also be furnished as soon as practicable to such person.

(2) Any information relating to any secret process, method of manufacture or production, or sales or marketing data, which may be acquired, ascertained, or discovered, whether in any sampling investigation, emergency investigation, or otherwise, shall not be publicly disclosed by any member, officer, or employee of the commission or the department, but shall be kept confidential. Any person seeking to invoke the protection of this subsection (2) in any hearing shall bear the burden of proving its applicability. This section shall never be interpreted as preventing full disclosure of effluent data.

25-8-406. Rules of civil procedure — applicability. Except as otherwise specified in this article, service of process, notices, and other papers shall be in accordance with the Colorado rules of civil procedure.

PART 5

POINT SOURCE PERMIT SYSTEM

25-8-501. Permits required for discharge of pollutants — administration. (1) No person shall discharge any pollutant
into any state water from a point source without first having obtained a permit from the department for such discharge. Each application for a permit duly filed under the federal act shall be deemed to be a permit application filed under this article, and each permit issued pursuant to the federal act shall be deemed to be a temporary permit issued under this article which shall expire upon expiration of the federal permit.

(2) The department shall examine applications for and may issue, suspend, revoke, modify, deny, and otherwise administer permits for the discharge of pollutants into state waters. Such administration shall be in accordance with the provisions of this article and regulations promulgated by the commission.

(3) The commission shall promulgate such regulations as may be necessary and proper for the orderly and effective administration of permits for the discharge of pollutants. Such regulations shall be consistent with the provisions of this article and with federal requirements, shall be in furtherance of the policy contained in section 25-8-102, and may pertain to and implement, among other matters, permit and permit application contents, procedures, requirements, and restrictions with respect to the following:

(a) Identification and address of the owner and operator of the activity, facility, or process from which the discharge is to be permitted;
(b) Location and quantity and quality characteristics of the permitted discharge;

(c) Effluent limitations and requirements for treatment prior to discharge;

(d) Equipment and procedures required for mandatory monitoring as well as record-keeping and reporting requirements;

(e) Schedules of compliance;

(f) Procedures to be followed by department personnel for entering and inspecting premises;

(g) Submission of pertinent plans and specifications for the facility, process, or activity which is the source of a waste discharge;

(h) Restrictions on transfers of the permit;

(i) Procedures to be followed in the event of expansion or modification of the process, facility, or activity from which the discharge occurs or the quality, quantity, or frequency of the discharge;

(j) Duration of the permit, not to exceed five years, and renewal procedures;

(k) Authority of the department to require changes in plans and specifications for control facilities as a condition for the issuance of a permit;

(l) Identification of control regulations over which the permit takes precedence and identification of control regulations over which a permit may never take precedence;
(m) Notice requirements of any intent to construct, install, or alter any process, facility, or activity that is likely to result in a new or altered discharge;
(n) Effectiveness under this article of permit applications submitted to and permits issued by the federal government under the federal act.

(4) The commission may authorize temporary permits to be issued by the department pending completion of review procedures otherwise required prior to issuance of a permit, but no temporary permit may be issued for more than a period of two years nor shall any temporary permit be renewed.

(5) Nothing in any permit shall ever be construed to prevent or limit the application of any emergency power of the department.

(6) Every permit issued for a sewage treatment works shall contain such terms and conditions as the department determines to be necessary or desirable to assure continuing compliance with applicable control regulations. Such terms and conditions may require that whenever deemed necessary by the department to assure such compliance the permittee shall:

(a) Require pretreatment of effluent from industrial, governmental, or commercial facilities, processes, and activities before such effluent is received into the gathering and collection system of the permittee;

(b) Prohibit any connection to any municipal permittee's interceptors and collection system that would result in
receipt by such municipal permittee of any effluent other than sewage required by law to be received by such permittee;

(c) Include specified terms and conditions of its permit in all contracts for receipt by the permittee of any effluent not required to be received by a municipal permittee;

(d) Initiate engineering and financial planning for expansion of the sewage treatment works whenever throughput and treatment reaches eighty percent of design capacity;

(e) Commence construction of such sewage treatment works expansion whenever throughput and treatment reaches ninety-five percent of design capacity or, in the case of a municipality, either commence such construction or cease issuance of building permits within such municipality until such construction is commenced; except that building permits may continue to be issued for any construction which would not have the effect of increasing the input of sewage to the sewage treatment works of the municipality involved.

(f) Inclusion of the requirements authorized by paragraph (d) of this subsection (6) shall be presumed unnecessary to assure compliance upon a showing that the area served by a governmental sewage treatment works has a stable or declining population; but this provision shall not be construed as preventing periodic review by the department should it be felt that growth is occurring or will occur in the area.

(7) Every permit issued for a discharge from any
facility, process, or activity that includes any dam, settling
pond, or hazard within or related to its system shall include
such terms and conditions as the department determines
necessary to prevent or minimize the discharge of any
pollutant into any state waters in potentially dangerous
quantities.

(8) This part 5 shall not be administered so as to
supersede or abrogate in any way the provisions of articles 80

25-8-502. Application - definitions - fees - public
participation. (1) (a) For the purposes of this subsection
(1):

(I) "Major municipal discharge" is a discharge from a
publicly owned wastewater treatment plant which:

(A) Discharges a total volume of more than five million
gallons on any one day of the year;

(B) Serves a population in excess of ten thousand
persons; or

(C) Receives waste from an industrial user and such
wastes have a total volume of more than fifty thousand gallons
on any day of the year or have a total volume which
constitutes more than five percent of the volume of the total
discharge from the facility on any day of the year.

(II) "Minor municipal discharge" is a discharge from a
publicly owned wastewater treatment plant which is less than
all cases in subparagraph (I) of this paragraph (a).
"Major industrial discharge" is one in which the discharge from the facility:

(A) Has a total volume of more than fifty thousand gallons on any one day of the year from one or more discharge points; or

(B) Contains or may contain toxic pollutants.

"Minor industrial discharge" is one which does not discharge over fifty thousand gallons in the aggregate on any one day of the year from one or more discharge points and which does not contain toxic pollutants.

"Feedlots" includes:

(A) "Small feedlots", by type and capacity:
- Slaughter and feeder cattle - 1,000 to 4,999
- Mature dairy cattle - 700 and over
- Swine weighing over 55 lbs. - 2,500 to 12,499
- Sheep - 10,000 to 49,999
- Turkeys - 55,000 to 274,999
- Chickens, with continuous overflowing watering - 100,000 to 499,999
- Chickens, with liquid manure handling systems - 30,000 to 149,999
- Ducks - 5,000 to 24,999

(B) "Medium feedlots", by type and capacity:
- Slaughter and feeder cattle - 5,000 to 9,999
- Swine weighing over 55 lbs. - 12,500 and over
- Sheep - 50,000 and over
Turkeys - 275,000 and over

Chickens, with continuous overflowing watering - 500,000 and over

Chickens, with liquid manure handling systems - 150,000 and over

(C) "Large feedlots" with a capacity to handle 10,000 and over slaughter and feeder cattle.

(b) (I) Annual fees for discharge of pollutants are as follows:

(A) Major municipal and industrial discharges...........$250

(B) Minor municipal and industrial discharges........... 50

(C) Small feedlots.................................. 10

(D) Medium feedlots................................. 40

(E) Large feedlots................................. 60

(II) The permits shall run from the dates of issuance, and the annual fees shall be paid to the department.

(2) Upon receipt of an application, the department shall prepare a tentative determination to issue or deny the permit and, if it is to be issued, its tentative determination as to the terms and conditions of such permit.

(3) Public notice of every complete application for a discharge permit shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the proposed determination to issue or deny a permit. Procedures for the circulation of public notice shall be established by the commission and shall
include at least the following:

(a) Notice shall be circulated within the geographical areas of the proposed discharge.

(b) Notice shall be mailed to any person or group upon request.

(c) The department shall add the name of any person or group upon request to a mailing list to receive copies of notices for all discharge applications within the state or within a certain geographical area.

(4) The commission shall promulgate such regulations as are necessary and appropriate to provide an opportunity for public hearing, when appropriate, prior to granting or denial of a discharge permit by the department.

25-8-503. Permits - when required and when prohibited.

(1) The department shall issue a waste discharge permit in accordance with regulations promulgated under this article when the department has determined that federal requirements and the provisions of this article have been met with respect to both the application and proposed permit.

(2) No discharge shall be permitted which will violate any duly promulgated state, regional, or local land use plan unless all requirements and conditions of applicable statutes and regulations have been met or will be met pursuant to a schedule of compliance.

(3) No discharge shall be permitted which will violate a control regulation unless the waste discharge permit contains
effluent limitations and a schedule of compliance specifying
treatment requirements as determined by the department. Such
requirements shall require the best practical or available
treatment consistent with the federal act.

(4) No discharge shall be permitted that by itself or in
combination with other pollution will result in pollution of
the receiving waters in excess of the pollution permitted by
an applicable water quality standard unless the permit
contains effluent limitations and a schedule of compliance
specifying treatment requirements.

(5) Applicants for permits shall be advised within
twenty days after receipt of any application, or supplement
thereto, if and in what respect the application or supplement
is incomplete. Upon failure of the department to notify the
applicant as provided in this subsection (5), the application
shall be deemed complete. Within thirty days after receipt of
a complete permit application or, if public comment or hearing
is required, within thirty days after the comment period or
hearing, the department shall grant the permit application if
it finds that the proposed source or activity will meet the
requirements of applicable provisions of this article and the
regulations of the commission and will not cause a violation
of water quality standards.

(6) In any case in which a permit for a discharge has
been applied for but final administrative disposition of such
complete application, as provided in subsection (5) of this
section, has not been made within thirty days, such discharge shall not be a violation of any provisions of this article or regulations promulgated under this article unless the department proves that absence of final administrative disposition of such application has resulted from the failure of the applicant to furnish information reasonably required or requested in order to process the application.

25-8-504. Individual sewage disposal systems. The department shall issue permits for individual sewage disposal systems in accordance with regulations promulgated by the commission pursuant to section 25-8-206. Permits issued for individual sewage disposal systems shall be issued under this section, and such permits shall be in lieu of permits otherwise required under section 25-8-502. The terms and conditions of each such permit shall be recited in full in the permit, and compliance therewith shall be deemed to be full compliance with regulations for individual sewage disposal systems permits promulgated by any unit of local government within the state. The fee for such a permit shall be seventy-five dollars.

25-8-505. Nuclear, toxic, and radioactive wastes. (1) It is unlawful for any person to discharge, deposit, generate, or dispose of any radioactive, toxic, or other hazardous waste underground in liquid, solid, or explosive form unless the commission, upon application of the person desiring to undertake such activity, and after investigation and hearing,
has first found beyond a reasonable doubt that there will be no pollution resulting therefrom or that the pollution, if any, will be limited to waters in a specified limited area from which there is no risk of significant migration and that the proposed activity is justified by public need.

(2) If the commission has made the findings specified in subsection (1) of this section, the department may issue a permit for the proposed activity, upon the payment of a fee of one thousand dollars. The commission may require, in any permit issued pursuant to this subsection (2), such reasonable terms and conditions as it may from time to time require to implement this section in a manner consistent with the purposes of this article. The terms or conditions which may be imposed shall include, without limitation, those with respect to duration of use or operation; monitoring; reporting; volume of discharge or disposal; treatment of wastes; and the deposit with the state treasurer of a bond, with or without surety as the department may in its discretion require, or other security, to assure that the permitted activities will be conducted in compliance with the terms and conditions of the permit, and that upon abandonment, cessation, or interruption of the permitted activities or facilities, appropriate measures will be taken to protect the waters of the state. Other than relief from provisions of this article to the extent specified in this subsection (2), no permit issued pursuant to this subsection (2) shall relieve
any person of any duty or liability to the state or to any
other person existing or arising under any statute or under
common law.

25-8-506. Agricultural wastes. (1) Neither the
commission nor the department shall require any permit for any
flow or irrigation return flow into state waters except as may
be required by the federal act or regulations. The provisions
of any permit that are so required shall not be any more
stringent than, and shall not contain any condition for
monitoring or reporting in excess of, the minimum required by
the federal act or regulations.

(2) Neither the commission nor the department shall
require any permit for animal or agricultural waste on farms
and ranches except as may be required by the federal act or
regulations. The provisions of any permit that are so
required shall not be any more stringent than, and shall not
contain any condition for monitoring or reporting in excess
of, the minimum required by the federal act or regulations.

(3) No permit or fee shall ever be required for the
diversion of water from natural surface streams.

25-8-507. Permit conditions concerning publicly owned
sewage treatment works. The department is authorized to
impose, as conditions in permits for the discharge of
pollutants from publicly owned sewage treatment works,
appropriate measures to establish and insure compliance by
industrial users with any system of user charges or industrial
cost recovery required pursuant to section 25-8-705.

PART 6

VIOLATIONS, REMEDIES, AND PENALTIES

25-8-601. Department to be notified of suspected violations and accidental discharges - penalty. (1) Any person or any agency of the state or federal government may apply to the department to investigate and take action upon any suspected or alleged violation of any provision of this article or of any order, permit, or regulation issued or promulgated under authority of this article.

(2) Any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state contrary to the provisions of this article, as soon as he has knowledge thereof, shall notify the department of such discharge. Any person who fails to notify the department as soon as practicable is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. Notification received pursuant to this subsection (2) or information obtained by the exploitation of such notification shall not be used against any such person in a criminal case except prosecution for perjury, for false swearing, or for failure to comply with a clean-up order issued pursuant to section 25-8-606.
25-8-602. Notice of alleged violations. (1) Whenever the department has reason to believe that a violation of an order, permit, or control regulation issued or promulgated under authority of this article has occurred, the department shall cause written notice to be served personally or by certified mail, return receipt requested, upon the alleged violator or his agent for service of process. The notice shall state the provision alleged to be violated and the facts alleged to constitute a violation, and it may include the nature of any corrective action proposed to be required.

(2) Each cease and desist and clean-up order issued pursuant to sections 25-8-605 and 25-8-606 shall be accompanied by or have incorporated in it the notice provided for in subsection (1) of this section unless such notice has been given prior to issuance of such cease and desist or clean-up order.

25-8-603. Hearing procedures for alleged violations. (1) In any notice given under section 25-8-602, the department shall require the alleged violator to answer each alleged violation and may require the alleged violator to appear before it for a public hearing to provide such answer. Such hearing shall be held no sooner than fifteen days after service of the notice; except that the department may set an earlier date for hearing if it is requested by the alleged violator.

(2) If the department does not require an alleged
violator to appear for a public hearing, the alleged violator may request the department to conduct such a hearing. Such request shall be in writing, and shall be filed with the department no later than thirty days after service of a notice under section 25-8-602. If such a request is filed, a hearing shall be held within a reasonable time.

(3) If a hearing is held pursuant to the provisions of this section, it shall be public and, if the department deems it practicable, shall be held in any county in which the violation is alleged to have occurred. The department shall permit all parties to respond to the notice served under section 25-8-602, to present evidence and argument on all issues, and to conduct cross-examination required for full disclosure of the facts.

(4) Hearings held pursuant to this section shall be conducted in accordance with section 24-4-105, C.R.S. 1973.

25-8-604. Suspension, modification, and revocation of permit. Upon a finding and determination, after hearing, that a violation of a permit provision has occurred, the department shall suspend, modify, or revoke the pertinent permit, or take such other action with respect to the violation as may be authorized pursuant to regulations promulgated by the commission.

25-8-605. Cease and desist orders. If the department determines, with or without hearing, that a violation of any provision of this article or of any order, permit, or control
regulation issued or promulgated under authority of this article exists, the department may issue a cease and desist order. Such order shall set forth the provision alleged to be violated, the facts alleged to constitute the violation, and the time by which the acts or practices complained of must be terminated.

25-8-606. Clean-up orders. The department may issue orders to any person to clean up any material which he, his employee, or his agent has accidentally or purposely dumped, spilled, or otherwise deposited in or near state waters which may pollute them. The department may also request the district attorney to proceed and take appropriate action under section 16-13-305 and sections 16-13-307 to 16-13-315, or section 18-4-511, C.R.S. 1973.

25-8-607. Restraining orders and injunctions. (1) If any person fails to comply with a cease and desist order or clean-up order that is not subject to a stay pending administrative or judicial review, the department may request the district attorney for the judicial district in which the alleged violation exists or the attorney general to bring, and if so requested it shall be the duty of such district attorney or the attorney general to bring, a suit for a temporary restraining order, preliminary injunction, or permanent injunction to prevent any further or continued violation of such order. In any such suit the final findings of the department, based upon evidence in the record, shall be prima
facie evidence of the facts found in such record.

(2) Suits under this section shall be brought in the district or county court where the discharge occurs. Emergencies shall be given precedence over all other matters pending in such court. The institution of such injunction proceeding by the department shall confer upon such court exclusive jurisdiction to determine finally the subject matter of the proceeding.

25-8-608. Civil penalties. (1) Any person who violates any provision of any permit issued under this article or any final cease and desist order or clean-up order shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs.

(2) Upon application of the department, penalties shall be determined by the commission after hearing as to the amount thereof and may be collected by the department by action instituted in a court of competent jurisdiction for collection of such penalty. A stay of any order of the department pending judicial review shall not relieve any person from any liability under subsection (1) of this section, but the reason for the request for judicial review shall be considered in the determination of the amount of the penalty.

25-8-609. Criminal pollution of state waters - penalties. (1) Any person who discharges any pollutant into any state waters commits criminal pollution of state waters if
such discharge is made:

(a) In violation of any permit issued under this article; or

(b) In violation of any cease and desist order or clean-up order issued by the department which is final and not stayed by court order; or

(c) Without a permit, if a permit is required by the provisions of this article for such discharge, unless there is then pending an application for such a permit; or

(d) In violation of any applicable control regulation, unless a permit has been issued therefor or unless there is then pending an application for such permit.

(2) Prosecution under paragraphs (a) and (d) of subsection (1) of this section shall be commenced only upon complaint filed by the department.

(3) Any person who commits criminal pollution of state waters shall be fined, for each day the violation occurs, as follows:

(a) If the violation is committed with criminal negligence or recklessly, as defined in section 18-1-501, C.R.S. 1973, the maximum fine shall be twelve thousand five hundred dollars.

(b) If the violation is committed knowingly or intentionally, as defined in section 18-1-501, C.R.S. 1973, the maximum fine shall be twenty-five thousand dollars.

(c) If two separate offenses under this article occur in
two separate occurrences during a period of two years, the
maximum fine for the second offense shall be double the
amounts specified in paragraph (a) or (b) of this subsection
(3), whichever is applicable.

25-8-610. Falsification and tampering. Any person who
knowingly makes any false statement, representation, or
certification in any application, record, report, plan, or
other document filed or required to be maintained under this
article, or who falsifies, tampers with, or knowingly renders
inaccurate any monitoring device or method required to be
maintained under this article is guilty of a misdemeanor and,
upon conviction thereof, shall be punished by a fine of not
more than ten thousand dollars, or by imprisonment in the
county jail for not more than six months, or by both such fine
and imprisonment.

25-8-611. Proceedings by other parties. (1) The factual
or legal basis for proceedings or other actions that result
from a violation of any control regulation inure solely to,
and shall be for the benefit of the people of the state
generally, and it is not intended by this article, in any way,
to create new private rights or to enlarge existing private
rights. A determination that water pollution exists or that
any standard has been disregarded or violated, whether or not
a proceeding or action may be brought by the state, shall not
create any presumption of law or finding of fact which shall
inure to or be for the benefit of any person other than the
(2) A permit issued pursuant to this article may be introduced in any court of law as evidence that the permittee's activity is not a public or private nuisance. Introduction into evidence of such permit and evidence of compliance with the permit conditions shall constitute a prima facie case that the activity to which the permit pertains is not a public or private nuisance.

25-8-612. Remedies cumulative. (1) It is the purpose of this article to provide additional and cumulative remedies to prevent, control, and abate water pollution and protect water quality.

(2) No action pursuant to section 25-8-609 shall bar enforcement of any provision of this article or of any rule or order issued pursuant to this article by any authorized means.

(3) Nothing in this article shall abridge or alter rights of action or remedies existing on or after July 1, 1980, nor shall any provision of this article or anything done by virtue of this article be construed as estopping individuals, cities, towns, counties, cities and counties, or duly constituted political subdivisions of the state from the exercise of their respective rights to suppress nuisances.

PART 7

SEWAGE TREATMENT WORKS

25-8-701. Definitions. As used in this part 7, unless the context otherwise requires:
"Construction" means the erection, building, acquisition, alteration, reconstruction, improvement, or extension of sewage treatment works; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, design, plans, working drawings, specifications, procedures, and other actions necessary thereto; and any other related activity which is eligible for federal aid and assistance under provisions of the federal act.

(2) "Division" means the division of local government in the department of local affairs.

(3) "Eligible project" means a project for the construction of public sewage treatment works or construction of facilities for the discharge of wastewater or backwash water from public water treatment plants which is, in the judgment of the commission, necessary for the accomplishment of the state water quality control program, which conforms with applicable rules and regulations of the commission, and which is eligible for federal assistance under provisions of the federal act.

(4) "Federal assistance" means funds available to a municipality, either directly or through allocation by the state, from the federal government as grants for construction of sewage treatment works, or funds which are used for such construction, under provisions of the federal act.

25-8-702. Contracts for construction of water, sewer,
and sewage treatment works. (1) (a) For the purpose of discharging state responsibility with respect to the protection of public health and in order to assist municipalities, the commission, in the name of the state and to the extent of state funds appropriated therefor, shall enter into contracts with municipalities concerning the following types of eligible projects:

(I) Construction of sewage treatment works excluding their interceptor and collection lines and pumps and appurtenances associated with such lines;

(II) Replacement of interceptor and collection lines and pumps and appurtenances associated with such lines of sewage treatment works which works were in existence on January 1, 1953.

(b) (I) The commission shall be the agency for administration of such funds as are granted by the state for the program and shall contract for projects only to the extent state general funds have been appropriated. Such funds shall be administered in coordination with administration of federal funds granted for water quality control programs under the provisions of the federal act. The state contribution, except when such percentages are altered pursuant to subparagraphs (III) and (IV) of this paragraph (b), shall not exceed twenty-five percent of the eligible project cost, as determined by the commission, and any state contribution shall be limited to those eligible projects funded with a minimum
local contribution of twenty percent of eligible project costs.

(II) Notwithstanding the provisions of paragraph (a) of this subsection (1), in the administration of federal and state funds, the commission shall not establish priorities which preclude distribution of federal or state funds for interceptor or collection lines and may contract and make grants under this subsection (1) for construction or replacement projects which include interceptor and collection lines and pumps and appurtenances associated with such lines. The total of federal and state grants to municipalities, as defined in section 25-8-103 (10), with a population of five thousand persons or less according to the latest federal census, shall be at least five percent of the total annual state and federal funds granted. Grants to municipalities with a population of less than five thousand persons shall be considered based upon the priority of financial need first.

(III) Any municipality having a population of five thousand or less may apply to the division for financial assistance in the construction, expansion, or modernization of the municipality's facilities, and the division shall conduct a fiscal analysis of the municipality's application, in accordance with fiscal criteria established by the division.

(IV) The division, based upon its fiscal analysis, shall issue or deny a certificate of financial need. If a certificate of need is issued, the commission shall authorize
a greater state percentage of contribution and a lesser
municipal percentage of contribution in accordance with the
recommendations of the division. The municipality's
contribution may include any funds made available to it from
any other source available for emergency situations.

(V) No provision of this subsection (1) shall apply to
the extent that its application would contravene any federal
law or regulation.

(2) Any contract entered into pursuant to this section
shall include but not be limited to provisions which set
forth:

(a) An estimate of the reasonable cost of the project as
determined by the commission;

(b) That the municipality will proceed expeditiously and
complete the project in accordance with approved plans;

(c) That the municipality will commence operation of the
sewage treatment works on completion of the project and not
discontinue operation or dispose of the sewage treatment works
without the prior approval of the commission;

(d) That the municipality shall operate and maintain the
sewage treatment works;

(e) That the municipality shall apply for and make
reasonable effort to secure federal assistance for the
project;

(f) That the municipality shall provide for the payment
of its share of the cost of the project.
(3) Municipalities shall be eligible pursuant to this article for grants for construction commenced on or after July 1, 1973. This section shall not impair or affect grants awarded pursuant to sections 66-28-22 to 66-28-27, C.R.S. 1963, prior to July 1, 1973.

(4) In connection with each contract concerning an eligible project, the commission shall keep adequate records of the amount of the payment by the state and of the amount of federal assistance received by the municipality. Such records may establish the basis for application for federal reimbursement of such payments made by the state, and the commission is authorized to make such application in appropriate cases.

(5) The commission may promulgate procedures and regulations pursuant to which continuing technical assistance may be provided municipalities at the expense of the commission after the construction of such sewage treatment plants to assist such municipalities with compliance with regulations of the commission.

25-8-703. Continuing planning process and coordinated waste treatment management. The department shall establish and conduct a continuing planning process for coordinated waste treatment management as required by sections 303 (e) and 208 of the federal act, and the department shall from time to time submit its proposals to the commission for hearing and approval.
25-8-704. Approval of sewage treatment works. (1) No person shall commence the construction or expansion of any domestic sewage treatment plant, interceptor, or pumping station intended to serve more than twenty persons unless:
(a) Site location and the construction or expansion have been approved and designs therefor reviewed by the commission; and 
(b) A permit for the discharge therefrom has been issued pursuant to section 25-8-501 (6).
(2) In determining the suitability of a site location for any sewage treatment plant, interceptor, or pumping station, the commission shall consider the long-range comprehensive planning for the area and the consolidation of sewage treatment plants, interceptors, or pumping stations to avoid a proliferation of small sewage treatment plants, interceptors, or pumping stations.

25-8-705. Industrial cost recovery and user charges. (1) (a) Any municipality owning or operating a sewage treatment works is authorized to adopt:
(I) A system of user charges to assure that each recipient of services within the municipality's jurisdiction or service area will pay the recipient's proportionate share of the costs of operation, maintenance, and replacement of any sewage treatment works, facilities, or services provided by the municipality; 
(II) A system of industrial cost recovery to assure that
industrial users of the municipality's sewage treatment works pay to the municipality that portion of the cost of construction of the treatment works which is allocable to the treatment of such industrial wastes.

(b) The municipality is authorized to retain the revenues derived from the industrial cost recovery payments made by industrial users of its sewage treatment works and expend such revenues for:

(I) Reimbursement of any grants or loans made to the municipality for construction of the sewage treatment works;

(II) Future expansion and reconstruction of the sewage treatment works; or

(III) Other municipal purposes associated with the sewage treatment works.

(c) The municipality shall keep records concerning rates, charges, and amounts collected and how such revenues were allocated.

(2) In the event the federal act permits a system of user charges and a system of industrial cost recovery charges other than one described in subsection (1) of this section, any municipality owning or operating a sewage treatment works is authorized to adopt the system described in the federal act in lieu of the systems described in subsection (1) of this section. No municipality shall apply a system described in subsection (1) of this section concurrently with a system described in this subsection (2).
SECTION 2. 13-6-104, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

13-6-104. Original civil jurisdiction. (7) The county court shall have concurrent original jurisdiction with the district court to hear actions brought pursuant to section 25-8-607, C.R.S. 1973.

SECTION 3. 24-1-135, Colorado Revised Statutes 1973, as amended, is amended to read:

24-1-135. Effect of congressional redistricting. Effective January 1, 1973, the terms of office of persons appointed pursuant to sections 11-2-102, 12-22-103, 12-35-104, 12-54-104, 23-60-104, 24-32-308, 24-32-706, 24-65-103, 25-1-103, 25-8-201; 26-10-101, 33-42-105, 34-60-104, and 35-65-105, C.R.S. 1973, shall terminate. Prior thereto, the appointing authority designated by law shall appoint members to such boards, commissions, and committees for terms to commence on January 1, 1973, and to expire on the date the terms of the predecessors in office of such members would have expired, and any person whose term of office is terminated by this section may be reappointed effective January 1, 1973, and, for the purposes of such reappointment, shall not be deemed to succeed himself. Appointments thereafter shall be made as prescribed by law.

SECTION 4. 39-1-102 (12.1) (b), Colorado Revised Statutes 1973, as amended, is amended to read:
39-1-102. Definitions. (12.1) (b) For the purpose of eliminating, reducing, or preventing the release of pollutants, as defined in section 25-8-103-(11) 25-8-103 (14), C.R.S. 1973, into state waters to the extent that such property is certified as pollution control property in accordance with the provisions of section 39-4-110 or 39-5-131. The term includes any treatment works, control devices, disposal systems, machinery, equipment, structures, or property, or any parts or accessories thereof, installed or acquired for the primary purpose of reducing, controlling, or disposing of pollutants which if released into state waters could cause water pollution. It does not include any residential sewage disposal system.

SECTION 5. Effective date. This act shall take effect July 1, 1980.

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.
A BILL FOR AN ACT

CONCERNING APPOINTMENTS TO THE COLORADO WATER QUALITY CONTROL 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 all appointments to the Colorado water quality control commission shall be approved by the senate.

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

SECTION 1. 25-8-201 (1)(a), (1) (b), (1) (c), and (1) (d) and the introductory portion to 25-8-201 (1)(e), Colorado Revised Statutes 1973, as amended, are amended to read:

25-8-201. Water quality control commission created.

(1) (a) One member designated-and--appointed--by OF the state board of health; but-the-state-board-of-health-shall-not-appoint any-employee-or-other-staff-member-of-the-department--of--health;

(b) A member of the wildlife commission; or-a-member-of-its administrative-staff;--designated-by-said-commission;

(c) A member of the water conservation board; or-a-member
of its administrative staff, designated by said board;

(d) The executive director of the department of natural resources; or his designee;

(e) Seven citizens of the state who shall be appointed by the governor with the consent of the Senate, for terms of three years each, as follows:

SECTION 2. 25-8-201 (1)(e)(II), Colorado Revised Statutes 1973, is repealed and reenacted, with amendments, to read:

25-8-201. Water quality control commission created.

(1) (e) (II) Appointed members of the commission serving on July 1, 1980, shall continue to serve the remainder of the terms to which they were appointed. On and after July 1, 1980, citizen appointments shall be made in accordance with the provisions of this paragraph (e).

SECTION 3. Effective date. This act shall take effect July 1, 1980.

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.
BILL 24

A BILL FOR AN ACT

CONCERNING PERMITS FOR DISCHARGE OF DREDGED OR FILL MATERIAL.

Bill Summary

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

Provides statutory authority for the state engineer and the division of water resources of the department of natural resources to assume control of the permit program required by section 404 of the federal "Clean Water Act".

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

SECTION 1. Title 37, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 94

Dredge and Fill Permit System

37-94-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Division" means the division of water resources of the department of natural resources.

(2) "Dredged material" means material that is excavated or dredged from surface state waters or wetlands.
(3) "Federal act" means the "Federal Water Pollution Control Act", commonly referred to as the "Clean Water Act".

(4) "Fill material" means any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a water way.

(5) "State engineer" means the state engineer appointed pursuant to section 37-80-101.

37-94-102. Permits required for discharge of dredged or fill material - administration. (1) No person shall discharge any dredged or fill material into any state water without first having obtained a permit from the division for such discharge. The purpose for requiring permits for dredge and fill activity is solely related to protection and maintenance of water quality standards and minimizing adverse impacts on the aquatic environment. Each application for a permit duly filed under the federal act shall be deemed to be a permit application filed under this article, and each permit issued pursuant to the federal act shall be deemed to be a temporary permit issued under this article.

(2) The division shall examine applications for and may issue, suspend, revoke, modify, deny, and otherwise administer permits for the discharge of dredged or fill material into state waters. Such administration shall be in accordance with the provisions of this article and regulations promulgated by the state engineer and with the provisions of article 8 of title 25, C.R.S. 1973, and regulations promulgated pursuant thereto.
(3) The state engineer shall promulgate such regulations as may be necessary and proper for the orderly and effective administration of permits for the discharge of dredged or fill material. Such regulations shall be consistent with the provisions of this article and of article 8 of title 25, C.R.S. 1973, and regulations promulgated pursuant thereto and with federal requirements, and shall be in furtherance of the policy contained in section 25-8-102, C.R.S. 1973, and may pertain to and implement, among other matters, permit and permit application contents, procedures, requirements, and restrictions with respect to the following:

(a) Identification and address of the owner and operator of the activity which is to be permitted;
(b) Location, quantity, and quality characteristics of the permitted discharge;
(c) Equipment and procedures required for mandatory monitoring as well as record-keeping and reporting requirements;
(d) Schedules of compliance;
(e) Procedures to be followed by division personnel for entering and inspecting premises;
(f) Submission of pertinent plans and specifications for the activity which is to be permitted;
(g) Restrictions on transfers of the permit;
(h) Procedures to be followed in the event of expansion or modification of the activity to be permitted;
(i) Duration of the permit, not to exceed five years, and
renewal procedures;

(j) Authority of the division to require changes in plans and specifications for the activity which is to be permitted as a condition for the issuance of a permit;

(k) Identification of control regulations over which the permit takes precedence and identification of control regulations over which a permit may never take precedence;

(l) Notice requirements of any intent to take an action that is likely to result in a new or altered discharge;

(m) Effectiveness under this article of permit applications submitted to and permits issued by the federal government under the federal act;

(n) Applicable standards and requirements which assure compliance with sections 307, 403, and 404(b)(1) of the federal act;

(o) Procedures for issuing appropriate notice of pending permit applications;

(p) Procedures for notifying and consulting with another state whose waters may be affected by the issuance of a permit;

(q) Procedures to coordinate with federal and federal-state water-related planning and review processes.

(4) The state engineer may authorize temporary permits to be issued by the division pending completion of review procedures otherwise required prior to issuance of a permit, but no temporary permit may be issued for a period of more than two years nor shall any temporary permit be renewed.
(5) Nothing in any permit shall ever be construed to prevent or limit the application of any emergency power of the division.

(6) The state engineer may authorize general permits to be issued by the division which authorize certain dredge or fill activities on a state or regional basis for certain clearly described categories of activities which will cause minimal adverse environmental effects on water quality and which are in furtherance of the policy contained in section 25-8-102, C.R.S. 1973.

(7) The state engineer may authorize the division to develop best management practices for construction and maintenance of farm roads, forest roads, or temporary roads for moving mining equipment.

37-94-103. Activities exempted. (1) A dredge and fill permit for the discharge of dredged or fill material shall not be required for the following activities except as may be necessitated by the federal act or lawful regulations:

(a) Normal farming, silva culture, and ranching activities;

(b) Operations for the purpose of maintenance of existing structures;

(c) Operations for the purpose of construction or maintenance of farm or stock ponds, irrigation ditches, drainage ditches, sedimentation basins, farm roads, forest roads, or mining roads.

(2) The provisions of any dredge and fill permit which is
required shall not be any more stringent than, and shall not contain any condition for monitoring or reporting in excess of, the minimum required by the federal act or regulations. Nothing in this article shall supersede the provisions of articles 80 to 93 of this title.


(1) The permits shall run from the dates of issuance, and the annual fees shall be paid to the division. The state engineer shall establish a fee schedule designed to defray the cost of administering the dredge and fill permit program.

(2) Upon receipt of an application, the division shall prepare a tentative determination to issue or deny the permit and, if it is to be issued, its tentative determination as to the terms and conditions of such permit.

(3) Public notice of every complete application for a dredge and fill permit shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the proposed determination to issue or deny a permit. Procedures for the circulation of public notice shall be established by the state engineer and shall include at least the following:

(a) Notice shall be circulated within the geographical areas of the proposed discharge.

(b) Notice shall be mailed to any person or group upon request.

(c) The division shall add the name of any person or group
upon request to a mailing list to receive copies of notices for all permit applications within the state or within a certain geographic area.

(4) The state engineer shall promulgate such regulations as are necessary and appropriate to provide an opportunity for public hearing, when appropriate, prior to the granting or denial of a dredge and fill permit by the division.

37-94-105. Permits - when required and when prohibited.

(1) The division shall issue dredge and fill permits in accordance with regulations promulgated under this article, but only if the division has determined that all federal and state statutory and regulatory requirements have been met with respect to both the application and proposed permit.

(2) No discharge shall be permitted that by itself or in combination with other pollution will result in pollution of the receiving waters in excess of the pollution permitted by an applicable water quality standard, unless the permit is conditioned to prevent such a violation.

(3) In any case in which a permit for a discharge has been applied for but final administrative disposition of such application has not been made, such discharge shall not be a violation of any provisions of this article or regulations promulgated under this article unless the division proves that absence of final administrative disposition of such application has resulted from the failure of the applicant to furnish information reasonably required or requested in order to process
an application.

SECTION 2. Effective date. This act shall take effect July 1, 1980.

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.
BILL 25

A BILL FOR AN ACT

1 MAKING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF NATURAL
2 RESOURCES FOR REHABILITATION OF THE CHANNEL OF THE CONEJOS
3 RIVER IN THE SAN LUIS VALLEY.

Bill Summary

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

Makes a supplemental appropriation to the Colorado water
conservation board for the purposes of river channel
rehabilitation.

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

SECTION 1. Appropriation. (1) In addition to any other
appropriation heretofore made for the current fiscal year, there
is hereby appropriated, out of any moneys in the state treasury
not otherwise appropriated, to the department of natural
resources for allocation to the Colorado water conservation
board, the sum of ten thousand dollars ($10,000), or so much
thereof as may be necessary, for rehabilitation of the channel of
the Conejos river in the San Luis valley. The moneys
appropriated by this section shall be used to relieve degradation
of the existing river channel and shall not be used for channelization.

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.
BILL 26

A BILL FOR AN ACT

MAKING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF NATURAL RESOURCES FOR REHABILITATION OF THE CHANNEL OF THE RIO GRANDE RIVER IN THE SAN LUIS VALLEY.

Bill Summary

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

Makes a supplemental appropriation to the Colorado water conservation board for the purposes of river channel rehabilitation.

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

SECTION 1. Appropriation. (1) In addition to any other appropriation heretofore made for the current fiscal year, there is hereby appropriated, out of any moneys in the state treasury not otherwise appropriated, to the department of natural resources for allocation to the Colorado water conservation board, the sum of ten thousand dollars ($10,000), or so much thereof as may be necessary, for rehabilitation of the channel of the Rio Grande river in the San Luis valley. The moneys appropriated by this section shall be used to relieve degradation.
of the existing river channel and shall not be used for channelization.

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.
A BILL FOR AN ACT

CONCERNING EXEMPTIONS FOR WELLS USED IN THE PRODUCTION OF ALCOHOL FOR USE IN MOTOR FUEL AND DERIVED FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.

Bill Summary

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

Exempts small wells used by facilities engaged in the production of alcohol for use in motor fuel from the provisions of the "Colorado Ground Water Management Act" and the "Water Right Determination and Administration Act of 1969".

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

SECTION 1. 37-90-105(1)(b) and (1)(c), Colorado Revised Statutes 1973, are amended, and the said 37-90-105(1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

37-90-105. Small capacity wells. (1)(b) Wells not exceeding fifty gallons per minute and used for watering of livestock on range and pasture; or

(c) One well not exceeding fifty gallons per minute and used in commercial businesses; OR
(d) One well not exceeding fifty gallons per minute and used by facilities in the production of alcohol for use in motor fuel and derived from agricultural commodities and forest products and with a purity of at least ninety-five percent, if the annual production of the facility which produces alcohol is two and one-half million gallons or less of said alcohol per year.

SECTION 2. 37-92-602(1)(d) and (1)(e), Colorado Revised Statutes 1973, are amended, and the said 37-92-602(1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

37-92-602. Exemptions - presumptions. (1) (d) Wells to be used exclusively for fire-fighting purposes if said wells are capped, locked, and available for use only in fighting fires; and

(e) Wells not exceeding fifty gallons per minute which are in production as of May 22, 1971, and were and are used for ordinary household purposes for not more than three single-family dwellings, fire protection, the watering of poultry, domestic animals, and livestock on farms and ranches, and the irrigation of not over one acre of gardens and lawns; AND

(f) One well not exceeding fifty gallons per minute and used by facilities in the production of alcohol for use in motor fuel and derived from agricultural commodities and forest products and with a purity of at least ninety-five percent, if the annual production of the facility which produces alcohol is two and one-half million gallons or less of said alcohol per year.
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.
WHEREAS, Of all land controlled by the federal government, ninety-three and one-half percent is located in the states of Colorado, Alaska, Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; and

WHEREAS, The question of the constitutionality of the retention of public lands by the federal government in perpetuity is a significant question in the West; and

WHEREAS, Nevada has passed legislation challenging the right of the federal government to hold lands in the public domain indefinitely; now, therefore,

Be It Resolved by the House of Representatives of the Fifty-second General Assembly of the State of Colorado, the Senate concurring herein:

That we, the members of the Fifty-second General Assembly, support Nevada's effort to force a test of the federal control of land.

Be It Further Resolved, That a copy of this resolution be sent to the President of the Senate and the Speaker of the House of the Nevada State Legislature.
WHEREAS, The federal government presently controls thirty-six percent of the land in Colorado; and

WHEREAS, Federal control of land lowers local tax revenues, including revenues which are essential to the operation of school districts; and

WHEREAS, Federal control of land frequently precludes use of the land for the benefit of the people of this state and of the entire United States; and

WHEREAS, The federal government has not set a limit on the amount of land which it may control in any state; and

WHEREAS, From time to time the federal government has sought and will seek to acquire additional land for various purposes;

now, therefore,

Be It Resolved by the House of Representatives of the Fifty-second General Assembly of the State of Colorado, the Senate concurring therein:

That the Congress of the United States is urged to pass legislation to require, at the time of any acquisition of lands by the federal government, the disposition of an equivalent area of federal land to private ownership.

Be It Further Resolved, That copies of this Resolution be sent to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States and to each member of Congress from the state of Colorado.
WHEREAS, The United States presently holds title to thirty-six percent of the land in Colorado; and

WHEREAS, Federal ownership of land reduces the local tax base, thereby creating problems for local districts, school districts, and special districts; and

WHEREAS, The Department of the Army has proposed the expansion of Fort Carson through acquisition of approximately two hundred thousand acres in either Pueblo and Huerfano counties or Las Animas and Otero counties; and

WHEREAS, The acquisition of such lands by the Department of the Army will displace rural homesteads, reduce the local tax base, and reduce the amount of agricultural acreage available to enable the United States to continue both to feed its citizens and to export food to help feed a hungry world; and

WHEREAS, The Southeastern Colorado Watershed Association of Soil Conservation Districts has opposed the acquisition of such lands by the Department of the Army because of fragile soil conditions in the area; now, therefore,

Be It Resolved by the Senate of the Fifty-second General Assembly of the State of Colorado, the House of Representatives concurring herein:

That we, the members of the Fifty-second General Assembly of the State of Colorado, urge the Department of the Defense to abandon the proposed expansion of Fort Carson and urge the Congress of the United States to prevent the proposed expansion of Fort Carson.

Be It Further Resolved that copies of this resolution be sent to the Secretary of the Army of the United States, the commanding officer at Fort Carson, and each member of Congress of the United States from Colorado.