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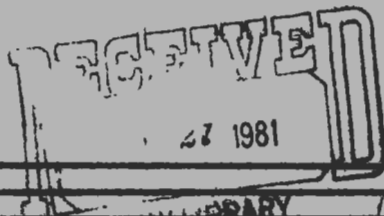
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0253 Committees on: Corrections, Business Affairs and Labor



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Report to the Colorado General Assembly:

**RECOMMENDATIONS FOR 1981
COMMITTEES ON:**

**CORRECTIONS
BUSINESS AFFAIRS
AND LABOR**



COLORADO LEGISLATIVE COUNCIL

**RESEARCH PUBLICATION NO. 253
December, 1980**

Colorado Legislative
Council Committee on
Corrective Institutions
Colorado Legislative Council
recommended for 1981

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OF THE
COLORADO GENERAL ASSEMBLY

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

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

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Colorado Legislative Council.
" Committee on Corrections.

COLORADO LEGISLATIVE COUNCIL
" RECOMMENDATIONS FOR 1981

Committees on:

Corrections

Business Affairs and Labor

Legislative Council
Report to the
Colorado General Assembly

Research Publication No. 253
December, 1980

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LEGISLATIVE COUNCIL

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DENVER, COLORADO 80203
839-3521
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REP. PHILLIP MASSARI

To Members of the Fifty-third Colorado General Assembly:

Submitted herewith are the final reports of the Legislative Council interim committees for 1980. This year's reports of the fourteen committees are contained in nine volumes of research publications (Research Publication Nos. 249 through 257).

Respectfully submitted,

/s/ Senator Fred Anderson
Chairman
Colorado Legislative Council

FA/sh

FOREWORD

The recommendations of the Colorado Legislative Council for 1980 appear in nine separate volumes (Research Publication Nos. 249 through 257). The Legislative Council reviewed the reports contained in this volume (Research Publication No. 253) at its meeting on November 24, 1980. The Legislative Council voted to transmit the bills included herein to the 1981 Session of the General Assembly.

The committees and staff of the Legislative Council were assisted by the staff of the Legislative Drafting Office in the preparation of bills and resolutions contained in this Volume. Mike Risner assisted the Committee on Corrections; and Margaret Makar and John Polak, the Committee on Business Affairs and Labor.

December, 1980

Lyle C. Kyle
Director

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LEGISLATIVE COUNCIL
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Senior Research Assistant

INTRODUCTION

The Joint Review Committee on Corrections was established by House Bill 1130 of the 1978 session. That bill continued a corrections oversight committee initially established in 1977 by Senate Bill 587. The statutory charge to the Committee on Corrections, contained in section 17-1-110, C.R.S. 1973, is to give guidance and direction to the Department of Corrections in the development and construction of the new maximum security facility and to provide legislative overview of and input into the plan for utilizing the facility. In addition to monitoring the progress of the new maximum security unit, the statute mandates that the committee prepare reports to the General Assembly on the developments and improvements in the overall state correctional system. Thus, the committee's oversight responsibility extends to the other construction projects, such as the new close security facility, and all other major needs and developments in the corrections field. Unless new legislation during the 1981 session prolongs the life of the committee, it will expire upon occupancy of the new maximum security unit. Occupancy by inmates is scheduled to commence on December 22, 1980.

This year was a critical year for corrections. Two major prison facilities, the new maximum security unit and the new close security unit, are scheduled for completion. Though the new maximum unit will be occupied in late December, funding shortfalls were experienced in the construction of the new close security facility and other projects, most utilizing inmate labor under the correctional industries program. The transfer of reversion funds by Governor Lamm for the completion of these projects generated a still unresolved controversy between the legislative and executive branches of government. The new close security facility is now scheduled for inmate occupancy in late January, 1981.

Though the Ramos case is still in the appellate process, the final resolution of the case will undoubtedly impact fiscally on the state, especially with regard to the delivery of medical and mental health services. Even before the new facilities are occupied, the Department of Corrections predicts a shortage of inmate institutional bed-space by February, 1981. The forecasted growth in Colorado's population, possibly due to energy-related developments, may exert added pressure on the state's correctional system in the form of increased commitments by local jurisdictions. Colorado's incarceration rate may vary relative to new sentencing practices or legislation in the criminal area, thus accentuating the need for the development of a comprehensive policy of the uses and rate of incarceration.

The correctional industries program continues to incur debt, and it also received a sizeable transfer of reversion funds by the Governor over and above the reversion funds transferred for the completion of new close, which was contracted by correctional industries.

However, correctional industries' failure to generate profit must be weighed against the benefits of training and job skills imparted to the inmate labor force. The committee continued to review the operation of community corrections programs and concludes that state policy in this area requires further review and analysis. To meet its estimation of these impacts, the Department of Corrections also plans to request over \$2 million in supplemental appropriations early in the 1981 session, while its budget request for fiscal year 1981-1982 totals \$35.2 million, up from \$28.6 million appropriated for fiscal year 1980-1981. The committee addressed the aforementioned developments and other critical issues, but they remain for the entire General Assembly to consider during the 1981 session.

Pursuant to its legislative mandate, the Committee on Corrections held a total of six meetings, one of which was convened in Canon City, after a tour of the new maximum security and new close security facilities. At each of these meetings, the last held on November 10, 1980, the committee received progress reports from Department of Corrections' personnel concerning the various construction projects and was kept informed on the plans for the orderly and safe transition of the inmates to the new facilities. With regard to the correctional industries program, in order to eliminate duplication, the last two meetings of the committee were held jointly with the Correctional Industries Advisory Committee, the legislative membership of which overlaps with the Committee on Corrections. At several meetings, the committee heard testimony on the status of the Ramos appeal from representatives of the Attorney General's office. In general, the committee endeavored to keep abreast of the overall plans of and any new developments in the Department of Corrections.

COMMITTEE RECOMMENDATIONS

Pursuant to the committee's statutory charge, many of the recommendations and suggestions by the Committee on Corrections were made directly to the Department of Corrections and are contained in the committee report which follows this section. However, in response to several of the more salient problems and issues experienced by the Department of Corrections, the Committee on Corrections recommends the following four bills for consideration by the 1981 General Assembly:

- Bill 1 -- authorizes the establishment of pre-release programs and provides an appropriation therefore;
- Bill 2 -- imposes a mandatory training requirement for all security personnel in the Department of Corrections and provides an appropriation therefore;
- Bill 3 -- authorizes the establishment of "workwhile" programs under which inmates are trained and employed by private industry, and paid wages by industry which are

commensurate to the prevailing wage in the area or state for similar work; and

Bill 4 -- increases the amount of "pocket" money received by an inmate upon discharge or parole from a state correctional institution and provides an appropriation therefore.

The following paragraphs elaborate upon each of the bills.

Pre-release Programs -- Bill 1

From February, 1959 to July, 1975, a pre-parole or pre-release program was operated by the then Division of Corrections. The facility for that pre-release program was located near the medium security facility at Canon City. The program was designed to assist prisoners in their transition from prison life to community life. The program was discontinued for administrative reasons in 1975 by the director of the division.

Testimony presented to the committee indicated, however, that the reestablishment of a pre-release program will not only boost the inmate's chances of successful integration into productive community life, but will also help in alleviating the shortage of bed-spaces which the department predicts it will experience in the coming months and years. The selection criteria for placement in community correctional facilities is such that many offenders do not qualify for placement in community corrections programs. Nevertheless, a program designed to facilitate transition is needed for those offenders who are unacceptable to the local community corrections boards. Recognizing that a pre-release program may reduce the rate of recidivism and serve as a means to alleviate the anticipated bed-space problem, the committee recommends the reestablishment of a pre-release program to be utilized by the maximum number of offenders who are approaching their release dates. The appropriation in the bill for the program amounts to \$455,000 for fiscal year 1981-1982.

Mandatory Training of Security Personnel -- Bill 2

Due to the strict requirements for security and safety within the state correctional institutions, the committee proposes that training of security personnel be mandated, and that an appropriation be made for this purpose. Many of the incidents of violence, sabotage, and disruption, and the attendant use of deadly force, might be prevented or minimized if correctional officers and guards received mandatory training. The bill provides that all newly employed personnel working directly with inmates shall receive a minimum of eighty hours of training prior to their placement in permanent positions. Trainees shall receive full pay during their course of instruction. All training shall be provided by department staff using a curriculum developed by the staff and approved by the executive director of the

department. The bill contains a \$157,000 appropriation. Up to this point, much of the department's training has been funded by Law Enforcement Assistance Administration (LEAA) grants. However, these grants have been exhausted and will no longer be forthcoming. The responsibility for these training programs has reverted to the state.

Workwhile Programs -- Bill 3

A workwhile program is a joint venture between corrections and private industry (or another state agency or a private non-profit organization). In such a program, corrections furnishes the inmate workforce and perhaps the building or workspace required, while the private industry provides tools and equipment, training and supervision, and pays the inmates' wages. The bill stipulates that the wages paid to an offender shall not be less than the prevailing wage for work of a similar nature in the locality in which the work is performed. Wages earned by an offender shall be distributed to the following: victim compensation, support of the offender's dependents, defraying the costs of incarceration incurred by the state, and an account to be transferred to the offender upon his release. However, some amount of the wages earned shall be allocated to the offender for personal expenses while serving his sentence.

Colorado authorized a version of the workwhile program in 1975 (House Bill 1018), but in 1977, with the passage of Senate Bill 587 (which created the Department of Corrections) the statutory provisions authorizing the workwhile program were repealed. No workwhile program was initiated thereunder.

One of the major obstacles to the successful implementation of a workwhile program is the federal statutory prohibition of the interstate transportation of convict-made goods (18 USCS 1761). The status of this prohibition was altered in December, 1979, with an amendment to 18 USCS 1761. The amendment excepts seven pilot workwhile programs (to be designated by the LEAA) from the prohibition, thus allowing them access to wider markets. The selection process by the LEAA is currently underway.

Increase in Pocket Money -- Bill 4

The bill increases the amount of money, from the current \$100 to \$150, which may be furnished to any prisoner discharged from a state correctional institution. According to the department, this increase in pocket money will provide a stronger support system for the inmate and enhance his opportunity to reintegrate into society. In addition to this pocket money, the current statute (section 17-20-119, C.R.S. 1973, 1978 Repl. Vol.) provides that articles of personal property will be returned to the inmate, and that he may be furnished with transportation, at the expense of the state, to his place of residence in Colorado or any other state. A sum of \$50,000 is appropriated to carry out the purposes of the bill.

Other Formal Recommendations

In addition to the above legislative recommendations, the committee took the following formal actions, which are more fully discussed in the committee report:

- adopted a motion providing that the Department of Corrections forward copies of the inmate population forecasts to the Chief Justice, the Bar Association, and the District Attorneys Council;

- forwarded a letter to the Governor concerning the advisability of the transfer of reversion funds to the Department of Corrections;

- forwarded a letter to the Joint Budget Committee in support of a supplemental appropriation for additional maintenance FTE for the operation of the boiler room at the new maximum security facility;

- adopted a motion supporting the plan by the Department of Corrections for the renovation of cellhouse 3 into a diagnostic unit and utilizing the present diagnostic unit as a medium security facility;

- adopted a motion supporting the renovation of Camp George West (honor camp) from a seventy to a one hundred bed facility;

- adopted a motion supporting the proposal for the renovation of a sixty-four bed forensic ward at Colorado State Hospital; and

- forwarded a letter to the Legislative Council urging the Council to include a tour of the new facilities at Canon City in the orientation program for newly elected members of the General Assembly.

The committee recognizes that many of these formal actions will require more extensive consideration in the budget hearings by the Joint Budget Committee.

BILL 1

A BILL FOR AN ACT

1 CONCERNING THE ESTABLISHMENT OF PRERELEASE PROGRAMS WITHIN THE
2 DEPARTMENT OF CORRECTIONS, AND MAKING AN APPROPRIATION
3 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 department of corrections to establish prerelease programs for offenders who will soon be released from imprisonment and who are not eligible for placement in community correctional facilities to aid such offenders in reintegration into society. Makes an appropriation for the implementation of the act.

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

5 SECTION 1. Title 17, Colorado Revised Statutes 1973, 1978
6 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
7 ARTICLE to read:

8 ARTICLE 41

9 Colorado Prerelease Program

10 17-41-101. Legislative declaration. (1) The general
11 assembly finds and declares that:

1 (a) From February, 1959, until July, 1975, a preparole or
2 prerelease program was operated by the department of institutions
3 at a facility built near the medium security facility;

4 (b) This program, operated as a preparatory step for
5 offenders prior to release on parole, was one of the first such
6 programs in the United States and as such received national
7 acclaim;

8 (c) The program was terminated in 1975, and the facility
9 now operates as a medium security housing unit for offenders
10 assigned to correctional industries;

11 (d) The selection criteria for placement in community
12 correctional facilities is such that many offenders do not
13 qualify for placement in community corrections programs;

14 (e) There is need for a program to be used by those
15 offenders who are not acceptable to a community corrections
16 program to prepare them to adjust to outside life upon release
17 following imprisonment; and

18 (f) Such a program will have rehabilitative and social
19 benefits and will reduce the rate of recidivism for those inmates
20 who are now released without the benefit of any type of
21 reintegration program.

22 (2) The purpose of this article is to encourage the
23 establishment of a program or programs to provide counseling for
24 offenders who will soon be released from imprisonment in Colorado
25 correctional facilities and who are not eligible for placement in
26 community corrections programs. It is the intent of the general

1 assembly that this program be utilized by the maximum number of
2 offenders who are approaching their release dates for the purpose
3 of aiding such offenders in reintegration as productive members
4 of society.

5 17-41-102. Establishment of prerelease program. The
6 department may, as a means of assisting in the rehabilitation of
7 persons committed to its care, establish programs and procedures
8 whereby such persons may be better prepared for release from
9 imprisonment.

10 17-41-103. Responsibilities of executive director.

11 (1) The executive director shall have the following powers and
12 duties:

13 (a) To be responsible for implementing and administering
14 the prerelease program in the Denver metro area and for the
15 supervision of the employees of the program;

16 (b) To be responsible for the management, control,
17 regulation, and operation of any physical facilities in which the
18 program is located;

19 (c) To provide for the separation of all offenders in the
20 prerelease program from the offenders in the correctional
21 institutions;

22 (d) To report to the general assembly progress in
23 implementing this article.

24 SECTION 2. Appropriation. There is hereby appropriated,
25 out of any moneys in the state treasury not otherwise
26 appropriated, to the department of corrections, for the fiscal

1 year beginning July 1, 1981, the sum of four hundred fifty-five
2 thousand dollars (\$455,000), or so much thereof as may be
3 necessary, for implementation of this act.

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

BILL 2

A BILL FOR AN ACT

1 CONCERNING PERSONNEL OF THE DEPARTMENT OF CORRECTIONS, AND
2 RELATING TO THE TRAINING THEREOF AND MAKING AN APPROPRIATION
3 THEREFOR.

Bill Summary

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

Imposes a mandatory training requirement for all personnel of the department of corrections. Makes an appropriation to implement the act.

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

5 SECTION 1. Article 1 of title 17, Colorado Revised Statutes
6 1973, 1978 Repl. Vol., as amended, is amended BY THE ADDITION OF
7 A NEW SECTION to read:

8 17-1-111. Department personnel - training. Subject to the
9 provisions of this section, all personnel of the department shall
10 receive such training as the executive director deems necessary
11 to maintain security and safety within the institutions
12 administered by the department. All newly employed personnel
13 working directly with inmates shall receive at least eighty hours

1 of training prior to their placement in permanent positions and
2 shall receive full salary during the course of such training.
3 All other new employment new employees shall receive at least
4 forty hours of preservice training. All department personnel
5 shall receive at least forty hours of in-service training each
6 year. All training shall be provided by a departmental staff
7 using a curriculum developed by the staff and approved by the
8 executive director.

9 SECTION 2. Appropriation. In addition to any other
10 appropriation heretofore made for the current fiscal year, there
11 is hereby appropriated out of any moneys in the state treasury
12 not otherwise appropriated, to the department of corrections, the
13 sum of one hundred fifty-seven thousand dollars (\$157,000), or so
14 much thereof as may be necessary, for the implementation of this
15 act.

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

BILL 3

A BILL FOR AN ACT

1 CONCERNING CORRECTIONAL INDUSTRIES, AND AUTHORIZING THE TRAINING
2 OR EMPLOYING OF OFFENDERS BY PRIVATE ORGANIZATIONS.

Bill Summary

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

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

4 SECTION 1. Article 24 of title 17, Colorado Revised
5 Statutes 1973, 1978 Repl. Vol., as amended, is amended BY THE
6 ADDITION OF A NEW SECTION to read:

7 17-24-119. Training and employment by organizations -
8 account for proceeds and wages. (1) The division after
9 consultation with the respective superintendents of the
10 correctional facilities and with the director of the division of
11 adult services, is authorized to contract with any corporation,
12 association, labor organization, or private nonprofit
13 organization or with any federal or state agency for the purpose
14 of training or employing offenders who have been committed to the
15 department of corrections or who have been assigned to a

1 community corrections program. Whenever possible all such
2 training referred to in this subsection (1) shall be in
3 accordance with standards promulgated by the apprenticeship
4 council section of the division of labor of the department of
5 labor and employment.

6 (2) Proceeds and wages due an offender from the sale of
7 products produced by the offender under a program authorized by
8 subsection (1) of this section shall be held in an account
9 maintained by the division and distributed periodically for:

10 (a) Compensation of the victim of the crime committed by
11 the offender in an amount not to exceed twenty percent of the
12 offender's wages for expenses actually and reasonably incurred as
13 a result of the injury to the person or property of the victim,
14 including medical expenses, loss of earning power, and any other
15 pecuniary loss directly resulting from the injury to the person
16 or property or death of the victim, which a court of competent
17 jurisdiction determines to be reasonable and proper;

18 (b) Payment of such amounts for the support of the
19 offender's dependents as is deemed appropriate by the division
20 after consultation with the respective superintendents of the
21 correctional facilities and with the director of the division of
22 adult services;

23 (c) Establishment of funds in trust for the offender upon
24 his release; except that some amount shall be allocated by the
25 division to the offender for personal expenses while serving his
26 sentence.

1 (3) A portion of said wages and proceeds in an amount
2 determined by the division, but not to exceed twenty percent, may
3 be used to defray the costs incident to the offender's
4 confinement.

5 (4) The wages paid to an offender shall not be less than
6 the prevailing wage for work of a similar nature in the locality
7 in which the work is performed. The prevailing rate issued by
8 the division of labor shall govern the wage rates paid to
9 offenders, and in the event of a dispute or change in the
10 prevailing wage rate, the prevailing wage rate in effect at the
11 time the contract was let will govern.

12 (5) The provisions of this section shall apply only to a
13 program established pursuant to this section and not to other
14 programs established pursuant to this article.

15 SECTION 2. Effective date. This act shall take effect July
16 1, 1981.

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

BILL 4

A BILL FOR AN ACT

1 CONCERNING THE DISCHARGE FROM INCARCERATION, AND RELATING TO THE
2 MONEY FURNISHED THEREUPON AND MAKING AN APPROPRIATION
3 THEREFOR.

Bill Summary

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

Increases the amount given to those who are discharged from incarceration. Makes an appropriation to implement the act.

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

5 SECTION 1. 17-20-119, Colorado Revised Statutes 1973, 1978
6 Repl. Vol., as amended, is amended to read:

7 17-20-119. Discharge - clothes, money, transportation. Ten
8 days prior to the date on which any convict confined in the
9 correctional facilities at--Canon--City OF THE DEPARTMENT is
10 entitled to be discharged or to be paroled from said correctional
11 facilities, the superintendents thereof, or any person acting for
12 them as such officer, shall give such convict a ticket of leave
13 therefrom, which shall entitle him to depart from said

1 correctional facilities. The superintendents shall at the same
2 time furnish such convict with all articles of personal property
3 belonging to said convict that may have been turned over to the
4 superintendents and shall furnish said convict with suitable
5 clothing and may furnish transportation, at the expense of the
6 state, from the place at which said correctional facilities are
7 located to the place of his residence in Colorado or any other
8 state. The superintendents shall also furnish to any prisoner
9 being discharged, other than a parolee, one hundred FIFTY
10 dollars. The superintendents may furnish any prisoner being
11 released on parole a reasonable sum of money not to exceed one
12 hundred FIFTY dollars; except that, if he furnishes less than one
13 hundred FIFTY dollars, the difference between one hundred FIFTY
14 dollars and the amount furnished shall be credited to an account
15 for such parolee. The superintendents shall certify any amount so
16 credited to the division of adult services, and any such amount
17 shall be distributed to a prisoner in accordance with rules
18 promulgated by the department.

19 SECTION 2. Appropriation. There is hereby appropriated out
20 of any moneys in the state treasury not otherwise appropriated,
21 to the department of corrections, for the fiscal year commencing
22 July 1, 1981, the sum of fifty thousand dollars (\$50,000), or so
23 much thereof as may be necessary, for the implementation of this
24 act.

25 SECTION 3. Effective date. This act shall take effect July
26 1, 1981.

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

COMMITTEE REPORT

Construction Projects

The committee's major emphasis during the interim focused on monitoring the timely completion of the new maximum security facility and the new close security facility. Other construction monitored by the committee included: the dormitory conversion project at the medium security facility in Canon City; the renovation of the medium security kitchen to provide food services to all the Canon City facilities; upgrading the honor camp in Golden (Camp George West) from a seventy to a one hundred bed facility; and minor construction at the honor camps in Rifle and Delta, Colorado. New staffing and other associated needs of the new construction projects also received attention from the committee.

New Maximum Security Facility

Primarily because of the pressures arising from the Ramos v. Lamm decision, the committee recognized the importance of bringing the new facility on line as soon as possible. As of November 10, 1980, the new maximum unit was scheduled for beneficial occupancy by the Department of Corrections in a week or ten days for purposes of completing some finishing work and for training of staff. The construction firm of G.E. Johnson was the general contractor, and with the exception of some painting required on the single watch tower and an exterior lighting fixture, G.E. Johnson's contract was completed as of November 10, 1980.

A portion of the "finishing" work in new max was contracted by correctional industries. This finishing work includes interior painting, flooring, carpeting, and cleaning. As of November 10, 1980, this finishing work was eighty-two percent complete, with the remainder to be completed by late November. In late August, Governor Lamm transferred \$50,000 (as part of the total package of executive transfers) to correctional industries in order to accelerate completion of the finish work at new max.

Transition plan. According to the latest plan by the Department of Corrections, the transition into new max will commence on December 15, 1980, when administrative and security personnel begin to move into the new facility. The modular design of new max allows the transition of inmates to be accomplished on a group-by-group basis. The first group of inmates will be transferred to new max on December 22, 1980, and are classified as administrative segregation (those inmates segregated from the general inmate population because they are a danger to others, are disciplinary problems, or are under protective custody), with the remaining groups to be transferred in weekly intervals. The transition to new max should be completed by January 23, 1981. Of crucial importance was the development of a transition plan which would not create any opportunity for disruption and which would

minimize the duplication of staffing requirements during the transition period. Earlier this year the Department of Corrections formed a five-member transition team charged with the development of a systematic transition plan. Regulations and security procedures have been promulgated, and a new management practice, wherein unit managers (supervisors of the various modular units) are delegated more decision-making authority, has been established.

Training. Committee members inquired into the department's plans for training the administrative and security personnel who will be assigned to the new facility. According to the department, all staff involved will receive a general orientation of the physical plant. A security shakedown of the facility will be mandatory prior to occupation by inmates. Pertinent staff will receive a minimum of eighty hours training and crisis intervention. Some of the staff assigned to new max are completely new hires, while others are veteran staff currently assigned to the old facility. Thus, the training for the veteran staff is on an overtime basis, and \$175,000 has been allocated for this purpose. Plans and procedures for the transfer of inmates and training of staff assigned to new close are similar.

Boiler room. After touring new max on July 23, 1980, the committee inquired into the potential problems stemming from the accessibility to the boiler room at new max. Because of the potential for sabotage and disruption by inmates, both the location of, and the expensive equipment in, the boiler room and the main electrical switch room preclude the use of inmate labor for their operation. For security reasons, the boiler room at new max should be operated by civilian staff only. Currently, there are thirty-seven FTE position funded in the maintenance area. The committee forwarded a letter to the Joint Budget Committee recommending that 4.1 additional FTE maintenance positions be funded by a supplemental appropriation early next session in order to properly staff the boiler room operation.

Courtyard asphalt. The major shortcoming identified in the construction of new max is the asphalt/blacktopping job in the courtyards at the facility. The job was subcontracted out by G.E. Johnson, but the subcontractor failed to apply the asphalt properly. Because the nature of the soil on which new max is constructed demands waterproof construction, the committee was concerned that water seepage could result from the poor application. As of November 10, 1980, discussions were underway between the Department of Corrections and the general contractor in order to reach an acceptable solution to this problem. The committee urged the department to take the necessary steps, including withholding some construction fees, to insure that the job is accomplished properly.

Retreat to new max. At the last meeting, the department proposed a retreat to new max for the benefit of legislators, judges, law enforcement officials, and others on December 5 and 6, 1980. In this regard, the committee forwarded a letter to the Legislative Council urging the Council to include a tour of the new facilities in the orientation program for newly elected members of the General Assembly.

A tour of the new facilities will sustain the interest and reflect the work already accomplished in the corrections area by the General Assembly.

Disposition of old max. The committee discussed how the old maximum security facility should be utilized after the transition to the new facilities is accomplished. The following ideas surfaced as possible alternatives for the disposition of old max: convert it to a movie set, renovate it as a museum, use it as a storage facility, or use it as a training center for correctional officers and guards. These alternatives are with regard to cellhouses 1 and 7 in old max, while cellhouse 3, which is physically separate from the other cellhouses, is under consideration as a diagnostic unit (see the section on cellhouse 3 in this report). The committee noted that perhaps Fremont county, in which old max is located, should be given a voice in the disposition of old max. Liaison should be established between Fremont county and the department, and any discussions should include the General Assembly.

Miscellaneous items. The department reported that Shell and Amoco have drilled for geothermal energy sources on the new max property. However, no geothermal potential has been discovered. With regard to the water supply for new max and other facilities, the department is receiving 500,000 gallons of water under a contract with Canon City and is no longer contracting with the Four-Mile Ditch Company for its water supply. The department mentioned that some graphics or murals could be placed on the walls of new max in order to alleviate the bleak environment. The committee noted that there is a statutory requirement for allocating one percent of capital construction monies for art procurement. The department stated that this statute was not in effect when construction funds for new max were appropriated.

New Close Security Facility

At the first interim meeting on June 17, 1980, the committee learned that the close security project was only sixty-five percent complete and five weeks behind schedule. Its initial scheduled completion date was December 1, 1980; this was subsequently moved to December 31, 1980. The department also informed the committee that correctional industries, the contractor for the new close security unit, using inmate labor, would lose approximately \$544,000 on the project. The executive director of the department warned the committee that construction on the project would be halted in September unless additional funds were assured. The committee strongly urged the department to pursue construction of the project, and to keep the committee up to date on the funding developments for new close and other projects.

Transfer of reversion funds. At subsequent meetings, reported progress on the new close construction was not substantially improving, though overtime work by inmates and supervisors was initiated.

At the July 23, 1980 meeting, the department informed the committee that discussions were underway with the Governor and his staff concerning the possibility of transferring reversion funds to maintain construction of the new close facility and other projects. Several members of the committee were of the opinion that the Governor might have some authority to transfer funds. However, the legal issues involved in transferring reversion funds (funds left over from FY 1979 which would revert to the general fund) to be used for capital construction purposes were unclear. Because of the uncertainty surrounding the transfer, the committee expressed its concern to the department and agreed to forward a letter to the Governor regarding the advisability of transferring reversion dollars for the construction projects. The letter, dated August 8, 1980, and the Governor's response are contained in Appendix A.

In late August, the Governor announced the transfer of approximately \$1.2 million in reversion funds earmarked for the timely completion of the new close security unit. The responsibility for a thorough review of the Governor's action was assigned to the Legislative Council, the Committee on Legal Services, and the Legislative Audit Committee. The executive order transferring these and other funds is contained in Appendix B.

Completion schedule. By November 10, 1980, the new close facility was eighty-five percent complete, with the remaining fifteen percent scheduled for completion by January 1, 1981. Inmate occupancy of the new close facility is scheduled to commence on January 26, 1981, and will also be accomplished on a group-by-group basis. The four weeks time between completion and inmate occupancy will be devoted to shakedown and training purposes. The committee was apprised of the importance of bringing new close on line at or near the same time as new max. This will minimize the costly duplication of staffing the old facility simultaneously with the new ones (many of the inmates currently assigned to old max will be transferred to new close).

Correctional industries and inmate labor. Because correctional industries contracted the new close security project, inmate labor was utilized for most of the construction. Over 600 inmates have labored on the project. Using inmates, however, causes many problems in terms of cost, time, and dangerousness. Steps were taken, this year and last year, to insure the timely completion of the project. Both the regular full-time state employees and the inmates put in ten hours of overtime per week, and many items were eventually subcontracted out to private firms. Subcontracting and overtime work shifts resulted in increased costs and stoppage of work at other projects utilizing inmate labor. The premature bids submitted by correctional industries for the new close facility resulted in cost overruns in the following areas: materials have cost \$1,117,000 more than originally estimated, windows have cost \$70,000 more, plumbing \$500,000, and labor \$146,000. The severity of last year's winter resulted in the loss of eighty-one working days. Despite these problems, the department reported that the architect for the new close security unit has praised the quality

of the construction work, and that the cost per square foot of the project is still well below the national average for medium security facilities.

Design. The new close security unit consists of four cell blocks, with each cell block containing ninety-six beds. Each block is further divided into six modules housing sixteen inmates each. There are two control centers within each housing module. The committee noted that there is no enclosed access to the dining areas from the housing units at new close. The department reported that the architect, Stearns-Rogers, considered a covered walkway, but that it was rejected for security reasons, and a decision was made to proceed with the outdoor access to the dining halls.

Other construction. Other components of the new close security unit are in the planning phase, and include a library, an inmate canteen, and administrative offices (the inmate services building). The inmate services building was funded by a supplemental appropriation of \$600,000 in House Bill 1257 (1980 session). House Bill 1257 also appropriated funds for relocation of the gymnasium (\$80,000) and the installation of an electrical security fence (\$86,000). Funds were appropriated through the long bill (House Bill 1265, 1980 session) for renovation of the facility formerly housing the cannery (\$72,360) and for construction of a new tag (motor vehicle license) plant (\$580,000) to be located at the new close security facility.

Watchtower. In response to committee questioning, the department revealed that watchtowers were not included in the original plans for the new close security unit. Currently, a tower at the nearby medium security facility permits a view of two sides of the new close complex, leaving one side without tower coverage. However, a roving guard, a perimeter patrol, plus an electronic security fence may preclude the need for a watchtower, according to the department. The committee expressed interest in the cost of constructing a new tower at the new close facility. The department responded that a new tower would cost between \$60,000 and \$100,000 plus five FTE for staffing.

Chapel. At the last meeting, the department informed the committee that a group, known as the Religious Alliance, has proposed building a chapel in the vicinity of new close. Funding for construction of the chapel would be donated by the alliance. Funds for maintenance and utilities, however, would have to be appropriated by the state. The committee observed that precedent for this has been established when funds were donated for a chapel at the Mount View Girl's School (operated by the Department of Institutions). The committee suggested to the department that the procedures for accepting the donated funds for the chapel at the Mount View Girl's School could serve as a model for the department to follow. With regard to siting the chapel, if the proposal materializes, the committee also suggested that a master design plan for the prison complex should be developed and followed in order to prevent uncoordinated development. The department informed the committee that a master design plan is being formulated.

Other Construction

Rifle. The major construction at the Rifle honor camp was essentially completed last year. Construction involved expanding the honor camp from thirty-five to one hundred beds. This project also utilized inmate labor, and the committee was informed that correctional industries incurred a \$300,000 deficit in the construction of the camp. The committee's attention this year was also directed towards the high utility costs of operating the camp. Lack of insulation was identified as one major contributing factor to the high energy bills. The Department of Corrections reported that Public Service Company of Colorado has suggested energy-savings measures. Also, the department is exploring the potential for solar energy capability at the Rifle facility, with the solar collector panels to be fabricated by prison industries. The implementation of the solar plan would ultimately require an appropriation. An energy audit of the Rifle facility was also performed by the Colorado Energy Research Institute.

Camp George West (Golden). As of November 10, 1980, construction at Camp George West in Golden was sixty-eight percent complete. Construction at the camp involves upgrading it from a seventy to a one hundred bed facility, and involves both new construction and renovation. Completion is now scheduled for February 1, 1981. At its August 28, 1980 meeting, the committee adopted a motion in support of the increased capacity at Camp George West as a partial response to the overcrowding predicted to occur in the correctional system in the months ahead.

The major portion of the funds for this project came from the Law Enforcement Assistance Administration and were initially granted in 1976. This project was also contracted by correctional industries, but was delayed because of the many other projects and their attendant problems. The department received several extensions of the LEAA grant, and discussions are underway now for another extension because of LEAA's project completion deadline of November 30, 1980. In late August, the department reported to the committee that this project also required ancillary funding, and that a request was made to the Governor for reversion funds to support completion of the project. As part of the package of executive transfers, this project received \$150,000.

Dormitory conversion. This is a renovation project at the medium security facility at Canon City. The renovation consists of remodeling the dormitories into individual compartments, and is being accomplished by inmate labor under the correctional industries program. Funding shortfalls were also experienced in this project and construction was halted temporarily on May 30, 1980. The Department of Corrections reported that the project had a contract price of \$496,000 while the architect's estimate for the project totalled \$649,000. A supplemental appropriation request for \$120,000 for construction plus \$40,000 for inmate services was planned for last session but failed to materialize. The request was deleted from the

executive budget before it reached the Joint Budget Committee. Construction on the project resumed with the executive transfers to correctional industries in late August. At the October 14, 1980 meeting, the department reported that the dormitory conversion project was virtually complete.

Kitchen renovation project. This project involves the renovation and expansion of the kitchen facilities at the medium security facility at Canon City in order to serve as the central food preparation facility for all the correctional institutions in the Canon City area. The department reported that this project was underfunded; however, through a change order (a revision of the original contract) with G.E. Johnson, \$486,000 was allocated for the project, and the contractor has completed the project. The committee's chief concern was the timely delivery and installation of the fixed and moveable equipment in the kitchen facility.

Ramos v. Lamm

In 1977 a class action suit (Ramos v. Lamm) was filed by the inmates at the old maximum security unit alleging that the totality of conditions at this facility constitutes cruel and unusual punishment and therefore violates the U.S. Constitution. The federal district court ruled in favor of the plaintiffs and entered certain emergency orders pertaining to medical and mental health. The state appealed the decision to the 10th Circuit Court of Appeals. In September, 1980, the appeals court upheld portions of the decision and vacated portions of the decision. At the committee's last meeting, J.D. MacFarlane, Attorney General, reported to the committee that a petition for a rehearing was filed with the appeals court, and that the Governor has been advised to pursue the appellate process further if the appeals court does not change the current status of the decision. (The appeals court denied the petition for a rehearing on November 13, 1980.)

Mr. MacFarlane informed the committee that the two principal issues on which the state may rely if a decision is made to appeal the 10th Circuit Court's ruling to the U.S. Supreme Court are: abstention by federal courts because the state has been acting in good faith (building new prisons, etcetera), and problems with the language of the appellate court's opinion concerning the right of a prisoner to "freedom from degeneration." A memorandum prepared by the Legislative Drafting Office pertaining to the initial decision and the appellate court's review is contained in Appendix C.

Mental and medical health services. The portion of the Ramos decision not under appeal and with which the department is attempting to comply is the emergency orders concerning the delivery of medical and mental health services. A task force appointed by the Governor formulated a plan for compliance with the order, and the Department of Corrections is operating under this plan. Pursuant to the plan, Dr. Raymond Leidig, Executive Director, Department of Institutions, testi-

fied to the committee that approximately 1,000 inmates have been evaluated, with the result that several groupings of inmates have been identified as needing various levels of medical and psychiatric care and treatment. Of those evaluated, thirty-five sex offenders (who in prior years would have routinely been committed to the Department of Institutions) were identified as needing psychiatric care in a hospital setting. Another thirty-five inmates were identified as needing general psychiatric care. Because of the fiscal implications of the decision, the committee continually emphasized that while the Department of Corrections should comply fully with those orders which are not being appealed, its long range plans and budget requests should not presuppose the final resolution of the case.

Forensic ward. In response to the requirements of the emergency court order and the predicted inmate bed shortage, Dr. Leidig proposed to the committee that a fire-damaged ward at Colorado State Hospital be renovated to provide an additional sixty-four beds for forensic purposes. The majority of these beds would be reserved for inmates transferred from the correctional system. The proposal calls for a six-month program in fiscal year 1980-81 with one additional start-up month (December 1980) at a cost of \$448,000, including renovation. The annual cost for the forensic ward would be approximately \$760,000 for operations and personnel. This proposal will of course be presented to the Joint Budget Committee for its scrutiny and input. In view of the programmatic considerations resulting from the Ramos emergency orders, the committee adopted a motion in support of the proposal for the new forensic ward at Colorado State Hospital.

Inmate Population Projections

The Department of Corrections' Office of Information Systems constantly monitors commitments to the various state institutions and periodically calculates inmate population projections for the months and years ahead. The projections are calculated in order to provide a measure of the potential needs of the department and the directions it should explore. The committee was regularly supplied with the most current projections for institutionalized inmate population.

Incarceration rate. At several meetings the department posed the question: How many inmates should be incarcerated per 100,000 general population? According to the department, Colorado currently ranks in the lower third of the fifty states with regard to the rate of incarceration. Determination of the optimum rate of incarceration is a matter of public policy to be established by the legislature. Many factors may influence the incarceration rate; for example, increasing the penalties for crimes, the addition of new crimes, the decision to build new correctional facilities, court decisions and sentencing practices, and the unemployment rate. The department pointed out that the General Assembly should be aware that any change in these factors will influence the incarceration rate.

Inmate bed shortage. The Department of Corrections is pres-

ently predicting a shortage of approximately 200 beds by February 1, 1981. The projection is keyed to several factors, such as Colorado's unemployment rate, the average sentence imposed, and the number of consecutive sentences. Because of the controversial nature of these predictions, the Division of Criminal Justice in the Department of Local Affairs is assisting the Department of Corrections with projecting the inmate population. The Division of Criminal Justice is also assessing the current utilization of all the correctional facilities and the classification techniques used by the Department of Corrections for assigning inmates to particular institutions. The inmate classification system is crucial since inmate bed shortages usually do not occur in the absolute number of beds but in the availability of beds in a particular security classification or level. It is easily assumed that construction of new facilities results in increased capacity. However, the combined absolute capacity of the new maximum unit (336 beds) and the new close unit (384 beds) is less than the capacity of the old maximum security unit by over 100 beds. The most current projections report by the Office of Information Systems is contained in Appendix D.

Proposed solutions to bed shortage. At the July 23, 1980 meeting, the Department of Corrections presented several options to the committee which might alleviate the projected shortage in bed spaces. The options include:

- a) renovating cellhouse 3 at the old maximum security unit to provide eighty-eight additional beds for medium security inmates;
- b) establishing a "staging" center in Pueblo or Denver to house forty inmates per month prior to an assignment to an honor camp or to community placement;
- c) requesting counties to delay movement of inmates to state institutions;
- d) contracting for prison space with other states or the federal government; and
- e) double-celling of inmates.

No formal action was taken at this time on the proposal to utilize cellhouse 3. The committee discussed the establishment of a staging center, and recognized that local jurisdictions are facing the same commitment pressures as are state institutions. Contracting for prison space with the federal Bureau of Prisons is prohibitively expensive, while double-celling could prove dangerous.

Cellhouse 3

At the August 28, 1980 meeting, the Department of Corrections again raised the proposal for using cellhouse 3 as a partial solution to the projected inmate bed shortage. The proposal was to renovate

cellhouse 3 into a diagnostic unit, while the present diagnostic unit would then be utilized as a medium security facility providing 118 beds. Cellhouse 3 was constructed in the 1950s and contains an eighty-eight bed capacity.

Acceptability. According to the Department of Corrections, the only problem with cellhouse 3 now is the class of inmates incarcerated there and the amount of time which they must spend in their cells. The department reported that the physical structure of cellhouse 3 is sound, and that each cell meets the minimum square footage requirements. The committee was assured that the use of cellhouse 3 would not constitute the first step towards re-opening the other cellhouses in the old maximum security facility.

Costs. Under the proposal, renovation costs would total \$265,000. The Department of Corrections estimated that this amount translates into a cost of \$2,246 per bed, while a completely new 118-bed medium security unit would cost between \$25,000 and \$40,000 per bed. Total costs for the first year of operation of cellhouse 3 would be \$810,000, including capital construction.

Ramos. Though cellhouse 3 is part of the old maximum security unit and therefore implicated in the Ramos decision, the Department of Corrections explained that a detailed plan for the utilization of cellhouse 3 as a diagnostic facility could be presented to the federal district court. This plan might include the renovation of a dining area, a recreation area, office space, and very specific staffing requirements. It could also be specifically communicated to the court that cellhouses 1 and 7 would be permanently closed for purposes of incarceration.

Committee action. The committee noted that past cost estimates by the department have not been completely accurate. The committee also noted that in the event a new medium security facility is constructed in the future, the funds expended for renovating cellhouse 3 would be lost. Nevertheless, the committee adopted a motion supporting the proposal for renovating cellhouse 3 into a diagnostic unit and using the present diagnostic unit as a medium security facility, for a net gain of eighty-eight beds.

Correctional Industries

The Committee on Corrections has continually sustained a keen interest in the progress of the Division of Correctional Industries. This year, the committee continued this interest, integrating the work of the committee with that of the Correctional Industries Advisory Committee. Besides legislators, the advisory committee's membership reflects private industry, labor, executive branch administrators, and the judiciary.

Profit versus training. In concert, the committees were confronted with two conflicting developments in the progress of the

industries program. The legislative intent of the correctional industries program is that it be profit oriented, that it generate revenue for its operations and capital investment, and that it assume responsibility for training offenders in general work habits and skills which enhance their employment prospects upon release. On the one hand, while it is intended to be self supporting, correctional industries continues to incur deficits, as was illustrated by the executive transfer of \$970,000 directly to correctional industries in addition to the sums transferred to the construction projects, most of which were bid and contracted by correctional industries. On the other hand, the committee received testimony that the industries program is proving successful in training inmates, teaching them work habits and responsibilities, and increasing their chances of employment upon release, thus reducing the incidence of recidivism and resulting in unquantifiable benefits to the state. Striking a balance between the fiscal problems and the benefits of rehabilitation through actual work experience has proved to be a difficult job. In general, the committee recognizes the difficulty of establishing profit oriented industries in a correctional environment.

Funding needs. The following major funding problems which such programs will face in the future were brought to the committee's attention by the Division of Correctional Industries:

- a) obtaining funds for training the inmate workforce;
- b) costs associated with a computerized management system;
- c) equipment needs;
- d) funds for additional industries space at the new facilities;
- e) \$535,000 needed to move into and establish industries at the new maximum security facility and the new close security facility; and
- f) the initial \$423,000 payment due on June 30, 1981 on a \$3,000,000 loan that was made to correctional industries by the state.

The Division of Correctional Industries stressed that without a supplemental for the relocation of prison industries (items "d" and "e" above), approximately 300 inmates will lose work assignments, with the resultant idleness possibly sparking further litigation. Presently, correctional industries employs eighty-two percent of employable inmates, but this percentage will drop as a result of the transition, according to the division. The division plans to generate enough work to keep most of the inmates assigned to the new close security facility occupied with long-term training and work experience. Planned work includes the tag plant (new tag plant funded by the 1980 long bill), sewing, wood products, office equipment, sign shops, welding, food production, motor pool, and maintenance. These industries will provide over 200 jobs for new close inmates. All of

the work programs will be situated within the perimeter fence of the new close unit.

The committee was also asked for assistance in meeting the loan repayment (item "f" above) due in June 1981. The committee concluded that the best course of action would be to wait for the results of the performance audit (see below) while reporting to the General Assembly that the needs and problems of the Division of Correctional Industries have been considered and reviewed by the committee.

Performance audit. An important development resulting from the executive transfer of reversion funds to the industries program was the Legislative Audit Committee's decision to conduct a performance audit of the Division of Correctional Industries. The final audit report is due on January 15, 1981, and is being conducted by the State Auditor's office. At its last meeting, the Committee on Corrections agreed to wait for the results of the performance audit before making any specific commitments with regard to any supplemental appropriations for the industries program.

Committee observations. With regard to the cost overruns in its construction projects and the overall profitability picture of the correctional industries program, the committee noted that: many of the losses in the construction area resulted from low bidding due to inexperience, which is now improving; many other state departments and agencies eventually request supplemental appropriations in order to complete capital construction projects; many of correctional industries' current problems may stem from insufficient capitalization in the initial funding of the program; and profitability should perhaps be measured in terms of the entire program rather than in terms of each individual industry. The committee was informed that specific industry programs terminated because of unprofitability include the cannery, the chemical/soap plant, the printing of certain items, the furniture shop, and vehicle maintenance. New industries include bus refurbishing and micrographics. Industries under evaluation are the barbershop, the small engine repair shop, the machine and welding shop, electronics, the farming programs, upholstery, and construction.

Energy refuse plant. Senate Bill 116 (1980 session) authorized the Division of Correctional Industries to construct a facility for the conduct of a pilot program designed to determine the feasibility of establishing and implementing on a statewide basis a solid waste refuse derived fuel program for the production of energy. The division reported that all the equipment for the refuse plant is installed and operational. Demonstrations are being held and are open to the public. Currently, seventy-two tons of solid waste are processed per day, while inmates work eight hour shifts. No general funds were expended for this project, funding coming from a grant from the Solar Energy Research Institute. Pursuant to Senate Bill 116, a report will be submitted to the General Assembly no later than December 31, 1980, containing: an analysis of the method used to produce fuel; an evaluation of the cost-effectiveness, the overall efficiency, and the effect on the environment of the energy refuse plant; and an evalu-

ation of the feasibility of expanding the program to other facilities in the Department of Corrections.

Community Corrections

Because of its potential role in alleviating inmate population pressures at the state correctional institutions and in facilitating an inmate's transition from prison life to community life, the committee examined the developments in the community corrections area and reviewed the general status of the Division of Community Services, which is responsible for community corrections, parole services, and minimum security camps. The division reported the following developments in the community corrections area:

- a) a reorganization plan for the Division of Community Services has been formulated establishing four community corrections regions;
- b) standards for the operation of individual community corrections centers have been promulgated (pursuant to section 17-27-106 C.R.S. 1973, 1978 Repl. Vol.);
- c) a comprehensive community corrections plan is in process, while an advisory board composed of representatives from the four regions will review the plan with the proper legislative committees;
- d) it is becoming more and more difficult to select inmates who are qualified for community placement;
- e) the number of escapes from community correctional centers and minimum security honor camps is rising; and
- f) the costs of community placement are rising, from fifteen dollars per day per inmate three years ago to twenty-five dollars per day now.

In response to some of these developments, the committee discussed the role of non-residential placement programs, the authority of local boards to accept or reject offenders for placement, and the staffing levels at the community correctional centers and the minimum security honor camps. There was some sentiment that the Department of Corrections has been downplaying the community corrections element in their overall correctional plans. With regard to the minimum security honor camps, the Department of Corrections suggested to the committee that a supervisory staff of eighteen was the minimum necessary for a one hundred man facility. There are approximately 1,200 inmates eligible for release from state correctional facilities in each fiscal year, and about eighty percent of those released go through a transition program. Efforts are underway to keep placement in transition programs under four months.

Escapes. The division reported that the number of escapes from community centers and minimum security camps is rising. There were fifty-five escapes from community placement from January 1 to July 31, 1980, compared to fifty-nine escapes for all of 1979. There were twenty-two escapes from the minimum security camps from January 1 to July 31, 1980, compared to twenty-one escapes for all of 1979. No single facility has experienced more escapes than others. Proper supervisory levels would reduce the incidence of escapes, according to the division.

Solution to overcrowding. The committee expressed interest in whether or not expanding the community corrections program could be a solution to the overcrowding in the state institutions. The Department of Corrections informed the committee that the number of inmates assigned to community placement has increased this year to approximately 200 inmates. This has resulted, however, in higher risks and more escapes, according to the department. The committee was advised that an expansion of the program would entail a concomitant increase in supervisory positions.

The committee heard testimony from representatives of two community correctional centers, Emerson House and Freedom Center, both in Denver, and both testified that there was a need for greater access to inmates and that the centers are not operating at full capacity. A proposal by Emerson House to address this problem was presented to the committee. Briefly, the proposal calls for the designation of all inmates as either dangerous or non-dangerous. All non-dangerous inmates would be placed in a pool and selected for placement in community alternative prisons. Inmates selected would agree to pay thirty percent of the actual cost of incarceration through wages earned in employment. The proposal is appended in Appendix E.

The Department of Corrections stated that since it remains ultimately responsible for community placed inmates, caution must be taken in the selection of inmates for placement in the community centers. Another possible obstacle to increased placement in the community may be the authority granted to the local community corrections boards to veto inmate placements by the Department of Corrections.

Community corrections subsidy proposal. At its October 14, 1980 meeting, the committee considered a proposal drafted by a member of the Joint Budget Committee staff concerning the expansion of the community corrections program. Briefly, the proposal's major premise is that the current method of financing diversion from incarceration at state institutions provides no fiscal incentive to local jurisdictions for establishing or expanding community corrections programs or facilities. Other states, such as Minnesota, have implemented such incentives. Under the proposal, the ten most populous counties would receive subsidies based on their percentage of the "at risk" population (ages 20-24) if they manage to reduce their annual commitments to state institutions to eighty-five percent of their commitments in the base year, 1978-1979. The entire proposal is contained in Appendix F.

The Department of Corrections' initial reaction to this proposal was that generally it was a good idea to give local jurisdictions control over commitments, and that with such a fiscal incentive program the state might be relieved of much of the responsibility for the correctional delivery system. In response to questioning from the committee, the Department of Corrections stated that theoretically a subsidy based community corrections program could handle the 200 bed shortage predicted for early next year though the subsidies would have to be adequate in order to serve as an incentive.

The committee took no formal action regarding the proposal or with community corrections in general, though several members of the committee indicated that they would pursue the subsidy concept in the 1981 session.

Parole. The Division of Community Services reported that the parole population has decreased, and as of July 1980 stood at 1,657. At that time, Colorado was supervising 807 Colorado parolees and 850 parolees from other states. Colorado also supervises probationers from other states, while it in turn sends parole cases and probationers to other states. Though there has been a lower number of parole cases, the workload in handling those cases has expanded greatly, according to the division. In addition, parole officers are now responsible for locating escapees from community centers. The division informed the committee that four parole officer positions have been eliminated by funding cuts, but parole agents are burdened with increased responsibility. The committee acknowledged that if the parole population reflects higher risk clients, parole services can ill afford a reduction in parole officer positions.

Data regarding the funding for purchase of placement services, the number of escapes from community centers, the inmate population in community placement and in the honor camps, and the parole population are contained in Appendix G.

Supplemental Requests -- 1981 Session

At its last meeting, the committee requested an itemization of the supplemental appropriations which the department will request during the 1981 legislative session. Subsequent to the meeting, the department forwarded to the committee the following list of 1980-1981 supplemental requests. These supplementals have been approved by the Governor and the Office of State Planning and Budgeting. The department indicated that there are still some issues outstanding, such as the mental and medical health services plan for the correctional system, which when resolved will generate additional supplemental demands.

Utilities (all agencies).....	\$ 271,000
Base Personnel Services (all agencies).....	348,000
Purchase of Medical Services from C.S.H. (Pen & BVCF).....	128,000
13.0 FTE (New Max).....	126,000

Colorado Springs Office Rent.....	16,000
Purchase of Service - Laundry.....	48,000
Community Services - Medical Costs.....	20,000
Operating Costs (BVCF, Golden and Rifle).....	22,000
4.1 FTE (Boiler House, New Max).....	45,000
Early Opening of New Max (per Long Bill footnote).....	249,000
3.0 FTE (Golden expansion to 100 ADA).....	49,000
22.0 FTE (Operation of Cellhouse #3).....	260,000
Renovation of Cellhouse #3 to accommodate Diagnostic.....	240,000
Correctional Industries programs for New Max & New Close....	<u>500,000</u>
TOTAL	\$2,322,000
General Fund	\$2,082,000
Capital Construction Fund	240,000

Department of Corrections FY 1981-1982 Budget

At the last meeting, the Department of Corrections presented a summary of its fiscal year 1981-1982 budget request. The general fund budget request totals \$35.2 million, up from \$28.6 million appropriated in fiscal year 1980-1981. The budget request includes 63.5 new FTE positions, while approximately \$3 million is earmarked for capital construction. Dr. J. Ricketts, Executive Director of the Department of Corrections, cited the following major needs addressed by the budget: improving management capacity, especially in planning and budgeting; receiving support for staff training, in response to the loss of LEAA funding; increasing the supervisory staffing at all minimum security facilities; increasing community contract placement funds by ten percent to match inflation; and establishing financial stability in correctional industries. The complete summary is included in Appendix H.

COLORADO GENERAL ASSEMBLY

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Chairman

REP. JOHN G. HAMLIN
Vice Chairman

STAFF

LYLE C. KYLE
Director

DAVID F. MORRISSEY
Assistant Director



LEGISLATIVE COUNCIL

ROOM 46 STATE CAPITOL
DENVER, COLORADO 80203

839-3521

AREA CODE 303

August 8, 1980

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REP. PHILLIP MASSARI

The Honorable Richard D. Lamm
Governor
State of Colorado
136 State Capitol Building
Denver, CO 80203

Dear Governor Lamm:

The 1980 Joint Review Committee on Corrections, created by Section 17-1-110, C.R.S. 1973, has continued to monitor and review progress in the various capital construction projects within the Department of Corrections. At both the June 17 and July 23 meetings, the Committee was informed that there will be shortfalls in the funding of the close security project, the dorm conversion project, and the inmate services building project. The Committee was originally informed that when the funds for such projects were exhausted, the projects would be stopped. Emphasizing the necessity of completing those projects in time for the scheduled occupancy dates, the Committee has discussed various methods by which those projects can be completed. It was suggested by the Department of Corrections that it may be possible to transfer sufficient reversion money to enable the projects to be completed. The Committee discussed whether it was possible to use reversion money for necessary transactions between the departments, and other alternative approaches.

The Committee understands that the Department of Corrections is exploring the possibility of using reversion money for completion of the projects. Because of the Committee's continuing responsibility to oversee and review progress in the construction projects, the Committee requests that your office inform the Committee as to the advisability of using reversion money for such purposes and the amount of funds that will be necessary to complete the projects.

The Honorable Richard D. Lamm
August 8, 1980
Page 2

The Committee's interest is to be kept advised on various efforts being undertaken to accomplish the purposes of the various construction projects, and your cooperation in this matter will be appreciated by the Committee.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Bill Becker", followed by a smaller, less legible signature or initials.

Representative Bill Becker,
Chairman
Committee on Corrections

BB/skj

STATE OF COLORADO

EXECUTIVE CHAMBERS

136 State Capitol
Denver, Colorado 80203
Phone (303) 839-2471



Richard D. Lamm,
Governor

August 27, 1980

Representative Bill Becker, Chairman
Joint Review Committee on Corrections
Colorado General Assembly
State Capitol Building
Denver, Colorado 80203

Dear Representative Becker:

Thank you for your letter of August 8, 1980, indicating the committee's support for our efforts to insure the timely completion of various construction projects within the Department of Corrections, and requesting certain information on the funds required to ensure timely completion.

I am happy to provide you with the requested information. I also would like to take this opportunity to inform the Joint Review Committee on Corrections of administration initiatives which we have taken recently in response to several major corrections issues and to request your continued cooperation especially at this juncture. The Department of Corrections has done a good job recently in putting inmates to work and, even more importantly, in avoiding the kind of inmate unrest that has afflicted correctional institutions in other states. However, the next twelve months is a particularly sensitive time as we move into new facilities and wrestle with a potential prison population problem. Continued cooperation between the legislative and executive branches will go far in helping us meet these challenges.

Toward the end of fiscal year 1979-80, we faced several potential problems involving the Department of Corrections:

1. New costs were necessary to ensure the timely completion and opening of several important construction projects, including New Max/New Close, the dormitory conversion at Fremont Correctional Facility, renovation of FCF kitchen to serve New Max and New Close as well as medium security, and full renovation of the 100 beds at Camp George West in Golden as authorized by the legislature.
2. The U.S. District Court ordered the State to develop and implement a Health Plan for inmates at Old Max, with the potential for appointment by the court of a special master to take control of

prison health programs if an acceptable health plan was not developed and implemented quickly.

3. The continued cash deficit in Correctional Industries threatened to shut down numerous industries operations, throwing many inmates out of work and back into the idleness of their cells, as well as curtailing services to the Department.
4. We moved closer to a serious bed shortage within the Department of Corrections facilities and projected prison population increases into the 1980's indicated a need to immediately begin planning for a new facility.
5. Anticipated staff and program problems at New Max and New Close, such as boiler room staffing, work opportunities for inmates, and laundry services, threatened the smooth transition to the new facilities.

The Committee on Corrections and other legislative committees have been briefed on most, if not all of these matters in the past. However, we only recently have made final decisions on actions to be taken to solve these problems..

We have taken the following administrative steps toward solution of these problems:

1. I created a Management Support Team for the Department of Corrections to assist the Executive Director in development of a plan for the transition into the new facilities, Correctional Industries cash flow problems, and the Ramos-related Health Plan. We drew together top managers from the Departments of Administration, Health, Institutions and Labor and Employment, as well as OSPB for this effort.
2. Significant organizational changes were made within the Department of Corrections, including the creation and filling of the following new positions:
 - a. Deputy Director - John Perko
 - b. Departmental Comptroller - George Delaney
 - c. Director of Health Services - Dr. Dennis Kleinsasser
3. Dr. Ricketts created a Transition Team within the Department to carry out the Transition Plan for the move into the new facilities.
4. A health plan for Old Max was approved by Judge Kane, meeting a major legal requirement of the Ramos lawsuit. The vast majority of Health Plan requirements will be met within existing appropriations,

while some will require additional appropriations.

5. Construction plans for renovation of the FCF kitchen were modified to ensure timely completion in order to avoid a delay in occupancy of New Max and New Close.

6. Occupancy of New Max will begin December 22, 1980, and the target date for New Close is January 26, 1981 for beginning the occupancy process.

7. Construction at New Max has been closely monitored to ensure timely completion of the facilities, and we have provided sufficient funds to ensure its availability for occupancy before the beginning of calendar year 1981.

8. The construction plans at New Close have been revised and additional funds have been provided so that it can be completed early in 1981.

9. The Department has developed and is now implementing a savings plan for Correctional Industries which is projected to cut the CI deficit by a significant amount. The plan includes employee layoffs, inventory reductions, and other significant measures.

10. In order to have available a sufficient number of secure beds for the anticipated prison population increase beginning in 1981, we have taken the following measures:

a. We have provided sufficient funds for the renovation of an additional 30 beds at the Golden facility.

b. As a temporary measure for handling the immediate bed shortage, we are planning to keep Cellhouse 3 open after the movement of inmates to New Max and New Close, and to transfer the diagnostic function to Cellhouse 3, while converting the present Diagnostic Unit to housing purposes, providing an additional 118 beds temporarily for medium security housing needs. This plan will require a supplemental appropriation to avoid management problems or difficulties with the federal courts. Moreover, we are committed to closing Cellhouses 1 and 7 and removing cells from the two cellhouses to ensure that they cannot be used for housing inmates in the future.

d. We are planning to utilize Building 26 at the Colorado State Hospital for inmates with serious mental health treatment needs. This will be based upon expected inmate flow rates and will satisfy an important element of the Ramos Health Plan, as well as enable us to respond to the present crisis in treatment of mentally ill inmates. The facility also will help ease the bed shortage problem. A supplemental appropriation will be necessary for program staff, but no additional building renovation is

required.

e. We are developing a contingency plan for short-term utilization of Federal Bureau of Prisons facilities as may be necessary for any population problems which we cannot meet under the options outlined above. With legislative cooperation, we will be able to increase the Department's secure bed capacity by approximately 180 beds, compared to the projected bed shortage of 222 in the first quarter of 1981.

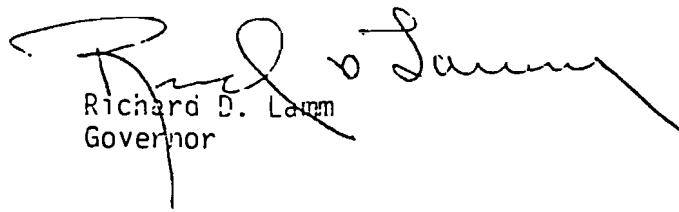
f. In addition to these short-term options, we are presently studying long-term options for increasing the capacity of the Department of Corrections. We have prepared a workplan to evaluate numerous options, ranging from community corrections to a new medium security facility. We intend to make our recommendations to the General Assembly at the beginning of the 1981 session, and we plan to involve the Committee on Corrections and others in this process.

Funding for these decisions has been a major issue to resolve. However, we have been able to develop an adequate funding program through a combination of executive transfers, plans to request supplemental appropriations for FY 80-81, and anticipated budget requests for FY 81-82. We have utilized executive transfers only to the extent permissible under applicable requirements and only after advice from OSPB, Department of Administration, and the Attorney General. Attached is a summary of the financing plan.

As you can see, we have had to take some extraordinary steps quickly in order to avert a major series of problems in the Department of Corrections. We have utilized our present authority as fully as possible. We feel confident that we have successfully met the challenge to the extent that we can. We now must rely on legislative action to enable us to complete the package. We solicit the support of your committee and others in this endeavor, just as you have cooperated so well on these kinds of issues in the past.

I have asked Dr. Ricketts and his staff to be available to provide you with a fuller, more complete explanation and discussion on each of the issues summarized here. Please be assured that we welcome your input as we continue to address corrections issues.

Sincerely,



Richard D. Lamm
Governor

Enclosure

cc: Senator Fred E. Anderson
Senator Regis Groff
Representative Robert F. Burford
Representative Bob Leon Kirscht

APPENDIX B

State of Colorado

EXECUTIVE CHAMBERS

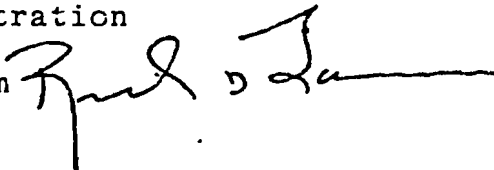
136 State Capitol
Denver
80203

RICHARD D. LAMM
Governor

839-2471

MEMORANDUM

TO: David L. Foote, Executive Director
Office of State Planning and Budgeting
Brad Leonard, State Budget Director
Office of State Planning and Budgeting
Lee White, Executive Director
Department of Administration
Dan Whittemore, State Controller
Department of Administration

FROM: Governor Richard D. Lamm 

DATE: August 28, 1980

RE: Transfers to Department of Corrections

I hereby authorize the following transfers to meet extraordinary needs arising out of funding shortfalls in the Department of Corrections for both the capital construction and the operating budgets:

1. Transfer \$150,000 to the Department of Corrections "Renovation and Construction for a 100 bed minimum security facility at Camp George West" project authorized in S.B. 525 of the 1979 General Assembly. Current funding for this project will not permit the completion of 100 beds as originally authorized by the General Assembly. The transfer will enable the number of beds at Camp George West to increase from 70 to 100 and thus help meet projected Corrections inmate levels.

David L. Foote, Brad Leonard,
Lee White, Dan Whittemore

August 28, 1980

Page Two

2. Transfer \$1,239,000 to the Department of Corrections Close Security Project. These funds are required to meet projected funding shortfalls for that project and ensure that the project is completed in a timely fashion.
3. Transfer \$50,000 to the new maximum security capital construction project to meet painting costs of the new facility.
4. Transfer \$66,000 to the Adult Services line item to meet additional costs associated with both the New Max and Close Security Capital Construction projects.
5. Transfer \$970,000 to the Correctional Industries general fund subsidy line item to meet losses incurred by Correctional Industries for both construction (\$120,000 for dorm conversion and \$40,000 for the inmate services building at Medium Security) and other projects.

The funds to be transferred are to be obtained from the following line items:

	<u>Estimated Availability</u>
Aid-to-the-Needy Disabled Department of Social Services	\$700,000
Community Centered Boards, Regular Program Division of Developmental Disabilities Department of Institutions	\$500,000
Department of Education Low Income State Equalization	\$300,000
Increased Enrollments -- State Equalization	\$700,000
Emeritus Retirement -- Public Teachers	\$ 52,000
Statewide: Utilities Excess Funds Net After Implementation of Executive Order	\$150,000
CU - Boulder (ADP Funds)	\$ 70,000
Controller's Non-Operating PERA Accounts State Employees	\$ 99,000
Public Employees	\$ 52,000
Other Miscellaneous Reversions	\$200,000
TOTAL	<u>\$2,823,000</u>

David L. Foote, Brad Leonard,
Lee White, Dan Whittemore
August 28, 1980

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This list of items is in excess of the \$2,475,000 authorized for transfer to the Department of Corrections in order to allow for possible changes to estimated availability during final closing. Other reversions may be called on as required should any of these items not reach expected levels.

In any case that is appropriate, I also instruct both the Budget Director and the Controller to provide for the roll forward of funds made available to the Department of Corrections under the provisions of this authorization.

COMMITTEE ON LEGAL SERVICES

The State of Colorado

DIRECTOR
James C. Wilson, Jr.

LEGISLATIVE DRAFTING OFFICE

30 STATE CAPITOL
DENVER, COLORADO 80203
TELEPHONE: 303-839-2045

October 2, 1980

MEMORANDUM

TO: Senator Ralph Cole and Representative Ron Strahle

FROM: Mike Risner, Legislative Drafting Office

RE: Analysis of Ramos v. Lamm

In 1977, Fidel Ramos filed a pro se civil rights suit under 42 U.S.C. 1983 against the defendants challenging as unconstitutional his status as a "transitional worker" at Old Max and his living conditions at that facility. In early 1978 the National Prison Project and the ACLU appeared on behalf of Ramos and filed an amended complaint (a class action) alleging that the "totality of conditions" at Old Max violated various constitutional rights of the inmates. The amended complaint asked only for declaratory and injunctive relief along with costs, expenses, and attorney fees. The class definition was amended to include all persons who presently are or who may be in the future incarcerated in the maximum security facility or the new close or new Max facilities.

After a five-week trial, the district court ruled in favor of the plaintiffs from the bench and entered certain emergency orders pertaining to medical care. The district court subsequently filed a memorandum opinion and order supplementing the bench ruling and detailing its findings of violations of the plaintiff's rights.

On appeal, the State argued that the trial court erred (1) in refusing to abstain from exercising its jurisdiction in this case; (2) in failing to "apply the correct constitutional standard in making its findings that the totality of conditions at . . . (Old Max) violated the plaintiff class' eighth amendment rights;" (3) in finding a constitutional violation because the evidence, measured under the correct constitutional standard, was insufficient to support such findings; and (4) in choosing an appropriate remedy.

1. Abstention. The Court of Appeals stated that while they were aware of the delicate role of the federal courts in matters involving the administration, control, and maintenance by the states of their penal systems, they would not agree with the

state's argument that the district court abused its discretion. The Court of Appeals stated that substantial constitutional issues were involved in the case and adopted the view that it is the duty of the federal courts "to guard, enforce, and protect every right granted or secured by the Constitution of the United States."

2. Constitutional Standard. In this argument, in which the General Assembly joined as amicus, the state argued that the district court failed to apply the correct constitutional standard in assessing the claims of the plaintiffs. This is essentially an argument between what has been styled the Battle standard and the Newman standard.

The Battle standard arises out of a decision of the Tenth Circuit itself and holds that the Eighth Amendment is intended to "protect and safeguard an inmate from an environment where degeneration is probable and self-improvement unlikely because of the conditions existing which inflict needless suffering, whether physical or mental." The plaintiffs relied a great deal on this language to support their arguments and to some extent the district court also relied upon this language. The Newman standard, out of the Fifth Circuit, holds that a state's obligation under the Eighth Amendment is satisfied if it furnishes its prisoners with reasonably adequate food, clothing, shelter, sanitation, medical care, and personal safety.

While it certainly could be more clear, it is suggested that the Court of Appeals has now adopted the Newman standard. The court stated that it saw no conflict between Newman and Battle, but concluded that the "core areas" in any Eighth Amendment claim were those enunciated in Newman; namely, shelter, sanitation, food, clothing, personal safety, and medical care. Even so, the court held that the district court did not apply an improper constitutional standard and went on to examine the district court's findings concerning the conditions of confinement with a view toward the sufficiency of the evidence.

3. Sufficiency of the Evidence. After stating that the district court had made findings of fact in the "core areas" and that such findings would not be disturbed unless clearly erroneous, the court proceeded to an examination of the findings of fact.

a. Shelter and Sanitation. The Court sustained the district court's findings and conclusions that the conditions in which inmates are confined at Old Max are "grossly inadequate and constitutionally impermissible."

b. Food. The Court sustained the district court's findings and conclusion that the conditions in the food services areas at Old Max are "grossly inadequate and constitutionally impermissible."

c. Personal Safety. The Court upheld the district court's findings and conclusion that the state failed to reasonably

protect inmates from constant threats of violence and assaults and that this failed the inmate's rights under the Eighth Amendment.

d. Health Care. Again, the district court was sustained in its conclusion that the state unconstitutionally denied inmates access to reasonably adequate health care. (This portion of the district court's order was not stayed pending appeal.)

e. Restrictions on Visitation. The district court found that state regulations in this area were overbroad, unrelated to legitimate penological purposes, and an exaggerated and excessive response to concerns for prison safety. The Court of Appeals, however, concluded that the regulations were not unreasonable and set aside the district court's ruling.

f. Mail. The Court of Appeals affirmed the district court: No mail in other than English is unconstitutional; no mail which would cause severe psychiatric disturbance is unconstitutional when there is no competent staff to make such a decision; no clarity when outgoing privileged mail may be opened; invalid restrictive definition of legal mail.

g. Access to Courts. The Court of Appeals sustained the district court's findings and conclusion that the state denied meaningful access to the courts in violation of the Constitution.

In order to remedy these violations, the district court ordered Old Max to be closed, but the order was temporarily stayed on the condition that the state present a plan for relief which was to further five principles: Productive activity, motility, health, integrity and safety, and coherence. The Court of Appeals, however, after sustaining much of what the district court had done, stated that events had moved forward, that new measures had been taken, and that the remedial order should be reconsidered after further proceedings in light of changed conditions and its opinion. The Court ordered the district court to consider: The present status of the new facilities; specific plans for transfer and housing in the new facilities; commitments for enlarged staff; and actual progress made in these areas.

Conclusion of the Court

In sum, we hold: (1) that the district court did not err or abuse its discretion in refusing to abstain from deciding the merits of this case; (2) that the district court's findings were not in error as to Eighth Amendment violations at Old Max in the areas of shelter, sanitation, food, safety, and medical care and in the finding of a violation of the inmates' constitutional right of access to the courts, due to the inadequate law library facilities and the restricted access permitted to them; (3) that the provisions of the district court's remedial order on motility, classification, and idleness, are vacated, as provided in Part III A, supra; (4) that the findings and judgement holding unconstitutional the prison's visitation regulations and policies

are vacated; (5) that the ruling holding invalid and unenforcable four of the restrictions on inmates' correspondence was not in error and is sustained; and (6) that the remedial order is vacated and the cause remanded for further proceedings and reconsideration as provided above, except with respect to the portions of the order on health care, which shall remain in effect until the district court's reconsideration and entry of any new order thereon.

APPENDIX D

INMATE POPULATION PROJECTIONS

Office of Information Systems
Department of Corrections

As with other recent projections, we have used a statistical projection model which is driven by several key assumptions about future events. Our "most likely" set of assumptions are as follows:

1. Colorado's unemployment rate will increase to 5.0% by December, 1981.
2. The average length of incarceration for offenders now being received will be 28.5 months.
3. A total of 3.7% of all commitments will have consecutive sentences.
4. Presumptive sentences will average 103% of the mid-point of the presumptive ranges.
5. No significant legislative, judicial, or executive changes in criminal law or policy will occur.

While we consider these to be "most likely", we have also prepared high and low projections based on different assumptions. The low set assumes that unemployment will not go over 4.5%, that length of incarceration will be 27.9 months, that 1.6% of all commitments will have consecutive sentences, and that presumptive sentences will average 100% of the mid-point in each range. The high series assumes that unemployment will reach 5.5%, that the average length of incarceration will be 29.1 months, that 8.0% of all commitments will have consecutive sentences, and that presumptive sentences will average 105% of the mid-point in each range.

PROJECTED COMMITMENTS AND PRISON POPULATIONS 1980 - 1984

	Low Series		Most Likely		High Series	
	Commit- ments	Popu- lation	Commit- ments	Popu- lation	Commit- ments	Popu- lation
1980	1,239	2,688	1,239	2,704	1,281	2,746
1981	1,294	2,847	1,324	2,916	1,380	3,044
1982	1,299	2,974	1,354	3,101	1,407	3,285
1983	1,299	3,016	1,354	3,191	1,406	3,386
1984	1,299	3,020	1,353	3,214	1,405	3,408

Community Corrections
Subsidy Proposal

Table I

Long Bill Appropriations
for Community Corrections

	<u>FY 1978-79</u>	<u>FY 1979-80</u>	<u>FY 1980-81</u>	<u>%</u>
Diversion	\$ 835,825	\$1,043,900	\$1,195,083	43.0%
ADA	150	143	153	2.0%
Transitional	\$ 384,710	\$ 730,000	\$1,054,485	174.1%
ADA	68	100	135	98.5%
Non-Residential	\$ 258,000	\$ 238,000 ^{1/}	\$ 335,800	30.2%
TOTAL	<u>\$1,478,535</u>	<u>\$2,011,900</u>	<u>\$2,585,368</u>	<u>74.9%</u>
Average Daily Reimbursement Rate (Residential)	\$15.50	\$20.00	\$21.40	

^{1/}Funded in the supplemental bill.

Diversion programs divert potential inmates from Canon City or other department facilities by establishing programs in the local communities. Transitional programs remove inmates from Canon City or other department facilities and place them in similar community programs for the last three to six months of the sentence. The JBC has made the transitional programs their priority in the last three years because those programs have the most direct effect on reducing institutional populations. The relation between diversion programs and institutional populations is not as direct. A figure often used is that of the 153 ADA funded for diversion, only 50% might be true diversions from incarceration. The other 50% could be a more expensive form of probation.

The current method of funding diversion programs provides no incentive for local communities to start or pursue alternatives for incarceration. The potential ADA must be diverted before the state pays the daily per diem rate. Some states have adopted systems which offer the local community an incentive. The program outlined below has a fiscal incentive and could also prevent construction of a new correctional facility if administered properly.

Table II

Five Year New Commitments Trend

1978-79 Actual	1,133
1984. "most likely" projection	<u>1,354</u>
Growth	221

Diversion programs can counter this trend if fiscal incentives are provided to the local community.

Table III
County Commitment

	<u>FY 1978-79</u>	<u>85%</u>
Denver	289	246
Jefferson	114	97
El Paso	199	169
Arapahoe	70	60
Adams	54	46
Boulder	41	35
Larimer	31	26
Pueblo	59	50
Weld	48	41
Mesa	58	49
Ten Largest	963	819
Balance of State	170	202
Total	<u>1,133</u>	<u>1,021</u>

If fiscal incentives can reduce projected commitments to 1,021 and other variables remain constant, the need for a new facility is avoided.

The fiscal incentive would be offered to the ten most populous counties only as they make up 85% of current commitments. The dollar size of the program would be arbitrarily established between current appropriations and estimated costs of a new prison. Or it could be established at the estimated yearly operational costs of a new prison plus a flat amount tied to an amortization schedule of capital investment of \$22.0 million.

The amount portrayed here is arbitrarily selected at \$5.0 million. The money would be distributed by statutory formula such as percentage of population in the 20-24 age group, the at risk population.

Table IV

	<u>% Population Age Group 20-24</u>	<u>Incentive</u>
Denver	21.8%	\$1,090,000
Jefferson	11.1%	555,000
El Paso	16.7%	835,000
Arapahoe	9.3%	465,000
Adams	9.0%	450,000
Boulder	11.5%	575,000
Larimer	7.5%	375,000
Pueblo	5.5%	275,000
Weld	4.9%	245,000
Mesa	2.7%	135,000
	<u>100.0%</u>	<u>\$5,000,000</u>

Thus, the Department would negotiate with the ten most populous counties the number of commitments allowed and the level of fiscal incentive. Denver, for example, would limit their commitments to 246 and receive an incentive payment of \$1,090,000, roughly twice what they get now. If Denver exceeded the 246, they would be penalized \$25,000 for every commitment in excess of the negotiated number. There would be no strings attached to the money, only the requirement to hold commitments to a predetermined level. Thus, counties could use the funds to improve their local criminal justice system. The \$5 million represents a tripling of current appropriations to diversion and non-residential programs.

APPENDIX G

DEPARTMENT OF CORRECTIONS
DIVISION OF COMMUNITY SERVICES
POPULATION STATISTICS

POPULATION TYPE	July 1977	July 1978	July 1979	July 1980
Inmates in Community Placement	<u>56</u>	<u>92</u>	<u>120</u>	<u>175</u>
Inmates in Minimum Security Camps	<u>203</u>	<u>224</u>	<u>192</u>	<u>209</u>
Parolees (Domestic) (Interstate)	<u>2,188</u> (1,374) (814)	<u>2,109</u> (1,269) (840)	<u>2,038</u> (1,119) (919)	<u>1,657</u> (807) (850)
TOTAL POPULATION	<u>2,447</u>	<u>2,425</u>	<u>2,350</u>	<u>2,041</u>

NOTE:

Community Services Population Count as of October 31, 1980

Inmates in community placement: 199 On Grounds 32 Off Grounds

Inmates in Minimum Security Camps: 222

Parolees: 1,860

Domestic 911

Interstate 949

TOTAL 2,281

DEPARTMENT OF CORRECTIONS
DIVISION OF COMMUNITY SERVICES
PURCHASE OF PLACEMENT SERVICES
FY 1980 - 81

A. TRANSITIONAL PLACEMENTS: RESIDENTIAL

PROGRAM	COUNTY	ADA	ALLOCATION
1. EMERSON HOUSE	DENVER	20	\$ 146,000
2. INDEPENDENCE HOUSE	DENVER	8	73,000
3. WILLIAMS STREET	DENVER	15	114,975
4. FREEDOM MINISTRIES	DENVER	5	45,625
5. COMMUNITY CORRECTIONS	LARIMER	5	45,625
6. EMPATHY HOUSE	BOULDER	10	83,950
7. LOFT HOUSE	ADAMS	10	83,950
8. CENTER FOR CREATIVE LIVING	JEFFERSON	7	63,875
9. COMMUNITY RESPONSIBILITY CENTER	JEFFERSON	8	73,000
10. COMMUNITY CORRECTIONS	EL PASO	12	100,740
11. OUR HOUSE	PUEBLO	15	114,975
12. HILLTOP HOUSE	LA PLATA	1	9,125
13. COMMUNITY CORRECTIONS	MESA	8	73,000
	TOTALS	124	\$1,027,840

B. DIVERSION PLACEMENTS: RESIDENTIAL

PROGRAM	COUNTY	ADA	ALLOCATION
1. DENVER ANTI-CRIME COUNCIL	DENVER	*55.9	\$ 531,148
2. COMMUNITY CORRECTIONS	LARIMER	7.7	70,299
3. COMMUNITY CORRECTIONS	BOULDER	7.7	70,299
4. LOFT HOUSE	ADAMS	13.9	117,165
5. COMMUNITY RESPONSIBILITY CENTER	JEFFERSON	13.9	117,165
6. COMMUNITY CORRECTIONS	EL PASO	13.9	117,165
7. HILLTOP HOUSE	LA PLATA	4.2	39,055
8. COMMUNITY CORRECTIONS	MESA	8.5	78,110
	TOTALS	125.7	\$1,140,406

C. NON-RESIDENTIAL PLACEMENTS

PROGRAM	COUNTY	ADA	ALLOCATION
1. DENVER ANTI-CRIME COUNCIL	DENVER	21.3	\$ 78,000
2. OASIS OF CHANDALA	DENVER	24.3	142,000
3. COMMUNITY CORRECTIONS	LARIMER	27.4	100,000
	TOTALS	73.0	\$ 320,000

D. SUMMARY

TYPE OF PLACEMENT	ADA	ALLOCATION
1. TRANSITION RESIDENTIAL PLACEMENTS	124.0	\$1,027,840
2. DIVERSION RESIDENTIAL PLACEMENTS	125.7	1,140,406
3. NON-RESIDENTIAL PLACEMENTS	73.0	320,000
TOTALS	322.7	\$2,488,246

E. REIMBURSEMENT RATES

1. RESIDENTIAL PLACEMENTS: SLIDING SCALE

ADA	RATE PER DAY
1 THROUGH 9 RESIDENTS	\$ 25.00
10 THROUGH 14 RESIDENTS	23.00
15 THROUGH 19 RESIDENTS	21.00
20 OR MORE RESIDENTS	20.00

2. NON-RESIDENTIAL PLACEMENTS:

PROGRAM	COUNTY	RATE PER DAY
1. DENVER ANTI-CRIME COUNCIL	DENVER	\$ 10.00
2. OASIS OF CHANDALA	DENVER	16.00
3. COMMUNITY CORRECTIONS	LARIMER	10.00

* DIVERSION PLACEMENTS: RESIDENTIAL

Denver Anti-Crime Council to be reimbursed at an average rate, not to exceed \$26.00, per day. All other programs to be reimbursed at sliding scale rates.

DEPARTMENT OF CORRECTIONS
DIVISION OF COMMUNITY SERVICES

COMMUNITY PLACEMENT ADA REPORT FOR FY 1980
(July 1979 through May 1980)

	<u>FACILITY</u>	<u>JUL.</u>	<u>AUG.</u>	<u>SEP.</u>	<u>OCT.</u>	<u>NOV.</u>	<u>DEC.</u>	<u>JAN.</u>	<u>FEB.</u>	<u>MAR.</u>	<u>APR.</u>	<u>MAY</u>	<u>FY - DATE</u>
	BAIL'S HALL	34	31	27	35	37	37	35	37	38	34	35	35
	FORT LOGAN	22	21	20	22	20	24	22	20	22	21	23	21
-29-	GRAND JUNCTION	12	11	13	*--	--	--	--	--	--	--	--	3
	CONTRACT	<u>52</u>	<u>49</u>	<u>55</u>	<u>70</u>	<u>72</u>	<u>91</u>	<u>96</u>	<u>118</u>	<u>121</u>	<u>113</u>	<u>120</u>	<u>87</u>
	ON-GROUNDS	120	112	115	127	129	152	153	175	181	168	178	146
	OFF-GROUNDS	<u>7</u>	<u>13</u>	<u>15</u>	<u>19</u>	<u>23</u>	<u>13</u>	<u>20</u>	<u>23</u>	<u>18</u>	<u>16</u>	<u>19</u>	<u>17</u>
	TOTAL	<u>127</u>	<u>125</u>	<u>130</u>	<u>146</u>	<u>152</u>	<u>165</u>	<u>173</u>	<u>198</u>	<u>199</u>	<u>184</u>	<u>197</u>	<u>163</u>

*Grand Junction Facility transferred from DOC to Mesa County operation effective 10/01/79

DEPARTMENT OF CORRECTIONS
DIVISION OF COMMUNITY SERVICES
ESCAPES FROM COMMUNITY PLACEMENT

	1979			1980		
	ADA	ESCAPES	ESCAPES PER 100	ADA	ESCAPES	ESCAPES PER 100
JAN	114	3	2.6	153	6	3.9
FEB	118	2	1.7	175	2	1.1
MAR	122	5	4.1	181	6	3.3
APR	137	2	1.4	168	9	5.4
MAY	135	2	1.5	178	11	6.2
JUN	122	5	4.1	186	14	7.5
JUL	120	6	5.0	175	7	4.0
AUG	112	3	2.7			
SEP	114	8	7.0			
OCT	127	9	7.1			
NOV	129	7	5.4			
DEC	152	7	4.6			
TOTAL	125	56	3.9	174	55	4.5

NOTE:

- ADA increased from 125 in 1979 to 174 during first seven months of 1980
- 55 escapes from January 1 to July 31, compared to 59 escapes for entire year of 1979.
- First seven months of 1980 reflect escape rate of 4.5 per 100 inmates in placement compared to 3.9 escapes per 100 inmates in placement for entire year of 1979

DEPARTMENT OF CORRECTIONS
DIVISION OF COMMUNITY SERVICES

ESCAPES FROM MINIMUM SECURITY CAMPS
(COLORADO CORRECTIONAL CENTER, DELTA, RIFLE)

	1979			1980		
	ADA	ESCAPES	ESCAPES PER 100	ADA	ESCAPES	ESCAPES PER 100
JAN	195	3	1.5	187	2	1.7
FEB	189	0	-0-	195	4	2.5
MAR	184	1	.5	198	2	1.0
APR	186	2	1.0	199	3	1.5
MAY	191	3	1.6	205	1	.5
JUN	192	4	2.1	210	2	1.0
JUL	192	1	.5	209	8	3.8
AUG	188	3	1.6			
SEP	181	1	.6			
OCT	178	2	1.1			
NOV	190	1	.5			
DEC	175	0	-0-			
TOTAL	187	21	.9	200	22	1.6

NOTE:

- ADA increased from 187 in 1979 to 200 during first seven months of 1980
- 22 escapes from January 1 to July 31, compared to 21 escapes for entire year of 1979
- First seven months of 1980 reflect escape rate of 1.6 escapes per 100 inmates in residence, compared to .9 escapes per 100 inmates in residence for entire year of 1979

**Colorado Department of Corrections**

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Colorado Springs, Colorado 80907
Telephone: (303) 598-0729



Richard D. Lamm
Governor

James G. Ricketts, Ph.D.
Executive Director

DEPARTMENT OF CORRECTIONS**1981-82 Budget Request
Summary**

The Department's 1981-82 budget request is driven by several major issues. The request addresses these issues as well as providing continuation costs for Departmental operations. These major budget issues are:

1. Improving the management capacity in the Department in such critical areas as planning, budgeting, administration, and management information systems.
 2. Receiving full general fund support for staff training operations. This issue addresses the loss of LEAA funds in 1981-82. In addition, legislation to provide minimum training requirements for all Department staff.
 3. Improving the central support to operations in the Division of Adult Services in areas of classification, records management and security, coordination and review.
 4. Increasing the staffing in all minimum security facilities throughout the Department. The request will bring all minimum security facilities to a total staffing complement of 18.0 FTE. This will improve the security and safety of these facilities.
 5. Establishing financial stability in the Division of Correctional Industries through general fund support for the operations.
 6. Improving staffing in the institutions to provide improved program and security services. These include functions necessary for the operation of the corrections' complex in Canon City.
 7. Increasing community contract placement funds by 10% to cover inflationary costs for placements as well as a small increase in ADA.
 8. Improve Purchase of Services staffing in the critical areas of food services and maintenance, specifically boilerhouse operations.
-

The Department of Corrections' 1981-82 General Fund budget request totals \$35.2 million. This represents a \$6.6 million increase over the \$28.6 million appropriation for 1980-81 or a 23% increase. The request includes 63.5 FTE (new positions) for the Department. The Correctional Industries budget is cash funded and totals \$19.2 million for 1981-82. This represents a \$1.1 million increase over the 1980-81 appropriation of \$18.1 million. The new general fund FTE are as follows:

Executive Director's Office

- 1.0 Deputy Director
- 1.0 Planner

Central Office - Adult Services

- 1.0 Classification/Disciplinary Officer
- 1.0 Chief of Security
- 4.8 Clerical

Administrative Services

- 1.0 Department Budget Officer
- 1.0 ADP Programmer

Penitentiary

Fremont Correctional Facility

- 8.5 Correctional Officers - Housing

New Close Security

- 1.0 Correctional Officer - Security (Escort)

New Maximum Security

- 1.0 Correctional Specialist - Case management
- 1.7 Correctional Officer - Security (Front Entrance)
- 1.0 Clerical

Canon City Complex

- 5.1 Correctional Officers - Security (Checkpoint)
- 1.0 Correctional Specialist - Disciplinary Code Administrator
- 1.0 Correctional Technician - Tracking Dog Officer

Buena Vista Correctional Facility

- .4 Physician (Provides for one (1) full time position)
- 1.0 License Practical Nurse
- 1.0 Librarian
- 1.0 Correctional Officer - Transportation
- 1.0 PBX Operator

Industrial Training Center

- 7.0 Correctional Officers - Housing

Delta Correctional Facility

- 4.0 Correctional Officers - Housing

Rifle Correctional Facility

- 4.0 Correctional Officers - Housing

Golden (Colorado Correctional Center)

- 3.0 Correctional Technicians - Housing
- 1.0 Clerical

Purchase of Services

6.0 Food Service Leadworkers

- 2.0 - ITC/Diagnostic/Old Max
- 1.0 - Buena Vista
- 1.0 - Delta
- 1.0 - Rifle
- 1.0 - Golden

3.0 Maintenance Leadworkers

- 1.0 - Canon City (Communications)
- 1.0 - Buena Vista (Boilerhouse)
- 1.0 - Golden

Other New Requests

Adult Services

- \$96,000 - Records Microfilming (Phase I)

Administrative Services

- \$150,000 - Staff Training

Penitentiary

- \$70,000 - Officer Uniform Issue and Allowance
- \$40,000 - Inmate Hygiene
- \$176,000 - New Capital Outlay

Delta

- \$5,000 - Contract Drug and Alcohol Service

Rifle

- \$5,000 - Contract Mental Health Service
- \$5,000 - Contract Drug and Alcohol Service

Community Services

- \$39,000 - Capital Outlay (Vehicle Replacement)

Correctional Industries

- \$988,000 - General Fund support to cover C.I. operations including training and capitalization

In addition, requests in the Medical and Mental Health programs at Canon City are under consideration. Final decisions are pending review of the revised Ramos court case plan being prepared by the Department. A new tower and staff at Close Security is also under study for possible inclusion in the budget.

1980-81 Supplementals

The Department has received approval from the Governor to request supplementals totalling \$2.1 million in 1980-81. These supplementals include new items and positions as well as coverage of appropriation shortages in the base. These supplementals are extended into the 1981-82 request as continuation costs. The new items in the supplemental are:

Purchase of Services

4.0 Maintenance Leadworker - New Max Boilerhouse

Old Max/Diagnsotic

22.0 FTE - Old Max and Diagnostic Center

7.0 Correctional Officer - Housing CH 3

5.0 Correctional Technician - Housing CH 3

2.0 Clerical - Group Living

1.0 Correctional Specialist - Recreation

5.0 Correctional Supervisor - Facility Supervisor

1.0 Clerical - Security

1.0 Correctional Specialist - Case Management

New Max

13.0 FTE - Security

3.0 Correctional Officers - Supply Receiving Dock Area

5.0 Correctional Officer - Receiving Control Center

3.4 Correctional Officers - Lower Master Control Center

1.3 Correctional Officer - Correctional Industries Control
Center

Correctional Industries

\$500,000 - establish work programs at New Max and New Close.

Golden (Colorado Correctional Center)

3.0 FTE - Correctional Officers - Housing

Capital Construction

The Department's 1981-82 Budget request includes the following capital construction projects:

1. Infirmary - Canon City	\$2,355,000
2. Checkpoint & Visitors Center - Canon City	200,000
3. Checkpoint & Visitors Center Parking & Yard - Canon City	64,000
4. Back-up Generator - Fremont Correctional Facility	80,000
5. Central Receiving Station - Close and Fremont	180,000
6. New Perimeter Road - Close Security	80,000
7. Fence and Lagoons - New Max	20,000
8. Sewer line design & Engineering - New Max	30,000
9. New gas line - Golden (Colorado Correctional Center)	6,000
10. Install ceiling, rewire, and insulate Dorms - Delta	30,000
11. Install tile in showers - Rifle	5,000
Total	<u>\$3,050,000</u>

These are additional projects needed by the Department, but they are not requested at this time. These projects number 30 and total \$1,792,650. The request for a new 400 bed Medium Security facility is not included at this time pending further study on population projections.

#



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DEPARTMENT OF CORRECTIONS

Five Year Appropriation Report

This is a report of appropriations received by the Department of Corrections over the past five (5) years. The base year used is 1976-77 which was corrections' last year as a division within the Department of Institutions. The percentage figures indicate the percent increase over the previous year's appropriation. It should be noted that the 7% State expenditure limit went into effect with the 1977-78 appropriation.

1976-77 Appropriation

Total	\$ 20,083,410
General Fund	16,155,707
Cash	3,927,703
Capital Construction	1,062,737

1977-78 Appropriation

Total	\$ 34,295,432	(71%)
General Fund	20,265,285	(25%)
Cash	14,030,147	(25%)
Capital Construction	8,428,615	

1978-79 Appropriation

Total	\$ 37,312,012	(9%)
General Fund	21,689,481	(7%)
Cash	15,622,531	(11%)
Capital Construction	11,682,163	

1979-80 Appropriation

Total	\$ 37,614,106	(1%)
General Fund	22,789,196	(5%)
Cash	14,824,910	(-5%)
Capital Construction	66,112	

1980-81 Appropriation

Total	\$ 47,437,171	(26%)
General Fund	28,629,820	(26%)
Cash	18,807,351	(27%)
Capital Construction	391,360	

1981-82 Request

Total	\$ 54,915,056	(16%)
General Fund	35,207,548	(23%)
Cash	19,707,508	(5%)
Capital Construction	3,050,000	

LEGISLATIVE COUNCIL
COMMITTEE ON BUSINESS AFFAIRS AND LABOR

Members of the Committee

Sen. Joel M. Hefley,
Chairman
Rep. Steven Durham,
Vice-Chairman
Sen. Ken Clark
Sen. Martin Hatcher
Sen. Donald Sandoval
Sen. Robert Wham

Rep. Laura DeHerrera
Rep. Stephen Erickson
Rep. Carl Gustafson*
Rep. William Hilsmeier
Rep. Miller Hudson
Rep. Stanley Johnson
Rep. Ruth Prendergast**
Rep. Claire Traylor

Council Staff

David Hite
Principal Analyst

Tina Walls
Research Associate

* Retired September 15, 1980.
** Appointed September 26, 1980.

The Interim Committee on Business Affairs and Labor was directed by the Legislative Council to conduct three studies pursuant to Senate Joint Resolution 26:

- the effects of the changing energy supply on the Colorado tourism economy, specifically the plight of small operators, and on the motion picture industry and Colorado's ability to attract production;
- the problems created by local, state, and federal regulations for businesses; and
- the hearing processes of the Public Utilities Commission, and the rate structures used for residential, commercial, and industrial customers by public utilities.

At its June 30, 1980 meeting the Legislative Council added a study of a proposed procurement code for the state to the committee's agenda.

Tourism

The director of the state's Division of Commerce and Industry reported that the Colorado tourism industry is faced with problems caused by inflation, high gasoline costs, the "stay-at-home" movement, and competition for the travel dollar from other states. To cope with these problems, a comprehensive "model tourism development plan" was presented by the division.

The plan calls for the strengthening of existing programs and the initiation of new projects. The major components of the plan include the following: increasing advertising expenditures; establishing more tourist information centers throughout the state; increasing the promotion of Colorado in foreign markets; and initiating a new consumer demographics (tourist profile) study.

The specifics of each component are:

1) Advertising -- according to the division, a ranking of 1979-80 tourism budgets for the six state Rocky Mountain area placed Colorado fifth in dollars spent. For 1980-81, the \$500,000 budgeted for Colorado includes \$280,000 to \$300,000 for magazine advertisements, \$160,000 for tourist brochures, and the balance for staff services. The advertising plan includes: a matching funds grant program for distribution of funds to governmental or private entities within the state's thirteen planning regions; increasing the level of funding for national advertising; and changing some job descriptions for division personnel.

2) Tourist information centers -- the model plan provides for a ten year \$2.5 million program for the construction of one center per year. The division reports that Colorado is one of the few states without state operated visitor information centers.

3) A tourist profile -- the last comprehensive tourist profile was completed in 1969 at a cost of \$120,000. The model plan calls for an expenditure of \$20,000 to attract grants from public and private foundations and other governmental agencies to update the previous tourist profile. The research would include an examination of tourism marketing, advertising effectiveness, vacation motivation, and assistance to local communities for local program planning and implementation.

A comparison of the budget for the current fiscal year and the 1979-80 fiscal year with the model shows the following:

<u>Activity</u>	(1) <u>FY 1979-80</u>	(2) <u>FY 1980-81</u>	(3) <u>Model</u>
Personnel services	\$ 405,329 (20.0 FTE)	\$ 313,160 (14.0 FTE)	\$ 333,000 (14.0 FTE)
Operating expenses	78,141	66,180	150,000
Travel/Subsistence	27,371	13,600	14,000
Printing of brochures	115,116	115,116	245,000
Advertising for tourism	500,000	500,000	1,171,000*
Travel development shows	3,750	3,750	10,000
Research	--	--	20,000
Total	\$1,129,707	\$1,011,806	\$1,943,000

Committee Recommendation

The committee makes no recommendation on the budget or, functions, of the state's tourism operation. The question that the committee could not resolve concerns what level of funding from state resources should be committed to the promotion of this single sector of the state's economy.

* Includes \$350,000 for matching funds for local tourism development; \$250,000 for information centers; \$50,000 for foreign promotion; \$16,000 for familiarization tours; \$15,000 for free publicity; and \$500,000 for national advertising.

Impact of Government Regulations on Business

Permits and Licenses

Among the issues of specific concern to the committee was the proliferation of licenses and permits required of businesses by various government agencies at the state level, and how to streamline, simplify, and, where possible, eliminate or combine licenses, permits, approvals, or certifications. As a first step in its study, the committee asked the directors of each executive department to supply a copy of each permit, license, approval, or certification issued by each state agency under their jurisdiction. In addition, information was requested on: the type of business regulated; whether the form is required by state or federal statute; any fees or charges to the applicant; the maximum length of determination time required to process the form; and the number of each of the forms approved during the 1979 calendar year. The committee also asked that each executive director make recommendations regarding the elimination, consolidation, or simplification of this function of state government.

In response to the committee's inquiry, agencies identified nearly 500 permits, licenses, approvals, or certifications authorized by state or federal law or regulation, and reported that in 1979 some four million forms were issued. It should be noted, however, that Department of Revenue port of entry clearance forms and port clearance cash receipts as well as Department of Revenue mileage and fuel permits accounted for 3.2 million of the four million forms issued for the year.

Only three departments responded to the question regarding the elimination, consolidation, or simplification of the issuance of permits and licenses. As a result of these responses and other inquiries by committee members the following bills are recommended by the committee.

Committee Recommendations

Electrical wiring certification -- Bill 5. Bill 5 clarifies the statutory responsibility for certifying the electrical wiring in mobile homes, recreational vehicles, and factory-built homes. Under the provisions of Sections 24-32-709, 24-32-715, and 24-32-904, C.R.S. 1973, as amended, the Division of Housing has the authority to certify and inspect the construction of factory-built homes, mobile homes, and recreational vehicles at the factory. Such certification verifies that the home or vehicle complies with applicable construction and safety standards, including electrical requirements. Likewise, the State Electrical Board, pursuant to Section 12-23-116 (2), C.R.S. 1973, has the authority to conduct electrical inspections of the same vehicles and homes at the factory. However, the board is also responsible for inspecting the electrical hookups at the site where such structures are placed. As a result of the overlapping authority for factory inspections, there has been a "gentlemen's" agreement between

the two agencies whereby the Division of Housing is the only agency which conducts such inspections at the manufacturer; and the State Electrical Board retains its responsibility for on-site inspections of electrical hookups. Bill 5 changes the statutes to reflect the present procedure.

Solicitor's certificates and debt collector registrations --
Bill 6. With the concurrence of the Collection Agency Board, the Department of Law suggested extending from one year to three years the period for which collection agency solicitor's certificates and debt collector registrations are valid. A collection agency solicitor contracts with businesses to collect outstanding debts; a debt collector requests payment of such unpaid bills. Approximately 600 debt collector registrations and 400 solicitor's certificates are issued for the first time or renewed each year. The initial and renewal costs are the same -- five dollars for a debt collector's registration and ten dollars for a solicitor's certificate. Annual revenues from both the initial issuance and renewal of such certificates and registrations is approximately \$7,000, while administrative costs are approximately \$600 per year.

Filing for a solicitor's certificate is not a licensing procedure, but merely a registration procedure which requires no determination to be made on the merits of the application. Since the application for such a certificate must be filed by a licensed collection agency, registration ensures a degree of control over who is conducting solicitations. If a solicitor obtains employment with a new agency, the solicitor must reapply for a certificate through his new employer. In contrast, debt collector registrations must be approved by the Collection Agency Board and may be invalidated by the board for violations at any time. The registered debt collector must report any changes in registration information within thirty days. In light of the pro forma aspects of solicitor certifications and the public safeguards contained in the statutory provisions on debt collectors, the Department of Law believes that such certificates and registrations should be valid for three years instead of one year. Such an extension would decrease the amount of unnecessary paperwork performed by the department and the businessmen. The Collection Agency Board agrees with the department on this proposal. The change would result in a savings to the department of fifty-three man hours and approximately \$450 per year, assuming the fee for three years is the same as the present one year fee.

Bill 6 extends the validity period of debt collector registrations and solicitor's certificates from one to three years. Certificate and registration fees are left at their present amounts, five and ten dollars, respectively. The committee decided to give the bill a broad title in order to allow the addition of similar changes affecting the procedures of other regulatory boards.

Information Assistance to Business

Early in 1980 the office of the Executive Director of the Department of Regulatory Agencies conducted research on the feasibility of a permit assistance program for Colorado. The purpose of the project was to determine the feasibility of modeling an assistance program which would identify unnecessary or duplicative permits or approvals, streamline the regulatory process, and evaluate the feasibility of locating a central information center for permits and approvals in the state. As a part of its research, the department identified permits and approvals which had to be obtained by five businesses: a supermarket, a small grocery store, a pesticide company, a pharmacy, and an electrical power generating plant.

A major finding of the study was that small businesses shoulder a disproportionate cost in dealing with governmental regulations. It was also reported to the committee that ninety-eight percent of all Colorado businesses employ fewer than 100 employees, and that nearly seventy percent of employed Colorado residents work for small businesses. The committee concludes that the establishment of a state permit assistance program may offer relief not only to the small business community but to others in the private sector as well.

Committee Recommendation

Establishment of an office of regulatory reform -- Bill 7. The committee recommends Bill 7 which provides for the establishment of an office of regulatory reform in the office of the Executive Director of the Department of Regulatory Agencies. As the legislative declaration notes, the office is created:

... to provide comprehensive business permit information to the public, to create a procedure to simplify and coordinate permit processing and review, and to make recommendations to eliminate unnecessary and duplicative regulation

The legislative declaration also provides that the program be directed toward commercial or nonprofit business projects and activities.

As a part of its duties, the office of regulatory reform is to report to the General Assembly on an annual basis concerning: the elimination of unnecessary permit requirements; consolidation of permit requirements; simplification of application procedures; expedition of agency reviews and approval procedures; and other improvements in the permitting process.

The bill contains an appropriation for \$95,159 for the establishment of the office and a staff of four employees. The office would be established July 1, 1981 and would be terminated on July 1, 1987, unless continued or reestablished by the General Assembly.

Product Liability

In 1977, House Bill 1536 was passed regarding product liability actions. A product liability action means any action brought against a manufacturer or seller of a product on account of personal injury, death, or property damage caused by the product. As introduced, House Bill 1536 included provisions for comparing the responsibility of the manufacturer, seller, and the user of a product in establishing the amount of damages to be awarded. The bill also provided time limitations within which an action could be brought against a seller or manufacturer of a product. However, House Bill 1536 passed without these provisions.

Though the current law on product liability actions does not provide for the consideration of comparative responsibility, it does provide that no product liability action can be brought against a seller of a product unless the seller is also the manufacturer of the product or the portion of the product in question. In addition, where jurisdiction cannot be obtained over a manufacturer, the manufacturer's principal distributor or seller can be considered the manufacturer of the product. Furthermore, the current law outlines specific presumptions, regarding the manufacturer's responsibility for a product prior to or at the time of sale, which can be considered in product liability actions. With regards to time limitations, the current law provides that all actions against a manufacturer or seller of a product are to be brought within three years after the claim for relief arises.

Committee Recommendations

Comparative responsibility and time limitations on product liability actions -- Bills 8 and 9. The committee recommends Bill 8 which provides that in a product liability action, the responsibility of the person suffering the harm and those causing the harm is to be compared in establishing the amount of damages to be awarded. The bill also sets forth methods by which the responsibility is to be compared.

The committee also recommends Bill 9. This bill provides that liability actions brought against the manufacturer and the seller of new equipment must be brought within three years after the claim for relief arises and cannot be brought after six years from the date the equipment was first sold or leased. An exception to these time limitations is expressed warranties provided by the manufacturer specifying longer time periods. Also, certain indemnity actions brought by a manufacturer or seller against a person who may be liable for all or a portion of a judgement rendered against a manufacturer or seller may be excepted.

Public Utilities Commission

During the interim, the committee examined a wide range of issues regarding the Colorado Public Utilities Commission's hearing procedure, rate setting process, jurisdiction, staffing patterns, and budget. Although a more comprehensive study of several issues is needed, the committee's recommendations address important concerns regarding the commission's jurisdiction and hearing procedure. Adoption of these recommendations should assist the commission and those entities regulated by the commission to more effectively meet the needs of Colorado residents.

Committee Recommendations

Suspension of Rate Request -- Bill 10. The statutes currently provide that when a regulated utility files a request for a new rate, the Public Utilities Commission may suspend such a request for a period not to exceed 210 days for the purpose of holding hearings on the request. The 210 day suspension period consists of a 120 day period to which an additional ninety days extension may be added if the commission, in its discretion, deems necessary.

After receiving testimony on this subject, the committee concluded that the commission has not used informed discretion in exercising its authority to hear a request for a tariff or schedule change but has instead, all too often, suspended the request for the full 210 days authorized by statute. Although the committee is aware of the increased commission workload and staffing problems, it concluded that the current law should be amended to provide that the commission must have reasonable cause to believe that such a hearing is required, and determine that the requested rate change is improper, before the 120 day suspension is made. In addition, the committee concluded that the commission may only suspend the request for an additional ninety days by separate order and only after just cause has been established. As an expression of legislative intent, the committee's bill will, if enacted, amend existing law to state that filings for rate changes should not be automatically regarded by the Public Utilities Commission as requiring suspension and a hearing.

Staying or Postponing a Decision of the Commission -- Bill 11. Under current provisions of the law, if an application is filed by a utility with the Public Utilities Commission for rehearing, reargument, or reconsideration of a decision, the decision is stayed or postponed for a period not to exceed thirty days. If no action is taken on the matter within the thirty day period the application is considered denied. Bill 11 proposes to amend this procedure by providing that an application would not automatically stay or postpone a decision unless the commission, upon a motion by the party seeking a stay or postponement or the commission on its own affirmative motion, orders a stay or postponement.

Franchise Rights -- Bill 12. Bill 12 proposes an amendment to the current law that applies to the construction of new, or the extension of existing, facilities by public utilities. The bill would allow public utilities to apply for a certificate of public convenience and necessity, a statement that conditions exist that requires or will require new construction or extension, without first proving that the utility has received all required permits and franchises from a local or public authority. Present law implies that a utility is to obtain all such permits prior to the issuance of a certificate from the Public Utilities Commission. Such a requirement leads to delays and higher construction costs for utilities.

Determining Just and Reasonable Rates -- Bill 13. The current law provides that when the Public Utilities Commission determines that a utility rate is insufficient, the commission is to determine a new "just, reasonable, or sufficient" rate. It is the current practice of the commission to consider several factors in arriving at a determination of what constitutes a "just, reasonable, or sufficient" rate. The recommended bill specifies criteria that the commission may use. These are: current, future, or past test periods or any reasonable combination thereof; construction work in progress; and any other like factors including attrition, which may affect the sufficiency of the rate.

Commission Approval of Securities -- Bill 14. The Public Utilities Commission is authorized by statute to supervise and control the issuance of securities (of debt) by gas and electric corporations operating as a public utility within Colorado. Exercising such authority, the commission may authorize the issuance of securities with a maturity date of more than twelve months for purposes outlined in the law. Applications for the issuance of securities must be acted upon, by the commission, within thirty days after filing. An application is to be approved unless the commission finds that it is inconsistent with the public interest.

Bill 14 amends the statute to exempt from commission approval the securities issued by a gas or an electric corporation if the corporation derives less than five percent of its consolidated gross revenues from the State of Colorado as a public utility and supplies less than ten percent of the state's gas or electrical power needs. The committee submits that such a change will pose no threat to Colorado utility ratepayers. State authority in this area is a duplication of authority exercised by the federal Securities and Exchange Commission. No similar requirement for review of the securities of communication or transportation companies is required by current Colorado statute. Requiring a utility to wait as long as thirty days for commission approval of a security issue can be a costly delay when interest rates are fluctuating rapidly. Finally, it was the committee's opinion that the elimination of such a hearing and review requirement will, to a small degree, reduce the workload of the Public Utilities Commission and its staff.

Deregulation of Rural Electric Cooperatives -- Bill 15. Electric utilities operating in the State of Colorado which are subject to the jurisdiction of the Public Utilities Commission are generally of three types: investor-owned electric utilities; certificated municipal electric utilities which provide service outside the corporate limits of the municipality; and rural electric associations. There are some thirty-one rural electric associations operating in the state.

Bill 15 provides that rural electric cooperatives may elect to exempt themselves from regulation by the state's Public Utilities Commission. Such action does not exempt a cooperative from: obtaining a certificate of public convenience and necessity to construct new facilities or extend existing facilities; operate in certain territories; and exercise a right or privilege under a franchise, permit, ordinance, vote, or other authority. The bill provides that a poll of the cooperative's membership may be taken on the initiative of the rural electric association's board of directors or upon petition from the association's members. The bill details requirements for the number of signatures on a petition, the language of the ballot question, and the number of votes required for the approval of deregulation. The bill also specifies a procedure to be followed by a board if it elects to initiate a deregulation effort. Included in the bill is the provision that an election for the purpose of considering deregulation can be held only once every two years. Also, a cooperative, which becomes exempt, may terminate its exempt status through the same process outlined in the bill.

The rural electric associations are not unanimous in their support for deregulation of their activities. There is agreement that the principal problem of regulation is the regulatory lag of the hearing process. However, some would prefer that the state regulate the geographic service territories of associations while removing state control over rates. Associations preferring deregulation assert that the combined oversight authority of the federal Rural Electrification Association and the federal Public Utilities Regulatory Policy Act of 1978 is sufficient. Also, since cooperatives are member-owned and non-profit they do not need state regulation.

Deregulation of Certain Non-Fixed Utilities

Several proposals were presented to the interim committee by the Department of Regulatory Agencies regarding deregulation of certain non-fixed utilities. These proposals were the result of the work conducted by two independent task forces. One task force discussed issues relating to transportation for the handicapped. The second group discussed recommendations from the Governor's task force on independent trucking. The Department of Regulatory Agencies' staff provided administrative assistance to these working groups.

Committee Recommendation

Limited deregulation of owner-operated intrastate motor carriers -- Bill 16. The committee recommends Bill 16 which provides for a simplification of the permitting procedure for owner-operators of vehicles transporting commodities intrastate which are exempt from the federal Interstate Commerce Commission. The measure authorizes the Colorado Public Utilities Commission to issue certificates of public convenience and necessity without public hearing or public notice. This procedure will apply only to owner-operators of a vehicle; it will not be available to companies with a fleet of trucks. The group working on this issue believed that a single truck owned and operated by an individual would not create the same degree of competition as a company.

Certain conditions must exist to issue certificates through the simplified procedure. These are: excluding livestock, the commodity to be transported must be exempt from economic regulation by the federal Interstate Commerce Commission; an individual seeking the certificate must file an application with the commission for such authority and have transported I.C.C.-exempt commodities, within the preceding twelve months, from a point within the state to a point outside of the state (this provision is included to ensure some evidence of the carriers prior ability to perform); and the applicant must have on file with the commission a liability insurance policy, hold a valid driver's license, and operate the motor vehicle carrier as provided by law.

Deregulation of non-emergency transportation for the handicapped -- Bill 17. Vehicles transporting handicapped persons with charge have been regulated for two years by the Public Utilities Commission as common or contract carriers. The industry believes that competition can exist without commission regulation, therefore rates will be reasonable.

The committee recommends Bill 17 concerning the deregulation of carriers transporting handicapped individuals. Under this proposal, vehicles transporting handicapped persons in non-emergency situations will not be regulated as common or contract carriers. The commission will not control the rates or areas of service of these carriers, however, safety and insurance requirements for these carriers are to be administered by the Department of Revenue.

State Procurement Code

Background

The Department of Administration submitted to the committee a comprehensive revision of the state's procurement code. The proposal was prepared by the Colorado Model Procurement Code Study Task Force appointed by the State Purchasing Director. The task force membership

included state and local purchasing agents, personnel from state agencies, vendors, and other interested persons. The American Bar Association's Project on a Model Procurement Code for State and Local Governments provided technical assistance to the task force.

The American Bar Association's Model Procurement Code for State and Local Governments was developed to provide information on: statutory principles and policy guidance for managing and controlling the procurement of supplies, services, and construction for public purposes; administrative and judicial remedies for the resolution of controversies relating to public contracts; and ethical standards for governing public and private participants in the procurement process. The model procurement code outlined basic policies for the procurement of supplies, services, and construction; management and disposal of supplies; legal remedies for governmental entities and vendors; socioeconomic policies; and ethical standards for public employees and contractors.

The policies suggested by the American Bar Association's model procurement code were reviewed by the Colorado Model Procurement Code Study Task Force as well as, current statutory authority of the Division of State Purchasing and current procurement practices used by the division. The task force attempted to tailor the model code to Colorado's needs by applying suggested policies outlined in the model code to the current statutory duties of the division and the management needs of the division.

Current Statutes Regarding the Division of Purchasing. The Division of Purchasing's primary responsibilities are provided in 24-30-401 et seq., Colorado Revised Statutes 1973, as amended. Specifically, the qualifications and duties of the state purchasing agent are outlined as well as the rights, powers, and duties of the state purchasing division. These include purchasing and controlling the purchase of all spending agencies; controlling surplus supplies; developing purchasing standards and specifications; establishing rules and regulations for the use of state motor vehicles; maintaining records with regards to purchasing requirements and needs of the state; and extending state services to local governmental entities through the Division of Local Government. In addition, an advisory committee on standardization may be established by the state purchasing agent, with the approval of the appropriate department heads or by order of the Governor. The method by which contracts are awarded, recorded, bonded, or voided is also provided. Finally, the state purchasing agent is responsible for establishing a state government system for carpooling and vanpooling.

Committee Recommendation

Procurement Code for the State of Colorado -- Bill 18

The committee refers Bill 18 without recommendation. The bill, if adopted, will establish a comprehensive purchasing code for the

State of Colorado by updating the existing statutory authority of the Division of Purchasing and the duties of the state purchasing director, in addition to providing greater flexibility to the division for contracting goods and services for the state. The Department of Administration believes that the current statutes are outdated and are not in keeping with management needs.

General provisions. Bill 18 would apply to all state procurement including state purchases made with federal assistance or federal contract funds. The bill would not effect the existing state laws on state printing or the purchasing practices of the legislative and judicial branches. The offices of elected officials, such as the Governor, Lieutenant Governor, Secretary of State, and State Treasurer, would be exempt from the provisions in the bill. The legislative branch, the judicial branch, and the offices of elected officials, however, could opt to use the Division of Purchasing for procuring goods and services when convenient; when used they would be required to follow the rules and regulations of the Division of Purchasing. In addition, the adoption of the state's purchasing procedures would be optional for local governments.

Procurement organization. The Executive Director of the Department of Administration would be granted the authority and the responsibility to promulgate rules consistent with the provisions in Bill 18. The executive director could delegate this responsibility to the state purchasing director. (Currently, the state purchasing director is responsible for the promulgation of rules for the Division of Purchasing.)

Role of the state purchasing director. The bill also provides that the state purchasing director's authority will include procuring and supervising procurement; disposing of surplus supplies; supervising the inspection, testing, and acceptance of items and services purchased by the state; and examining requisitions submitted by state agencies. The duties of the state purchasing director, as provided in Bill 18, are not significantly different from his present statutory duties.

Direct procurement by specific state agencies. Certain types of supplies, services, or construction would be procured directly by a designated state agency. For example, bridge and highway constructions is currently exempt from central purchasing and administered directly by the Department of Highways. As stated in Bill 18, the Executive Director of the Department of Administration would be able to authorize agencies to conduct their own purchasing under the supervision and control of the state purchasing director.

Source selection and contract formation. The bill establishes procedures the Division of Purchasing is to follow when entering into contracts for supplies, services, or construction. Five methods of procurement would be available to the Division of Purchasing if the bill is adopted. This represents a departure from the state's present method of purchasing goods and services by awarding contracts to the

lowest responsible bidder through a competitive sealed bidding procedure. That is, the bill provides that competitive sealed bidding is to continue as the preferred method of procurement. However, if special conditions exist other methods of procuring can be used by the division for small purchases, emergency purchases, and sole source purchases. A written statement explaining the reasons for using a method other than competitive sealed bidding is to be available. In addition, the competitive sealed proposal method could be used for certain procurements if the competitive sealed bidding procedure is not practicable or advantageous to the state. Competitive sealed proposals could be used, for example, for the procurement of professional services including special services rendered by architects, engineers, landscape architects, and land surveying services.

Specifications. As described in Bill 18, specification means any description of a physical or functional characteristic or the nature of a supply, service, or construction item. The bill provides a framework for the development of specifications to meet the procurement needs of state agencies. Specifications are also to incorporate the concepts of energy efficiency, value analysis, and life-cycle cost, where possible.

Procurement of construction. Bill 18 treats situations which are unique to construction contracts differently from contracts for other supplies or services. It would require the Executive Director of the Department of Administration to promulgate rules regarding construction contract management and to specify clauses to be included therein. In addition, there are provisions regarding bid and performance and payment bonds for contracts awarded in excess of \$50,000. Furthermore, the state controller, or other officials responsible for monitoring costs in an agencies' construction budget, is required to approve all change orders and contract modifications in order to assure that sufficient funds are available to cover construction changes.

Procurement of professional architects, engineers, landscape architects, and land surveying services. As previously mentioned, Bill 18 also establishes a procedure for the selection of architects, engineers, landscape architects, and land surveyors. The competitive sealed proposal method would be used for contracting these services. This method would allow the state to consider price as a factor in the negotiating process. The method for procuring services of architects and engineers in Bill 18 is contrary to the procedure recommended by the American Bar Association in its model procurement code. The model code's procedure is similar to the current method used by the state in accordance with House Bill 1432, passed in 1979. The state's current method and the model code's method are patterned after a federal law passed in 1972. The current practice precludes the state from comparing fees charged by architects, engineers, or related services when negotiating a contract. The committee consensus was that price should be a factor in the negotiating process. However, it should not be the most important factor. Also, the committee suggests that services rendered by architects and engineers should not be negotiated in a

method different from other professional services.

Remedies. If Bill 18 is adopted by the 1981 General Assembly, the state purchasing director will have the authority to settle bid protests and controversies arising out of contracts. A protestor would be able to have an informal discussion with the state purchasing director. If the protestor is still aggrieved he may then request a hearing before the Executive Director of the Department of Administration. This hearing would be held according to the state's administrative procedures act. A judicial appeal could be made on the executive director's decision. Such appeal would be to the district court of the city and county of Denver. Currently, the state purchasing director issues a decision in writing approving or disapproving a claim or controversy arising out of a purchasing contract. The present law is not clear as to the additional remedies available if the claimant is still aggrieved by the decision of the state purchasing director.

Intergovernmental relations. Bill 18 also provides that any public procurement unit can participate in cooperative purchasing, use supplies or services cooperatively, and jointly use facilities with other governmental entities. Contract controversies with bidders, under a cooperative purchasing agreement, are to be resolved through the remedies procedure established in the bill.

Preferences in awarding contracts and federal assistance requirements. The state's current preferences for products made by correctional, visually impaired, and severely handicapped industries would remain. The current law also provides that a preference is to be given to materials, supplies, and provisions manufactured in Colorado when prices are identical; this provision is removed.

Effective date -- applicability. The provisions of the code are to apply to contracts solicited or entered into on or after January 1, 1982.

MINORITY REPORT ON THE
STATE PROCUREMENT CODE

by
Representative William Hilsmeier

I disagree with the provisions of Bill 18 pertaining to the negotiation of contracts for services provided by architects, engineers, landscape architects, and land surveyors to the state. The bill specifies that the principal representative of the state can solicit competitive sealed proposals for architectural and engineering services from not less than three qualified persons, if available. Such proposals are to be secured by a request for proposal which states the evaluation factors which will be considered. Discussions would be conducted with the offerors to clarify the solicitation requirements.

The contract is then awarded to the responsible offeror whose proposal is determined to be the most advantageous to the state. In making the determination of "most advantageous" factors are to be considered in the following order: the professional competence of the offeror, the technical merits of the offers, the scope of the services required, and the price for which special services are to be rendered.

I disagree with this approach for the following reasons.

(1) The American Bar Association's Model Procurement Code for State and Local Governments recommended a negotiating process under which the purchasing agent negotiates a contract with the highest qualified firm for services at compensation which the agent determines in writing to be fair and reasonable to the state. In making this decision, the agent takes into consideration the estimated value, the scope, the complexity, and the professional nature of the services to be rendered.

If the agent is unable to negotiate a satisfactory contract with the firm considered to be the most qualified, negotiations with that firm are formally terminated. The agent then undertakes negotiations with the succeeding most qualified firm. If the purchasing agent is unable to negotiate a contract at a fair and reasonable price with any of the selected firms, the agent selects additional firms in order of their competence and qualifications. The agent continues negotiations until an agreement is reached.

The reasons supporting this method of negotiating for services of architects and engineers can be summarized as follows:

- there is a lack of a definitive scope of work for such services at the time the selection is made;
- it is more desirable to make the qualification selection first and then discuss the price because both parties need to review

in detail what is involved in the work; and

- if the fee cannot be negotiated to the satisfaction of the state, negotiations with other qualified firms are initiated, therefore, price clearly is an important factor in the award of contracts under this procedure.

(2) The ABA's suggested negotiating method parallels the current Colorado practice for negotiating architect and engineer services. This law was passed during the 1979 session of the Colorado General Assembly, and has worked well.

(3) The federal law on the selection of architects and engineers, (P.L. 92-582) passed in 1972, was ultimately recommended by the American Bar Association in its model procurement code and was adopted by the State of Colorado in 1979. Eight other states adopted this negotiating procedure prior to or subsequent to the passage of the federal law.

In summary, architectural, engineering, and related services are creative in nature and therefore it is difficult to specify the scope, complexity, and schedule of the work. Individuals in these types of professions are not equally skilled, creative, or experienced, thus it may be difficult to compare the prices submitted through the method adopted in Bill 18.

BILL 5

A BILL FOR AN ACT

1 CONCERNING ELECTRICAL INSPECTIONS OF MOBILE HOUSING AND OTHER
2 MANUFACTURED STRUCTURES.

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 of electrical inspection by the state electrical board of forms of mobile housing prior to sale because such inspection is done by the state housing board under parts 7 and 9 of article 32 of title 24, C.R.S. 1973.

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

4 SECTION 1. 12-23-116 (2), Colorado Revised Statutes 1973,
5 1978 Repl. Vol., is amended to read:

6 12-23-116. Inspection - application - standards. (2) Any
7 electrical installation in any new construction or remodeling or
8 repair, except in any incorporated town or city, any county, or
9 any city and county having its own electrical code and inspection
10 equal to the minimum standards as are provided in this article,
11 shall be inspected by a state electrical inspector. A state
12 electrical inspector shall inspect any new construction,

1 remodeling, or repair subject to the provisions of this
2 subsection (2) within three working days after the receipt of the
3 application for inspection. If the inspection is not performed
4 within five working days, work may resume on any such
5 construction, repair, or remodeling. ~~All--new--mobile-homes;~~
6 ~~travel-trailers;-modular-homes;-and-campers-shall;-in-advance--of~~
7 ~~sale--to-the-public;-be-inspected-by-a-state-electrical-inspector~~
8 ~~either-at-the-place-of-manufacture-or-upon-the-vendor's-premises-~~
9 Prior to the commencement of any such electrical installation, or
10 ~~prior-to-the-sale-to-the-public-of-any-new--mobile--home;--travel~~
11 ~~trailer;---modular--home;--or--camper;~~ the person making such
12 installation ~~or-the-vendor~~ shall make application for inspection
13 and pay the required fee therefor. Every mobile home or movable
14 structure owner shall have the electric utility hookup for such
15 mobile home or movable structure inspected prior to obtaining new
16 or different utility service; except that nothing in this
17 subsection (2) shall require a reinspection of electrical hookup
18 facilities of any mobile home park or any mobile home or other
19 movable structure by reason of the relocation of a mobile home or
20 other movable structure within the park where a previous
21 inspection has been performed, unless construction or remodeling
22 or repair of such mobile home park hookup facilities or of the
23 mobile home or other movable structure involving the electrical
24 system has been performed, and except that, if such mobile home
25 or movable structure has a valid state electrical board approval
26 sticker in the panel of the mobile home or movable structure with

1 the number of the unit listed, the date inspected, and the
2 inspector's signature and if the wiring thereof has not been
3 altered, the occupant of the mobile home or movable structure may
4 call the board with this information, and the board will
5 authorize the reinstallation of the meter by the utility company.

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

BILL 5

A BILL FOR AN ACT

1 CONCERNING EXTENSION OF THE PERIOD OF VALIDITY FOR CERTIFICATES
2 AND LICENSES.

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 time for which a solicitor's certificate and a debt collector's certificate of registration may remain valid.

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

4 SECTION 1. 12-14-117, Colorado Revised Statutes 1973, 1978
5 Repl. Vol., is amended to read:

6 12-14-117. License fees. Each licensee shall pay an
7 initial fee of forty dollars for ~~each-office~~ EACH license FOR AN
8 OFFICE operated by ~~each~~ THE licensee in the state of Colorado, a
9 fee of twenty-five dollars for the renewal license, and a fee of
10 ten dollars for each solicitor's certificate issued pursuant to
11 this article. All licenses shall expire on June 30 following the
12 date of issuance AND EACH SOLICITOR'S CERTIFICATE SHALL EXPIRE ON

1 THE THIRD JUNE 30 FOLLOWING THE DATE OF ISSUANCE. In the event
2 the license is issued after January 1 in any one year, the
3 license fee shall be twenty dollars for the balance of the year
4 until July 1.

5 SECTION 2. 12-14-130 (3), Colorado Revised Statutes 1973,
6 1978 Repl. Vol., is amended to read:

7 12-14-130. Application - validation - duration of
8 registration. (3) The registration shall remain valid for a
9 period of ~~one-year~~ THREE YEARS from the date of issuance and
10 until information provided on the registration forms becomes
11 inaccurate or incomplete. If the information on a debt
12 collector's application becomes inaccurate or incomplete, the
13 debt collector shall file a supplemental statement within thirty
14 days after the change is known to the debt collector without
15 additional charge to the debt collector. The failure to file a
16 supplemental statement may cause the registration to be
17 invalidated.

18 SECTION 3. Effective date - applicability. This act shall
19 take effect June 30, 1981, and shall apply to solicitors'
20 certificates and debt collectors' certificates of registration
21 issued on or after said date.

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

BILL 7

A BILL FOR AN ACT

1 CONCERNING THE OFFICE OF REGULATORY REFORM, AND MAKING AN
2 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.)

Establishes the office of regulatory reform in the office of the executive director of the department of regulatory agencies. The office shall assist businesses by providing information on all government requirements, such as licensing and taxing, which must be met in order to operate a business. The office shall also work to simplify the business permitting process.

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

4 SECTION 1. Article 34 of title 24, Colorado Revised
5 Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW
6 PART to read:

7 PART 9

8 OFFICE OF REGULATORY REFORM

9 24-34-901. Legislative declaration. (1) The general
10 assembly hereby finds and declares:

11 (a) That the number of licenses and permits required for a

1 new business and the renewal of existing licenses places an undue
2 burden on business;

3 (b) That there are jurisdictional overlaps and duplication
4 of requirements among the federal, state, and local agencies
5 regulating business;

6 (c) That the state can reduce its regulatory costs by
7 consolidating, simplifying, and expediting state permit
8 procedures;

9 (d) That the public interest will be served by establishing
10 an office of regulatory reform to provide comprehensive business
11 permit information to the public, to create a procedure to
12 simplify and coordinate permit processing and review, and to make
13 recommendations to eliminate unnecessary and duplicative
14 regulation; and

15 (e) That it is its intent that the program of business
16 permit assistance shall be directed toward commercial or
17 nonprofit business projects and activities and not directed
18 toward the routine issuance of licenses and permits for
19 individual privileges such as practicing a trade or profession,
20 operating a motor vehicle, or engaging in sporting activities
21 such as hunting and fishing.

22 24-34-902. Definitions. As used in this part 9, unless the
23 context otherwise requires:

24 (1) "Affected agency" means a federal, state, or local
25 agency which requires a permit for a business project and which
26 participates in the master application procedure developed by the

1 office pursuant to section 24-34-906.

2 (2) "Applicant" means any person acting on his own behalf
3 or authorized to act on behalf of another person for the purpose
4 of securing a permit.

5 (3) "Business project" means any private or public business
6 activity required to have two or more permits.

7 (4) "Director" means the director of the office of
8 regulatory reform.

9 (5) "Individual application" means an application prepared
10 by a federal, state, or local agency for the purpose of gathering
11 information to assist it in deciding whether to approve a
12 business project.

13 (6) "Local agency" or "local government" means any
14 statutory or home rule municipality, city and county, or county
15 in this state.

16 (7) "Nonaffected agency" means any federal, state, or local
17 agency other than an affected agency as defined in subsection (1)
18 of this section.

19 (8) "Office" means the office of regulatory reform created
20 by this part 9.

21 (9) "Permit" means any permit, license, or other form of
22 approval required by a federal, state, or local agency prior to
23 the operation of a business or required as a condition to the
24 continued operation of a business.

25 (10) "Person" means any individual, proprietorship,
26 partnership, association, cooperative, corporation, nonprofit

1 organization, and any other organization required to register
2 with the state to do business in this state and to obtain two or
3 more permits from a federal, state, or local agency.

4 (11) "State agency" means an agency as that term is defined
5 in section 24-4-102 (3), C.R.S. 1973.

6 24-34-903. Office of regulatory reform created. (1) There
7 is hereby created, in the office of the executive director of the
8 department of regulatory agencies, the office of regulatory
9 reform, the head of which shall be the director of the office of
10 regulatory reform. The executive director of the department of
11 regulatory agencies shall appoint, pursuant to section 13 of
12 article XII of the state constitution, the director of the office
13 of regulatory reform and such other personnel as may be necessary
14 for the effective operation of the office.

15 (2) The provisions of section 24-34-104, concerning the
16 termination schedule for regulatory bodies of the state unless
17 extended as provided in that section, are applicable to the
18 office created by this part 9.

19 24-34-904. Powers and duties. (1) The office has the
20 following powers and duties:

21 (a) To provide comprehensive information on the federal,
22 state, and local requirements necessary to begin a business and
23 to make this information available to the public;

24 (b) To develop master application procedures to expedite
25 the permitting process;

26 (c) To assist applicants in obtaining timely permit review;

1 (d) To consolidate required hearings when feasible and
2 advantageous;

3 (e) To convene preapplication conferences during the early
4 stages of the applicant's business planning;

5 (f) To encourage and facilitate the participation of
6 federal, state, and local government agencies in permit
7 coordination;

8 (g) To hold quarterly hearings to elicit public comment on
9 business regulation;

10 (h) To conduct reviews of permit requirements and of the
11 need by the state to require such permits and to use such reviews
12 to prepare recommendations for appropriate agencies;

13 (i) To annually report to the general assembly on the
14 cost-effectiveness of the office and to make recommendations to
15 the general assembly and the governor concerning:

16 (I) The elimination of unnecessary and antiquated permit
17 requirements;

18 (II) The consolidation of duplicative permit requirements;

19 (III) The simplification of permit application procedures;

20 (IV) The expedition of time-consuming agency reviews and
21 approval procedures; and

22 (V) Other improvements in the permitting process;

23 (j) To make rules and regulations for the implementation of
24 this part 9.

25 24-34-905. Assistance of other agencies. To effectuate the
26 purposes of this part 9, the office may request from any federal,

1 state, or local agency such assistance, services, facilities, and
2 data as will enable the office to carry out its powers and
3 duties.

4 24-34-906. Master application - development and
5 applicability. (1) The office shall develop and implement a
6 master application procedure for permits for the convenience of
7 applicants who must obtain multiple permits for a business
8 project. An applicant may either submit a master application
9 through the office or submit individual applications to
10 permitting agencies.

11 (2) An applicant may withdraw a master application at any
12 time without prejudice to individual applications submitted to
13 permitting agencies.

14 24-34-907. General permit information. (1) The office
15 shall provide information, upon request, on the permit
16 information, coordination, and assistance services of the office
17 and shall make the information available to applicants and the
18 public at the office and appropriate local government offices.

19 (2) The services rendered by the office shall be made
20 available without charge; except that the applicant shall not be
21 relieved from any part of the fees or charges established for the
22 review and approval of specific permit applications, from any of
23 the apportioned costs of a consolidated hearing conducted under
24 section 24-34-910, or from the costs of any contracted services
25 as authorized by the applicant under section 24-34-911.

26 24-34-908. Permit coordination and assistance to

1 applicants. (1) Any applicant may confer with the office to
2 obtain assistance in the prompt and efficient processing and
3 review of specific applications.

4 (2) The office shall, so far as possible, render such
5 assistance and may perform any acts necessary to expedite the
6 permit process of affected agencies, including, but not limited
7 to, the following:

8 (a) Assisting the applicant in making contact with affected
9 agencies responsible for processing and reviewing permit
10 applications;

11 (b) Arranging informal conferences to clarify the interest
12 and requirements of any such affected agency with respect to
13 permit applications;

14 (c) Encouraging affected agencies to consolidate hearings
15 and data required of the applicant and to render assistance to
16 affected agencies for such purpose;

17 (d) Assisting the applicant in the resolution of
18 outstanding issues identified by affected agencies, including
19 delays experienced in permit review; and

20 (e) Coordinating federal, state, and local permit review
21 actions to the extent practicable.

22 24-34-909. Informal conferences. After the submission of a
23 master application, the office, on its own motion or upon the
24 request of the applicant or any affected agency, may conduct, at
25 any time, an informal conference, in which the affected agencies
26 shall clarify the nature and scope of their interest, to

1 determine the permits which the affected agencies will require
2 and the standards and conditions which need to be met in order to
3 obtain such permits, to provide guidance to the applicant in
4 relation to permit application review processes, and to
5 coordinate agency actions and data compilation or submission
6 regarding permit requirements.

7 24-34-910. Consolidated hearings. (1) Upon request of the
8 applicant or any affected agency for a consolidation of public
9 hearings concerning a business project, the office shall
10 encourage the consolidation of any or all hearings otherwise
11 permitted or required by law for each of the affected agencies.

12 (2) A consolidated hearing shall be conducted in a manner
13 consistent with the "State Administrative Procedure Act", article
14 4 of title 24, C.R.S. 1973.

15 (3) The costs incurred by the office for conducting a
16 consolidated hearing shall be reimbursed by each affected agency
17 participating in the hearing according to the agency's
18 proportionate share of the costs associated with the hearing,
19 including costs of notices, prehearing conferences, preparing a
20 record or transcript, and any other functions necessary or
21 appropriate to the consolidated hearing. Such costs shall be
22 paid or credited to the office within sixty days after the
23 consolidated hearing.

24 24-34-911. Contracted services. (1) Any affected agency
25 which determines that it is unable to process an applicant's
26 permit application in a timely fashion because of a lack of

1 staff, facilities, or equipment or because of a backlog of other
2 work or permit applications may immediately request an informal
3 conference with the applicant and the office for consideration of
4 such circumstances and the possibility of the agency contracting
5 for services relating to the processing of the application.

6 (2) Any such contracting for services shall be authorized
7 by the head of the affected agency and by the applicant. The
8 applicant shall be charged the full costs of such contracted
9 services, less any fees paid to the agency for such services, and
10 the applicable permit shall not be issued until the applicant has
11 made such payment in full.

12 24-34-912. Permit authority retained. Each affected agency
13 having jurisdiction to approve or deny a permit shall continue to
14 have all the substantive power vested in it by law. The
15 provisions of this part 9 shall not lessen or reduce such powers
16 and shall modify the procedures followed in carrying out such
17 powers only to the extent provided in this part 9 and the
18 regulations promulgated pursuant thereto.

19 SECTION 2. 24-1-122, Colorado Revised Statutes 1973, as
20 amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

21 24-1-122. Department of regulatory agencies - creation.
22 (1.1) The department of regulatory agencies shall include, as
23 part of the office of the executive director, the office of
24 regulatory reform, created by part 9 of article 34 of this title.
25 Said office shall exercise its powers and perform its duties and
26 functions under the department as if the same were transferred to

1 the department by a type 2 transfer.

2 SECTION 3. 24-34-104 (4.5), Colorado Revised Statutes 1973,
3 as amended, is amended to read:

4 24-34-104. General assembly review of regulatory agencies
5 for termination, continuation, or reestablishment.

6 (4.5) (a) The following boards and agencies in the division of
7 registrations shall terminate on July 1, 1987: The state board
8 of veterinary medicine, created by article 64 of title 12, C.R.S.
9 1973.

10 (b) The following office in the office of the executive
11 director of the department of regulatory agencies shall terminate
12 on July 1, 1987: The office of regulatory reform, created by
13 part 9 of article 34 of this title.

14 SECTION 4. Appropriation. In addition to any other
15 appropriation, there is hereby appropriated out of any moneys in
16 the state treasury not otherwise appropriated, to the office of
17 the executive director of the department of regulatory agencies,
18 the sum of ninety-five thousand one hundred fifty-nine dollars
19 (\$95,159) and 4.0 FTE, or so much thereof as may be necessary,
20 for the establishment of the office of regulatory reform.

21 SECTION 5. Effective date. This act shall take effect July
22 1, 1981.

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

BILL 8

A BILL FOR AN ACT

1 PROVIDING FOR COMPARATIVE RESPONSIBILITY AS THE MEASURE OF
2 DAMAGES IN PRODUCT LIABILITY CASES.

Bill Summary

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

Makes comparative responsibility the test in establishing the amount of damages, if any, due a claimant in a product liability case and sets forth the methods to be used in applying such test.

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

4 SECTION 1. Part 4 of article 21 of title 13, Colorado
5 Revised Statutes 1973, as amended, is amended BY THE ADDITION OF
6 A NEW SECTION to read:

7 13-21-406. Comparative responsibility as measure of
8 damages. (1) In any product liability action, the
9 responsibility of the person suffering the harm, as well as the
10 responsibility of all others for causing the harm, shall be
11 compared by the trier of fact in accordance with this section.

1 The responsibility of the person suffering the harm shall not bar
2 such person, or a party bringing an action on behalf of such a
3 person, or his estate, or his heirs from recovering damages if
4 such person's causal responsibility was less than the causal
5 responsibility of the party against whom claim for recovery is
6 made, but the award of damages to such person or the party
7 bringing the action shall be diminished in proportion to the
8 amount of causal responsibility attributed to the person
9 suffering the harm. If any party is claiming damages for a
10 decedent's wrongful death, the responsibility of the decedent, if
11 any, shall be imputed to such party.

12 (2) Where comparative responsibility in any such action is
13 an issue, the jury shall return special verdicts, or, in the
14 absence of a jury, the court shall make special findings
15 determining the percentage of responsibility attributable to each
16 of the persons to whom some responsibility is attributed and
17 determining the total amount of damages sustained by each of the
18 claimants. The entry of judgment shall be made by the court, and
19 no general verdict shall be returned by the jury.

20 (3) On the motion of any party in any product liability
21 action, any other person whose causal responsibility is claimed
22 to have contributed to the personal injury, death, or property
23 damage at issue shall be joined as an additional defendant to the
24 action, if jurisdiction can be obtained over such person and if
25 joinder would not render the venue of the action improper.

26 (4) Where comparative responsibility in any product

1 liability action is an issue and recovery is allowed against more
2 than one party, each such party shall be liable for only that
3 portion of the total dollar amount awarded as damages to any
4 claimant in the proportion that the amount of his causal
5 responsibility bears to the amount of the casual responsibility
6 attributed to all parties against whom such recovery is allowed.

7 (5) The provisions of section 13-21-111 do not apply to any
8 product liability action.

9 SECTION 2. Effective date - applicability. This act shall
10 take effect July 1, 1981, and shall apply to actions commenced on
11 or after said date.

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

BILL 9

A BILL FOR AN ACT

1 CONCERNING TIME LIMITATIONS FOR BRINGING CERTAIN PRODUCT
2 LIABILITY ACTIONS.

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 liability actions against certain parties and involving manufacturing equipment must be brought within a specified time after the claim for relief arises, but not later than a maximum period after the time of the original sale or lease of the equipment which caused the damage. Excepts from the specified time limitations cases involving express warranties specifying longer time periods and excepts certain indemnity actions.

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

4 SECTION 1. 13-80-127.5(1), Colorado Revised Statutes 1973,
5 as amended, is amended to read:

6 13-80-127.5. Limitation of actions against manufacturers or
7 sellers of manufacturing equipment or other products.

8 (1)(a) Notwithstanding any other statutory provisions to the
9 contrary, all actions except those governed by section 4-2-725,

1 C.R.S. 1973, brought against a manufacturer or seller of a
2 product, regardless of the substantive legal theory or theories
3 upon which the action is brought, for or on account of personal
4 injury, death, or property damage caused by or resulting from the
5 manufacture, construction, design, formula, installation,
6 preparation, assembly, testing, packaging, labeling, or sale of
7 any product, or the failure to warn or protect against a danger
8 or hazard in the use, misuse, or unintended use of any product,
9 or the failure to provide proper instructions for the use of any
10 product shall be brought within three years after the claim for
11 relief arises and not thereafter.

12 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS
13 SUBSECTION (1) OR ANY OTHER STATUTORY PROVISIONS TO THE CONTRARY,
14 ALL ACTIONS BROUGHT AGAINST A PERSON OR ENTITY WHO DESIGNS,
15 ASSEMBLES, FABRICATES, PRODUCES, CONSTRUCTS, OR OTHERWISE
16 PREPARES NEW MANUFACTURING EQUIPMENT OR ANY COMPONENT PART
17 THEREOF PRIOR TO THE SALE OF SUCH NEW MANUFACTURING EQUIPMENT TO
18 A USER OR CONSUMER AND ALL ACTIONS BROUGHT AGAINST A SELLER OF
19 NEW MANUFACTURING EQUIPMENT TO THE ORIGINAL USER OR CONSUMER
20 THEREOF, REGARDLESS OF THE SUBSTANTIVE LEGAL THEORY OR THEORIES
21 UPON WHICH THE ACTION IS BROUGHT, FOR OR ON ACCOUNT OF PERSONAL
22 INJURY, DEATH, OR PROPERTY DAMAGE CAUSED BY OR RESULTING FROM THE
23 MANUFACTURE, CONSTRUCTION, DESIGN, FORMULA, INSTALLATION,
24 PREPARATION, ASSEMBLY, TESTING, PACKAGING, LABELING, OR SALE OF
25 SUCH MANUFACTURING EQUIPMENT, OR THE FAILURE TO WARN OR PROTECT
26 AGAINST A DANGER OR HAZARD IN THE USE, MISUSE, OR UNINTENDED USE

1 OF SUCH MANUFACTURING EQUIPMENT, OR THE FAILURE TO PROVIDE PROPER
2 INSTRUCTIONS FOR THE USE THEREOF SHALL BE BROUGHT WITHIN THREE
3 YEARS AFTER THE CLAIM FOR RELIEF ARISES AND NOT THEREAFTER; BUT
4 IN NO CASE SHALL SUCH AN ACTION BE BROUGHT AGAINST SUCH PERSON,
5 ENTITY, OR SELLER MORE THAN SIX YEARS AFTER THE DATE THE
6 MANUFACTURING EQUIPMENT WAS FIRST SOLD OR LEASED TO ANYONE NOT
7 ENGAGED IN THE BUSINESS OF SELLING OR LEASING SUCH MANUFACTURING
8 EQUIPMENT OR MORE THAN SIX YEARS AFTER SAID MANUFACTURING
9 EQUIPMENT WAS FIRST SOLD OR LEASED FOR USE OR CONSUMPTION,
10 WHICHEVER IS THE LESSER PERIOD OF TIME.

11 SECTION 2. 13-80-127.5, Colorado Revised Statutes 1973, as
12 amended, is amended BY THE ADDITION OF THE FOLLOWING NEW
13 SUBSECTIONS to read:

14 13-80-127.5. Limitation of actions against manufacturers or
15 sellers of manufacturing equipment or other products. (3) The
16 provisions of subsection (1) of this section shall not apply to
17 a claim against a manufacturer or seller who, in an express
18 written warranty, warranted manufacturing equipment or any other
19 product to be free of defects in design, manufacture, or
20 materials for a period of time greater than that set forth in
21 subsection (1) of this section, if the injury complained of
22 occurred and the claim for relief arose during the period of the
23 express written warranty.

24 (4) The provisions of subsection (1) of this section shall
25 not be applicable to indemnity actions brought by a manufacturer
26 or seller of manufacturing equipment or any other product against

1 any other person who is or may be liable to said manufacturer or
2 seller for all or a portion of any judgment rendered against said
3 manufacturer or seller.

4 SECTION 3. Effective date - applicability. This act shall
5 take effect July 1, 1981, and shall apply to claims arising on or
6 after said date.

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

BILL 10

A BILL FOR AN ACT

1 CONCERNING THE PUBLIC UTILITY COMMISSION'S DISCRETION TO HOLD
2 HEARINGS ON TARIFFS OR SCHEDULES.

Bill Summary

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

Requires the commission to have reasonable cause to believe that a hearing is required and that the rate, fare, toll, rental, charge, classification, contract, practice, rule, or regulation proposed by the utility is improper before a hearing can be held. Also adds the requirement of just cause before the commission can extend a period of suspension of the effective date of a new rate, fare, toll, etc. Declares that it is not the legislative intent that the mere filing of a tariff or schedule requires suspension of and a hearing on the new rates, fares, tolls, etc. proposed therein.

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

4 SECTION 1. 40-6-111 (1) and (2), Colorado Revised Statutes
5 1973, are amended to read:

6 40-6-111. Hearing on schedules - suspension - new rates -
7 rejection of tariffs. (1) Whenever there is filed with the
8 commission any tariff or schedule stating any new or changed
9 individual or joint rate, fare, toll, rental, charge,

1 classification, contract, practice, rule, or regulation, the
2 commission has power, either upon complaint or upon its own
3 initiative and without complaint, at once, and, if it so orders,
4 without answer or other formal pleadings by the interested public
5 utilities, but upon reasonable notice, to have a hearing
6 concerning the propriety of such rate, fare, toll, rental,
7 charge, classification, contract, practice, rule, or regulation
8 IF IT HAS REASONABLE CAUSE TO BELIEVE THAT SUCH A HEARING IS
9 REQUIRED AND THAT SUCH RATE, FARE, TOLL, RENTAL, CHARGE,
10 CLASSIFICATION, CONTRACT, PRACTICE, RULE, OR REGULATION IS
11 IMPROPER. Pending the hearing and decision thereon, such rate,
12 fare, toll, rental, charge, classification, contract, practice,
13 rule, or regulation shall not go into effect; but the period of
14 suspension of such rate, fare, toll, rental, charge,
15 classification, contract, practice, rule, or regulation shall not
16 extend beyond one hundred and twenty days beyond the time when
17 such rate, fare, toll, rental, charge, classification, contract,
18 practice, rule, or regulation would otherwise go into effect
19 unless the commission, in its discretion, FOR JUST CAUSE AND BY
20 SEPARATE ORDER, extends the period of suspension for a further
21 period not exceeding ninety days.

22 (2) ~~On--such--hearing~~ IT IS NOT THE INTENT OF THE GENERAL
23 ASSEMBLY THAT THE FILING OF ALL RATES, FARES, TOLLS, RENTALS,
24 CHARGES, CLASSIFICATIONS, CONTRACTS, PRACTICES, RULES, OR
25 REGULATIONS PROPOSED REQUIRES SUSPENSION AND HEARING; HOWEVER, IF
26 A HEARING IS HELD THEREON, whether completed before or after the

1 expiration of the period of suspension, the commission shall
2 establish the rates, fares, tolls, RENTALS, CHARGES,
3 CLASSIFICATIONS, CONTRACTS, PRACTICES, rules, or regulations
4 proposed, in whole or in part, or others in lieu thereof, which
5 it finds just and reasonable. All such rates, fares, tolls,
6 rentals, charges, classifications, contracts, practices, rules,
7 or regulations not so suspended, on the effective date thereof,
8 which shall not be less than thirty days from the time of filing
9 the same with the commission, or of such lesser time as the
10 commission may grant, shall go into effect and be the established
11 and effective rates, fares, tolls, rentals, charges,
12 classifications, contracts, practices, rules, and regulations
13 subject to the power of the commission, after a hearing on its
14 own motion or upon complaint, as provided in this article, to
15 alter or modify the same.

16 SECTION 2. Effective date - applicability. This act shall
17 take effect, July 1, 1981, and shall apply to tariffs or
18 schedules filed on or after said date.

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

BILL 11

A BILL FOR AN ACT

1 CONCERNING STAY OR POSTPONEMENT OF A DECISION OF THE PUBLIC
2 UTILITIES 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 a decision of the commission shall not be stayed or postponed by an application for rehearing, reargument, or reconsideration unless a party to the application or the commission motions for such stay or postponement.

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

4 SECTION 1. 40-6-114 (2), Colorado Revised Statutes 1973, as
5 amended, is amended to read:

6 40-6-114. Reconsideration, reargument, or rehearing -
7 application - basis of review - order. (2) ~~Where~~ AN application
8 for rehearing, reargument, or reconsideration of a decision of
9 the commission ~~is~~ made in accordance with the provisions of this
10 section and the rules and regulations of the commission, ~~the~~
11 ~~decision--shall-be-stayed-or-postponed-pending-disposition-of-the~~
12 ~~matter-by--the--commission;~~ SHALL NOT STAY OR POSTPONE SUCH

1 DECISION UNLESS THE COMMISSION, UPON MOTION BY THE PARTY SEEKING
2 SUCH STAY OR POSTPONEMENT OR THE COMMISSION UPON ITS OWN MOTION,
3 SO ORDERS; except that orders of the commission issued for the
4 installation of automatic or other safety appliance signals or
5 devices at railroad crossings shall be processed and handled to
6 completion when such application deals solely with the matter of
7 allocation of the costs thereof among the railroad company and
8 the state and the political subdivisions pursuant to section
9 40-4-106.

10 SECTION 2. Applicability. This act shall apply to
11 applications for rehearing, reargument, or reconsideration of a
12 decision of the public utilities commission filed on or after the
13 effective date of this act.

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

BILL 12

A BILL FOR AN ACT

1 CONCERNING CERTIFICATES TO EXERCISE FRANCHISE RIGHTS.

Bill Summary

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

Makes conditions of issuance applicable only to certificates to exercise franchise rights and not to certificates for construction.

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

3
4 SECTION 1. 40-5-103 (1), Colorado Revised Statutes 1973, is
5 amended to read:

6 40-5-103. Certificate - application for - issuance. (1)

7 Before any certificate may issue under sections 40-5-101 to
8 40-5-104, a certified copy of its articles of incorporation or
9 charter, if the applicant is a corporation, shall be filed in the
10 office of the commission. Every applicant for a certificate TO
11 EXERCISE FRANCHISE RIGHTS UNDER SECTION 40-5-102 shall file in
12 the office of the commission such evidence as shall be required
13 by the commission to show that such applicant has received the

1 required consent, franchise, permit, ordinance, vote, or other
2 authority of the proper county, city and county, OR municipal or
3 other public authority. The commission has THE power to issue
4 said certificate TO EXERCISE FRANCHISE RIGHTS after hearing, to
5 refuse to issue the same, or to issue it for the construction of
6 a portion only of the contemplated facility, line, plant, or
7 system or extension thereof or for the partial exercise only of
8 said right or privilege and may attach to the exercise of the
9 rights granted by such certificate such terms and conditions as
10 in its judgment the public convenience and necessity may require.

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

BILL 13

A BILL FOR AN ACT

1 CONCERNING THE DETERMINATION OF JUST AND REASONABLE RATES BY THE
2 PUBLIC UTILITIES 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, when the public utilities commission establishes rates, it may consider past, present, or future test periods, construction work in progress, and other factors which may affect the sufficiency or insufficiency of such rates.

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

4 SECTION 1. 40-3-111 (1), Colorado Revised Statutes 1973, is
5 amended to read:

6 40-3-111. Rates determined after hearing. (1) Whenever the
7 commission, after a hearing upon its own motion or upon
8 complaint, finds that the rates, tolls, fares, rentals, charges,
9 or classifications demanded, observed, charged, or collected by
10 any public utility for any service, product, or commodity, or in
11 connection therewith, including the rates or fares for excursion
12 or commutation tickets, or that the rules, regulations,

1 practices, or contracts affecting such rates, fares, tolls,
2 rentals, charges, or classifications are unjust, unreasonable,
3 discriminatory, or preferential, or in any way violate any
4 provision of law, or that such rates, fares, tolls, rentals,
5 charges, or classifications are insufficient, the commission
6 shall determine the just, reasonable, or sufficient rates, fares,
7 tolls, rentals, charges, rules, regulations, practices, or
8 contracts to be thereafter observed and in force and shall fix
9 the same by order. IN MAKING SUCH DETERMINATION, THE COMMISSION
10 MAY CONSIDER CURRENT, FUTURE, OR PAST TEST PERIODS OR ANY
11 REASONABLE COMBINATION THEREOF AND ANY SUCH OTHER FACTORS,
12 INCLUDING ATTRITION AND CONSTRUCTION WORK IN PROGRESS, WHICH MAY
13 AFFECT THE SUFFICIENCY OR INSUFFICIENCY OF SUCH RATES, FARES,
14 TOLLS, RENTALS, CHARGES, OR CLASSIFICATIONS DURING THE PERIOD THE
15 SAME MAY BE IN EFFECT.

16 SECTION 2. 40-6-111 (2), Colorado Revised Statutes 1973, is
17 amended to read:

18 40-6-111. Hearing on schedules - suspension - new rates -
19 rejection of tariffs. (2) On such hearing, whether completed
20 before or after the expiration of the period of suspension, the
21 commission shall establish the rates, fares, tolls, rules, or
22 regulations proposed, in whole or in part, or others in lieu
23 thereof, which it finds just and reasonable. IN MAKING SUCH
24 FINDING, THE COMMISSION MAY CONSIDER CURRENT, FUTURE, OR PAST
25 TEST PERIODS OR ANY REASONABLE COMBINATION THEREOF AND ANY SUCH
26 OTHER FACTORS, INCLUDING ATTRITION AND CONSTRUCTION WORK IN

1 PROGRESS, WHICH MAY AFFECT THE SUFFICIENCY OR INSUFFICIENCY OF
2 SUCH RATES, FARES, TOLLS, RENTALS, CHARGES, OR CLASSIFICATIONS
3 DURING THE PERIOD THE SAME MAY BE IN EFFECT. All such rates,
4 fares, tolls, rentals, charges, classifications, contracts,
5 practices, rules, or regulations not so suspended, on the
6 effective date thereof, which shall not be less than thirty days
7 from the time of filing the same with the commission, or of such
8 lesser time as the commission may grant, shall go into effect and
9 be the established and effective rates, fares, tolls, rentals,
10 charges, classifications, contracts, practices, rules, and
11 regulations subject to the power of the commission, after a
12 hearing on its own motion or upon complaint, as provided in this
13 article, to alter or modify the same.

14 SECTION 3. Effective date. This act shall take effect July
15 1, 1981.

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

BILL 14

A BILL FOR AN ACT

1 CONCERNING REGULATION OF SECURITIES BY THE PUBLIC UTILITIES
2 COMMISSION.

Bill Summary

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

Limits the power of the commission to regulate securities issued by public utilities to those utilities which derive more than a specified percentage of their income from Colorado.

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

4 SECTION 1. 40-1-104 (2), Colorado Revised Statutes 1973, is
5 amended to read:

6 40-1-104. Securities - issuance - guarantee. (2) The
7 power of every gas corporation and of every electrical
8 corporation operating as a public utility as defined in section
9 40-1-103 THAT DERIVES MORE THAN FIVE PERCENT OF ITS CONSOLIDATED
10 GROSS REVENUES IN THE STATE OF COLORADO AS A PUBLIC UTILITY, OR
11 DERIVES A LESSER PERCENTAGE IF SAID REVENUES ARE REALIZED BY
12 SUPPLYING AN AMOUNT OF ENERGY WHICH EQUALS TEN PERCENT OR MORE OF

1 THIS STATE'S CONSUMPTION, to issue, assume, or guarantee
2 securities and to create liens on its property situated within
3 this state is a special privilege, hereby subjected to the
4 supervision and control of the commission. Such public utility,
5 when authorized by order of the commission and not otherwise, may
6 issue, assume, or guarantee securities with a maturity date of
7 more than twelve months after the date of issuance for the
8 following purposes: The acquisition of property; the
9 construction, completion, extension, or improvement of its
10 facilities; the improvement or maintenance of its service; the
11 discharge or lawful refunding of its obligations; the
12 reimbursement of moneys actually expended for said purposes from
13 income or from any other moneys in the treasury not secured by or
14 obtained from the issue of securities within five years next
15 prior to the filing of an application with the commission for the
16 required authorization; or any of such purposes or any other
17 lawful purpose authorized by the commission.

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

BILL 15

A BILL FOR AN ACT

1 CONCERNING THE DEREGULATION OF RURAL ELECTRIC ASSOCIATIONS.

Bill Summary

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

Allows rural electric cooperatives to elect exemption from regulation by the public utilities commission by taking a poll of their members.

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

3 SECTION 1. 40-1-103 (2), Colorado Revised Statutes 1973, is
4 amended, and the said 40-1-103, as amended, is further amended BY
5 THE ADDITION OF A NEW SUBSECTION, to read:

6 40-1-103. Public utility defined. (2) Every cooperative
7 electric association, or nonprofit electric corporation or
8 association, and every other supplier of electrical energy,
9 EXCEPT A RURAL ELECTRIC ASSOCIATION COMPLYING WITH SUBSECTION (4)
10 OF THIS SECTION, whether supplying electric energy for the use of
11 the public or for the use of its own members, is hereby declared
12 to be affected with a public interest and to be a public utility

1 and to be subject to the jurisdiction, control, and regulation of
2 the commission and to the provisions of articles 1 to 7 of this
3 title.

4 (4) A rural electric association is a public utility only
5 for the purposes of article 5 and the applicable provisions
6 thereto contained in article 7 of this title, and not a public
7 utility for the purposes of articles 1 to 4, 6, and 8 of this
8 title, if said supplier of electric energy:

9 (a) Is a cooperative association as defined in section
10 7-55-101, C.R.S. 1973;

11 (b) Is organized for the purpose of supplying electric
12 energy to its members at cost;

13 (c) Receives at least eighty-five percent of its income
14 from amounts collected from members;

15 (d) Is directed by a board elected from its membership,
16 each member having one vote in said election;

17 (e) Is financed, in whole or significant part, by loans
18 from the federal rural electrification administration; and

19 (f) Receives the affirmative vote of its membership on the
20 question of deregulation in the following manner:

21 (I) The board of directors of a rural electric association
22 may on its own initiative and shall upon receipt of a valid
23 petition from its members poll the members of the association in
24 an election on the question of its exemption from articles 1 to
25 4, 6, and 8 of this title. A petition shall be considered valid
26 if it is signed by not less than the number of members equal to

1 ten percent of the first five thousand members and three percent
2 of the members in excess of five thousand. Approval by a
3 majority of those voting in an election in which at least fifteen
4 percent of the members return ballots is required for such
5 exemption.

6 (II) One or more public meetings, providing an opportunity
7 for the members to discuss the election, shall be held not more
8 than thirty days before the date set for mailing or distribution
9 of the ballots to the members. A rural electric association may
10 satisfy this requirement by including a discussion of the
11 election on the agenda of its annual meeting if the annual
12 meeting is scheduled to be held not more than thirty days before
13 the date set for mailing or distribution of the ballots.

14 (III) Each member of the rural electric association shall
15 be sent notice of an election under this paragraph (f) with his
16 regular bill for service at least sixty days before the date set
17 for mailing or distribution of the ballots. The notice shall
18 contain impartial language informing the members that an election
19 on the option of deregulation or regulation by the commission
20 shall be held and that a ballot to participate in that election
21 will be mailed or delivered to each member of the rural electric
22 association with his regular bill for service. The notice shall
23 also inform its members of the provisions contained in
24 subparagraphs (II) and (V) of this paragraph (f).

25 (IV) (A) A ballot, with return postage paid, shall be
26 mailed or delivered to each member of the rural electric

1 association with his bill for service and shall contain only the
2 following language:

3 "Shall (name of the rural electric association)
4 be exempt from regulation by the public utilities commission of
5 the state of Colorado, except for regulation of new construction
6 and extension of its facility, plant, or system under articles 5
7 and 7 of title 40, Colorado Revised Statutes 1973?

8 [] YES [] NO"

9 (B) The ballot must be postmarked or returned to the
10 commission within thirty days after it was mailed or otherwise
11 delivered to the member, and notice to that effect shall
12 accompany the ballot.

13 (V) Any member of the rural electric association is
14 entitled to vote in the election without regard to whether his
15 account with the association is current.

16 (VI) The results of an election under this paragraph (f)
17 shall be certified by the commission within sixty days after the
18 ballots are mailed or delivered to the members.

19 (VII) During the sixty days immediately preceding the date
20 set for mailing or distribution of the ballots under this
21 paragraph (f), a list of members of the rural electric
22 association shall be made available at cost to any member of the
23 association who requests one. The list shall be in the same form
24 that is available to the rural electric association.

25 (VIII) An election under this paragraph (f) may only be
26 held once every two years.

1 (IX) A rural electric association which becomes exempt from
2 regulation under this paragraph (f) may elect to terminate its
3 exemption in the same manner as the exemption was obtained under
4 this paragraph (f).

5 SECTION 2. Effective date. This act shall take effect July
6 1, 1981.

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

BILL 16

A BILL FOR AN ACT

1 CONCERNING THE CERTIFICATION OF OWNER-OPERATOR CARRIERS
2 TRANSPORTING WITHIN COLORADO COMMODITIES WHICH ARE EXEMPT
3 FROM INTERSTATE COMMERCE REGULATION.

Bill Summary

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

Authorizes abbreviated procedures for owner-operated carriers to secure a certificate of public convenience and necessity for the intrastate transportation of commodities exempt from economic regulation by the interstate commerce commission.

4 Be it enacted by the General Assembly of the State of Colorado:
5 SECTION 1. 40-10-105, Colorado Revised Statutes 1973, is
6 amended BY THE ADDITION OF A NEW SUBSECTION to read:
7 40-10-105. Rules for issuance. (3) The commission may
8 issue a certificate of public convenience and necessity
9 authorizing the intrastate transportation of commodities exempt
10 from economic regulation by the interstate commerce commission,
11 referred to in this subsection (3) as "I.C.C.-exempt
12 commodities", except to motor vehicle carriers seeking authority

1 to transport livestock. The commission may issue said
2 certificate without a showing by the applicant that the public
3 convenience and necessity require such intrastate operation. The
4 certificate shall be nontransferable and no more than one
5 certificate shall be issued to an applicant pursuant to this
6 subsection (3). An applicant for a certificate to transport
7 I.C.C.-exempt commodities intrastate shall be issued such
8 certificate without a public hearing and without public notice if
9 the applicant:

10 (a) Has completed and filed with the commission an
11 application for such authority on a form established and approved
12 by the commission;

13 (b) Has transported I.C.C.-exempt commodities within the
14 twelve months preceding the filing of the application from a
15 point within the state of Colorado to a point outside the state
16 of Colorado;

17 (c) Maintains, and has on file with the state of Colorado,
18 insurance for the protection of the public pursuant to section
19 40-10-110;

20 (d) Is the owner, operator, and driver of the vehicle, or
21 the owner's designated representative when emergency conditions
22 prevent the owner from acting as the driver of said vehicle, to
23 be used in providing the service to be performed under the
24 certificate;

25 (e) Holds a valid driver's license to operate the class of
26 vehicle to be used in providing the service; and

1 (f) Certifies that it will operate in accordance with the
2 provisions of article 10 of this title and will observe the
3 provisions and rates of the applicable tariffs on file with the
4 commission.

5 SECTION 2. Effective date. This act shall take effect July
6 1, 1981.

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

BILL 17

A BILL FOR AN ACT

1 REMOVING NONEMERGENCY CARRIERS TRANSPORTING HANDICAPPED
2 INDIVIDUALS FROM REGULATION BY THE PUBLIC UTILITIES
3 COMMISSION.

Bill Summary

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

Removes nonemergency carriers transporting handicapped individuals from regulation by the public utilities commission, and establishes safety and insurance requirements under the department of revenue for the operation of vehicles used for such transportation.

4 Be it enacted by the General Assembly of the State of Colorado:
5 SECTION 1. 40-10-104 (3), Colorado Revised Statutes 1973,
6 as amended, is amended to read:
7 40-10-104. Certificate required - temporary certificate -
8 exemptions from this article. (3) This article shall not apply
9 TO MOTOR VEHICLES DESIGNED AND USED FOR THE NONEMERGENCY
10 TRANSPORTATION OF HANDICAPPED INDIVIDUALS NOR to motor vehicles
11 transporting sand and gravel solely or logs and wooden poles

1 solely.

2 SECTION 2. 40-11-102 (2), Colorado Revised Statutes 1973,
3 as amended, is amended to read:

4 40-11-102. Compliance required - exemptions from this
5 article. (2) Nothing in this article shall apply to any motor
6 vehicle carrier as defined by section 40-10-101 (4) (a), nor to a
7 private individual who carries a neighbor or a friend on a trip,
8 nor to motor vehicles especially constructed for towing,
9 wrecking, and repairing and not otherwise used in transporting
10 property, nor to hearses or ambulances or other emergency
11 vehicles, nor to motor vehicles transporting sand and gravel
12 solely or logs and wooden poles solely, NOR TO MOTOR VEHICLES
13 DESIGNED AND USED FOR THE NONEMERGENCY TRANSPORTATION OF
14 HANDICAPPED INDIVIDUALS; but this article shall apply to motor
15 vehicles used for transporting sludge and fly ash.

16 SECTION 3. Part 2 of article 4 of title 42, Colorado
17 Revised Statutes 1973, as amended, is amended BY THE ADDITION OF
18 A NEW SECTION to read:

19 42-4-235. Minimum standards for vehicles transporting the
20 handicapped. (1) No person shall operate a motor vehicle
21 designed and used for the nonemergency transportation of
22 handicapped individuals on any public highway of this state
23 unless such vehicle is in compliance with the safety standards
24 and specifications adopted by the department pursuant to
25 subsection (3) of this section.

26 (2) As used in this section, a "motor vehicle designed and

1 used for the nonemergency transportation of handicapped
2 individuals" means any such vehicle which is not subject to
3 regulation by the public utilities commission under article 10 or
4 11 of title 40, C.R.S. 1973.

5 (3) The department shall adopt safety standards and
6 specifications for the operation of motor vehicles designed and
7 used for the nonemergency transportation of handicapped
8 individuals. In adopting such standards and specifications, the
9 department shall give consideration to the design and use of such
10 vehicles in general and provide for a complete inspection of such
11 vehicles relating to starting, steering, brake, and exhaust
12 systems, tires and wheels, frame and suspension, and lights and
13 any other equipment or accessory, the proper functioning of which
14 is found by the department to be necessary for the safe operation
15 of the vehicle. In case of hardship, a carrier may file written
16 application for relief, stating therein the grounds for relief,
17 and the department, after hearing, if satisfied, may suspend such
18 rules and regulations affecting such carrier as it deems just.

19 (4) Any person who violates any provision of this section
20 commits a class 3 traffic offense.

21 (5) Nothing in this section shall be construed to prevent a
22 municipality, county, or special district from adopting standards
23 and specifications more stringent than those provided in this
24 section.

25 SECTION 4. 42-4-302, Colorado Revised Statutes 1973, as
26 amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

1 42-4-302. Periodic inspections required. (11) Motor
2 vehicles designed and used for the nonemergency transportation of
3 handicapped individuals, as defined in section 42-4-235 (2),
4 shall be subject to the safety standards and specifications
5 adopted by the department pursuant to section 42-4-235, in
6 addition to all other safety requirements under the laws of the
7 state of Colorado; except that, commencing January 1, 1982, every
8 such vehicle registered in this state shall be inspected at least
9 twice each year at six-month intervals, and an official
10 certificate of inspection therefor shall be obtained for each
11 such vehicle. Annual inspection certificates for such vehicles
12 issued on or after January 1, 1981, and on or before December 31,
13 1981, shall, according to the rules promulgated by the
14 department, expire in approximately equal numbers in each month
15 during the first six months of 1982. The inspection fee for such
16 vehicles shall not exceed seven dollars and twenty cents and
17 shall be collected in the manner set forth in section 42-4-303
18 (5) (a).

19 SECTION 5. 42-7-510, Colorado Revised Statutes 1973, as
20 amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

21 42-7-510. Insurance or bond required. (1.5) Every owner
22 of a motor vehicle designed and used for the nonemergency
23 transportation of handicapped individuals, as defined in section
24 42-4-235 (2), before operating or permitting the operation of
25 such vehicle upon any public highway in this state, shall file
26 with the department a certificate evidencing a motor vehicle

1 liability insurance policy issued by an insurance carrier or
2 insurer authorized to do business in the state of Colorado or a
3 surety bond issued by a company authorized to do a surety
4 business in the state of Colorado in the sum of fifty thousand
5 dollars for damages to property of others; the sum of one hundred
6 thousand dollars for damages for or on account of bodily injury
7 or death of one person as a result of any one accident; and,
8 subject to such limit as to one person, the sum of three hundred
9 thousand dollars for or on account of bodily injury to or death
10 of all persons as a result of any one accident.

11 SECTION 6. Effective date. This act shall take effect July
12 1, 1981.

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

BILL 18

A BILL FOR AN ACT CONCERNING STATE PURCHASING.

Bill Summary

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

Section 1 provides a comprehensive code for state procurement based upon the ABA's model procurement code:

Article 101 - General Provisions. Sets forth the underlying policy, defines the terms used, and states the applicability. Provides that the code would apply to all state procurements, including those made with federal assistance money, except printing which will still be governed by part 2 of article 70 of title 24. States that the code does not apply to the judicial or the legislative branches of state government. Provides that the adoption of the code by local governments is optional.

Article 102 - Procurement Organization. Vests in the executive director of the department of administration the power to make rules. Provides that the central purchasing authority is vested in the division of purchasing. Changes the title of the head of the division of purchasing from state purchasing agent to state purchasing director. Exempts from central purchasing bridge and highway construction (which remains the responsibility of the chief engineer of the division of highways), capital construction and controlled maintenance, the special services of article 105, and such agencies of a specialized nature and sufficient volume as the executive director of the department of administration may authorize as purchasing agencies. Provides that the governor appoint a procurement advisory council.

Article 103 - Source Selection and Contract Formation. Sets forth five methods of source selection: Small purchases, emergency procurements, sole source procurements, competitive sealed bidding, and competitive sealed proposals. States that competitive sealed bidding is the preferred method and that

departure from this method generally must be justified in writing as a matter of public record. Provides for the use of competitive sealed proposals as a form of negotiation when bidding is neither practical nor advantageous, such as in the procuring of professional services. Allows any type of contract but prohibits cost-plus-a-percentage-of-cost contracts. Allows the state to audit books and records of any person to the extent that cost or pricing data has been submitted.

Article 104 - Specifications. Contains the requirements for developing and using specifications.

Article 105 - Procurement of Professional Construction, Architect, Engineer, Landscape Architect, and Land Surveying Services. Supplements the rest of the code by special provisions for construction contracts. Provides that said provisions deal with bonds, contract clauses, and selection. Adds a section on fiscal responsibility which requires the controller or other official responsible for monitoring costs in a construction budget to approve all change orders and contract modifications in order to assure that there are sufficient funds to cover such changes. Provides that architects, engineers, landscape architects, and land surveyors will compete for state contracts through the competitive sealed proposal method. Provides that the "procurement code" consider fee as a factor in the evaluation process rather than follow the ABA model code which prohibits consideration of fee in the selection of special services. Also provides that Colorado firms be given preference when qualifications appear to be equal.

Article 106 - Modification and Termination of Contracts for Supplies and Services. Allows the executive director of the department of administration to promulgate rules regarding standard contract clauses in nonconstruction contracts.

Article 107 - Cost Principles. Permits the promulgation of rules regarding cost principles to be used in determining the allowability of contractor costs.

Article 108 - Supply Management. Requires the executive director of the department of administration to promulgate rules governing the sale, lease, or disposal of surplus supplies and the transfer of excess supplies. Provides that public employees be prohibited from buying the state's surplus property.

Article 109 - Legal and Contractual Remedies. Gives the state purchasing director and heads of purchasing agencies agent the authority to settle bid protests and controversies arising out of contracts. Provides that bidders may be suspended or debarred for causes set forth in the code. Also provides that decisions of the state purchasing director or the head of a purchasing agency are appealable to the executive director of the department of administration and that said executive director's decisions are appealable to the district court for the city and county of Denver.

Article 110 - Intergovernmental Relations. Provides for cooperative procurement among the various units of government,

cooperative use of supplies or services, and joint use of facilities and sharing of personnel and services. Provides that the state may make information and technical services available to other jurisdictions.

Article 111 - Preferences In Awarding Contracts - Federal Assistance. Retains the state's current preferences for products made by correctional industries, the visually impaired, and the severely handicapped.

Article 112 - Effective date of code.

Sections 2, 3, 4, and 5 contain conforming amendments.

Section 6 repeals and reenacts those provisions of part 4 of article 30 of title 24 not covered by the procurement code such as car and van pooling.

Sections 7 and 8 are conforming amendments.

Sections 9 through 38 are conforming amendments needed due to changing the title of the state purchasing agent to state purchasing director.

Section 39 repeals part 14 of article 30 of title 24, concerning negotiation of consultants' contracts since these are now covered in article 105 of the procurement code.

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

2 SECTION 1. Title 24, Colorado Revised Statutes 1973, as
3 amended, is amended BY THE ADDITION OF THE FOLLOWING NEW ARTICLES
4 to read:

5 ARTICLE 101

6 Procurement Code - General Provisions

7 PART 1

8 PURPOSES, CONSTRUCTION, AND APPLICATION

9 24-101-101. Short title. Articles 101 to 112 of this title
10 shall be known and may be cited as the "Procurement Code",
11 referred to in said articles as the "code".

12 24-101-102. Purposes - rules of construction. (1) This
13 code shall be construed and applied to promote its underlying
14 purposes and policies.

15 (2) The underlying purposes and policies of this code are:

1 (a) To simplify, clarify, and modernize the law governing
2 procurement by the state of Colorado;

3 (b) To provide for increased public confidence in the
4 procedures followed in public procurement;

5 (c) To ensure the fair and equitable treatment of all
6 persons who deal with the procurement system of the state of
7 Colorado;

8 (d) To provide increased economy in state procurement
9 activities and to maximize to the fullest extent practicable the
10 purchasing value of public funds of the state of Colorado;

11 (e) To foster effective broad-based competition within the
12 free enterprise system; and

13 (f) To provide safeguards for the maintenance of a
14 procurement system of quality and integrity.

15 24-101-103. Supplementary general principles of law
16 applicable. Unless displaced by the particular provisions of
17 this code, the principles of law and equity, including the
18 "Uniform Commercial Code", the law merchant, and any law relative
19 to capacity to contract, agency, fraud, misrepresentation,
20 duress, coercion, mistake, or bankruptcy shall supplement the
21 provisions of this code.

22 24-101-104. Requirement of good faith. This code requires
23 all parties involved in the negotiation, performance, or
24 administration of state contracts to act in good faith.

25 24-101-105. Application of this code. (1) This code shall
26 apply to all publicly funded contracts entered into by all

1 governmental bodies of the executive branch of this state.
2 Except as provided in section 24-111-103, it shall also apply to
3 contracts funded in whole or in part with federal assistance
4 moneys. However, this code shall not apply to the awarding of
5 either grants or contracts between the state and its political
6 subdivisions or other governments, except as provided in article
7 110 of this title. It shall apply to the transfer or disposal
8 of state supplies. Except for the provisions of article 109 of
9 this title, this code shall not apply to the procurement of
10 public printing, as defined in section 24-70-201. Upon the
11 request of a governmental body purchasing items for resale to the
12 public, the state purchasing director or the head of a purchasing
13 agency may, by written determination, provide that this code
14 shall not apply to items acquired for such resale. Nothing in
15 this code or in rules promulgated under this code shall prevent
16 any governmental body or political subdivision from complying
17 with the terms and conditions of any grant, gift, bequest, or
18 cooperative agreement.

19 (2) All political subdivisions and local public agencies of
20 this state are authorized to adopt all or any part of this code
21 and its accompanying rules.

22 PART 2

23 DETERMINATIONS

24 24-101-201. Determinations. Written determinations
25 required by this code shall be retained in the appropriate
26 official contract file of the division of purchasing or the

1 purchasing agency administering the procurement.

2 PART 3

3 DEFINITIONS

4 24-101-301. Definitions. The terms defined in this section
5 shall have the meanings set forth below whenever they appear in
6 this code, unless the context in which they are used clearly
7 requires a different meaning or a different definition is
8 prescribed for a particular article or portion thereof:

9 (1) "Business" means any corporation, partnership,
10 individual, sole proprietorship, joint-stock company, joint
11 venture, or other private legal entity.

12 (2) "Change order" means a written order, signed by a
13 procurement officer, directing the contractor to make changes
14 which the changes clause of the contract authorizes the
15 procurement officer to order without the consent of the
16 contractor.

17 (3) "Construction" means the process of building, altering,
18 repairing, improving, or demolishing any public structure or
19 building or any other public improvements of any kind to any
20 public real property. For the purposes of this code,
21 "construction" includes capital construction and controlled
22 maintenance, as defined in section 24-30-1301.

23 (4) "Contract" means any type of state agreement,
24 regardless of what it may be called, for the procurement or
25 disposal of supplies, services, or construction.

26 (5) "Contract modification" means any written alteration of

1 specifications, delivery point, rate of delivery, period of
2 performance, price, quantity, or any other provision of a
3 contract accomplished by mutual action of the parties to the
4 contract.

5 (6) "Contractor" means any person having a contract with a
6 governmental body.

7 (7) "Council" means the procurement advisory council
8 established in section 24-102-502.

9 (8) "Department" means the department of administration.

10 (9) "Executive director" means the executive director of
11 the department of administration.

12 (10) "Governmental body" means any department, commission,
13 council, board, bureau, committee, institution of higher
14 education, agency, government corporation, or other establishment
15 or official, other than an elected official, of the executive
16 branch of state government in this state.

17 (11) "Head of a purchasing agency" means the director of a
18 purchasing agency created pursuant to section 24-102-204 or
19 24-102-302 (2); the principal representative authorized to enter
20 into contracts for capital construction or controlled maintenance
21 pursuant to part 13 of article 30 of this title; the principal
22 representative authorized to enter into contracts for special
23 services pursuant to part 5 of article 105 of this title; and the
24 chief engineer of the division of highways authorized to enter
25 into contracts for bridge and highway construction pursuant to
26 section 43-1-106, C.R.S. 1973.

1 (12) "Invitation for bids" means all documents, whether
2 attached or incorporated by reference, utilized for soliciting
3 bids.

4 (13) "Person" means any business, individual, union,
5 committee, club, other organization, or group of individuals.

6 (14) "Procurement" means buying, purchasing, renting,
7 leasing, or otherwise acquiring any supplies, services, or
8 construction. "Procurement" includes all functions that pertain
9 to the obtaining of any supply, service, or construction,
10 including description of requirements, selection and solicitation
11 of sources, preparation and award of contract, and all phases of
12 contract administration.

13 (15) "Procurement officer" means any person duly authorized
14 to enter into and administer contracts and make written
15 determinations with respect thereto. "Procurement officer"
16 includes an authorized representative acting within the limits of
17 his authority.

18 (16) "Public employee" means an individual drawing a salary
19 from a governmental body or a noncompensated individual
20 performing personal services for a governmental body.

21 (17) "Purchasing agency" means any governmental body other
22 than the division of purchasing which is authorized to enter into
23 contracts by section 24-102-302 (1) by way of delegation from the
24 executive director pursuant to section 24-102-302 (2) or by the
25 way of delegation from the state purchasing director pursuant to
26 section 24-102-204.

1 the public, as provided in sections 24-72-203 and 24-72-204.

2 24-101-402. Retention of procurement records. All
3 procurement records shall be retained and disposed of in
4 accordance with records retention guidelines and schedules, as
5 provided in section 24-80-103.

6 ARTICLE 102

7 Procurement Organization

8 PART 1

9 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION

10 24-102-101. Authority and duties of the executive director.
11 Subject to the provisions of part 4 of this article, the
12 executive director has the authority and responsibility to
13 promulgate rules, consistent with this code, governing the
14 procurement and disposal of any and all supplies, services, and
15 construction to be procured by the state. The executive director
16 shall consider and decide matters of policy within the provisions
17 of this code, including those referred to him by the state
18 purchasing director.

19 PART 2

20 DIVISION OF PURCHASING

21 24-102-201. Creation of the division of purchasing.
22 (1) There is hereby created in the department of administration
23 the division of purchasing, the head of which shall be the state
24 purchasing director. The state purchasing director shall be a
25 full-time employee of the state. The state purchasing director
26 shall be appointed by the executive director pursuant to the

1 provisions of section 13 of article XII of the state
2 constitution.

3 (2) The division of purchasing and the state purchasing
4 director shall exercise their powers and perform their duties and
5 functions under the department of administration and the
6 executive director thereof as if the same were transferred to the
7 department by a type 2 transfer, as such transfer is defined by
8 the "Administrative Organization Act of 1968," article 1 of this
9 title.

10 24-102-202. Authority of the state purchasing director.

11 (1) Consistent with the provisions of this code, the state
12 purchasing director may adopt operational procedures governing
13 the internal functions of the division of purchasing.

14 (2) Except as otherwise specifically provided in this code,
15 the state purchasing director shall, pursuant to rules:

16 (a) Procure or supervise the procurement of all supplies,
17 services, and construction needed by the state;

18 (b) Sell, trade, or otherwise dispose of surplus supplies
19 belonging to the state;

20 (c) Establish and maintain programs for the inspection,
21 testing, and acceptance of supplies, services, and construction;
22 and

23 (d) Examine each requisition submitted by a using agency
24 and approve, disapprove, or revise it as to quantity or quality.

25 24-102-203. Special duties regarding state-owned motor
26 vehicles. (1) The state purchasing director shall:

1 (a) Prescribe rules governing the use, custody, care, and
2 maintenance of all state-owned motor vehicles;

3 (b) Approve all motor vehicles purchased and optional items
4 determined to be necessary for safety which are installed on
5 state-owned motor vehicles; and

6 (c) Whenever in his opinion the best interest of the state
7 will be served, with the exception of Colorado state patrol motor
8 vehicles, order the transfer or sale of any state-owned motor
9 vehicle in the possession of or used by any governmental body,
10 with reimbursement at appraised value to the governmental body
11 having possession of the motor vehicle before such transfer or
12 sale.

13 (2) Energy consumed by such motor vehicles shall be
14 considered in determining the lowest responsive and responsible
15 bidder. The size of any passenger motor vehicle shall not be
16 greater than necessary to accomplish its purposes.

17 (3) Except in the case of the governor's automobile and
18 Colorado state patrol passenger motor vehicles, no state-owned
19 motor vehicle may be traded in as a part payment on a new motor
20 vehicle sold or otherwise disposed of before it has reached the
21 age of four years or before it has seventy thousand miles of
22 service, whichever occurs first, unless such motor vehicle has
23 been wrecked or otherwise disabled to the extent that, in the
24 opinion of the state purchasing director, it is not advisable to
25 make repairs.

26 (4) Governmental bodies requesting funds for the

1 replacement of motor vehicles shall report the operational cost
2 per mile of all said motor vehicles owned by the governmental
3 body. The operational cost shall include such items as gas, oil,
4 tires, and repair work; however, it shall not include the
5 original purchase cost of the motor vehicle. When the
6 operational cost of a state-owned motor vehicle is in excess of
7 the state mileage allowance, it shall constitute a basis for
8 selling or salvaging such motor vehicle.

9 24-102-204. Delegation of authority by the state purchasing
10 director. Subject to rules, the state purchasing director may
11 delegate authority to designees or to any department, agency, or
12 official.

13 PART 3

14 ORGANIZATION OF PUBLIC PROCUREMENT

15 24-102-301. Centralization of procurement authority.
16 Except as otherwise provided in this part 3, all rights, powers,
17 duties, and authority, other than the rule-making authority of
18 the executive director, relating to the procurement of supplies,
19 services, and construction and the sale and disposal of supplies,
20 services, and construction are vested in the division of
21 purchasing.

22 24-102-302. Purchasing agencies - establishment -
23 authority. (1) The following types of supplies, services, or
24 construction shall be procured by the designated governmental
25 body as the appropriate purchasing agency:

26 (a) Bridge and highway construction under the

1 responsibility of the chief engineer of the division of highways,
2 as provided in section 43-1-106, C.R.S. 1973; and

3 (b) Capital construction and controlled maintenance, as
4 defined and delegated to principal representatives by part 13 of
5 article 30 of this title; and

6 (c) Special services, as defined and delegated by article
7 105 of this title.

8 (2) If the executive director is of the opinion and so
9 certifies in writing that the needs of any governmental body,
10 including but not limited to correctional facilities, the state
11 department of highways, the state hospital, or institutions of
12 higher education, are of such specialized nature and sufficient
13 volume to warrant a purchasing agency for such governmental body,
14 he may authorize the creation of the same. All such purchasing
15 agencies shall operate under the provisions of this code and the
16 rules promulgated pursuant thereto and shall be subject to the
17 supervision and control of the state purchasing director.

18 (3) The heads of purchasing agencies responsible for
19 procuring the supplies, services, or construction delegated to
20 them by subsections (1) and (2) of this section shall conduct
21 procurements in accordance with the provisions of this code and
22 its implementing rules.

23 PART 4

24 STATE PROCUREMENT RULES

25 24-102-401. State procurement rules. (1) Rules shall be
26 promulgated in accordance with the applicable provisions of

1 section 24-4-103.

2 (2) The executive director may delegate his power to
3 promulgate rules.

4 (3) No rule shall change any commitment, right, or
5 obligation of the state or of a contractor under a contract in
6 existence on the effective date of such rule.

7 PART 5

8 COORDINATION

9 24-102-501. Collection of data concerning public
10 procurement. All using agencies shall furnish such reports as
11 the state purchasing director may require concerning usage,
12 needs, and stocks on hand, and the state purchasing director
13 shall have authority to prescribe forms to be used by the using
14 agencies in the requisitioning, ordering, and reporting of
15 supplies, services, and construction.

16 24-102-502. Procurement advisory council. The governor
17 shall establish a procurement advisory council, to be composed of
18 seven members. The council, upon adequate public notice, shall
19 meet at least twice a year for the discussion of problems and the
20 making of recommendations, such as on proposed rules. The
21 council shall consist of representatives from purchasing and
22 using agencies and from the business community. The term of
23 office of each member shall be three years; except that, in
24 making the initial appointments, the governor shall appoint three
25 members for terms of three years, two members for terms of two
26 years, and two members for terms of one year. The state

1 purchasing director shall be an ex officio member of the council.

2 ARTICLE 103

3 Source Selection and Contract Formation

4 PART 1

5 DEFINITIONS

6 24-103-101. Definitions. As used in this article, unless
7 the context otherwise requires:

8 (1) "Cost-reimbursement contract" means a contract under
9 which a contractor is reimbursed for costs which are allowable
10 and allocable in accordance with the contract terms and the
11 provisions of this code and a fee, if any.

12 (2) "Established catalogue price" means the price included
13 in a catalogue, price list, schedule, or other form that:

14 (a) Is regularly maintained by a manufacturer or
15 contractor; and

16 (b) Is either published or otherwise available for
17 inspection by customers; and

18 (c) States prices at which sales are currently or were last
19 made to a significant number of any category of buyers or buyers
20 constituting the general buying public for the supplies or
21 services involved.

22 (3) "Professional services" means services of accountants,
23 clergy, physicians, lawyers, and dentists and such other
24 services, excluding those defined as "special services" in
25 article 105 of this title, as the executive director may by rule
26 designate as professional services.

1 24-103-202. Competitive sealed bidding. (1) Contracts
2 shall be awarded by competitive sealed bidding except as
3 otherwise provided in section 24-103-201.

4 (2) An invitation for bids shall be issued and shall
5 include a purchase description and all contractual terms and
6 conditions applicable to the procurement.

7 (3) Adequate public notice of the invitation for bids shall
8 be given a reasonable time prior to the date set forth therein
9 for the opening of bids, pursuant to rules. Such notice may
10 include publication in a newspaper of general circulation at a
11 reasonable time prior to bid opening.

12 (4) Bids shall be opened publicly in the presence of one or
13 more witnesses at the time and place designated in the invitation
14 for bids. The amount of each bid and such other relevant
15 information as may be specified by rules, together with the name
16 of each bidder, shall be entered on a record, and the record
17 shall be open to public inspection. After the time of the award,
18 all bids and bid documents shall be open to public inspection in
19 accordance with the provisions of sections 24-72-203 and
20 24-72-204.

21 (5) Bids shall be unconditionally accepted, except as
22 authorized by subsection (7) of this section. Bids shall be
23 evaluated based on the requirements set forth in the invitation
24 for bids, which may include criteria to determine acceptability,
25 such as inspection, testing, quality, workmanship, delivery, and
26 suitability for a particular purpose. Those criteria that will

1 affect the bid price and be considered in the evaluation for
2 award shall be objectively measurable, such as discounts,
3 transportation costs, and total or life-cycle costs. No
4 criteria may be used in the bid evaluation that are not set forth
5 in the invitation for bids.

6 (6) Withdrawal of inadvertantly erroneous bids before the
7 award may be permitted pursuant to rules if the bidder submits
8 proof of evidentiary value which clearly and convincingly
9 demonstrates that an error was made. Except as otherwise
10 provided by rules, all decisions to permit the withdrawal of bids
11 based on such bid mistakes shall be supported by a written
12 determination made by the state purchasing director or the head
13 of a purchasing agency.

14 (7) The contract shall be awarded with reasonable
15 promptness by written notice to the lowest responsible and
16 responsive bidder whose bid meets the requirements and criteria
17 set forth in the invitation for bids. In the event that all bids
18 for a construction project exceed available funds, as certified
19 by the appropriate fiscal officer, and the low responsive and
20 responsible bid does not exceed such funds by more than seven
21 percent, the state purchasing director or the head of a
22 purchasing agency is authorized, in situations where time or
23 economic considerations preclude resolicitation of work of a
24 reduced scope, to negotiate an adjustment of the bid price,
25 including changes in the bid requirements, with the low
26 responsive and responsible bidder in order to bring the bid

1 within the amount of available funds.

2 (8) When it is considered impractical to initially prepare
3 a purchase description to support an award based on price, an
4 invitation for bids may be issued requesting the submission of
5 unpriced offers to be followed by an invitation for bids limited
6 to those bidders whose offers have been qualified under the
7 criteria set forth in the first solicitation.

8 24-103-203. Competitive sealed proposals. (1) When,
9 pursuant to rules, the state purchasing director, the head of a
10 purchasing agency, or a designee of either officer who is in a
11 higher ranking employment position than a procurement officer
12 determines in writing that the use of competitive sealed bidding
13 is either not practicable or not advantageous to the state, a
14 contract may be entered into by competitive sealed proposals.
15 Competitive sealed proposals may be used for the procurement of
16 professional services, as defined by rule, whether or not the
17 determination described by this subsection (1) has been made.
18 The executive director may provide by rule that it is neither
19 practicable nor advantageous to the state to procure specified
20 types of supplies, services, or construction by competitive
21 sealed bidding.

22 (2) Proposals shall be solicited through a request for
23 proposals.

24 (3) Adequate public notice of the request for proposals
25 shall be given in the same manner as provided in section
26 24-103-202 (3).

1 the award is made.

2 24-103-204. Small purchases. Any procurement not exceeding
3 the amount established by rule may be made in accordance with
4 small purchase procedures established by rules, but procurement
5 requirements shall not be artificially divided so as to
6 constitute a small purchase under this section.

7 24-103-205. Sole source procurement. A contract may be
8 awarded for a supply, service, or construction item without
9 competition when, under rules, the state purchasing director, the
10 head of a purchasing agency, or a designee of either officer who
11 is in a higher ranking employment position than a procurement
12 officer determines in writing that there is only one source for
13 the required supply, service, or construction item.

14 24-103-206. Emergency procurements. Notwithstanding any
15 other provision of this code, the state purchasing director, the
16 head of a purchasing agency, or a designee of either officer may
17 make or authorize others to make emergency procurements when
18 there exists a threat to public health, welfare, or safety under
19 emergency conditions, as defined in rules, but such emergency
20 procurements shall be made with such competition as is
21 practicable under the circumstances. A written determination of
22 the basis for the emergency and for the selection of the
23 particular contractor shall be included in the contract file.

24 PART 3

25 CANCELLATION OF INVITATIONS FOR
26 BIDS OR REQUESTS FOR PROPOSALS

1 (4) Proposals shall be opened so as to avoid disclosure of
2 contents to competing offerors during the process of negotiation.
3 A register of proposals shall be prepared in accordance with
4 rules and shall be open for public inspection after the contract
5 award subject to the provisions of sections 24-72-203 and
6 24-72-204.

7 (5) The request for proposals shall state evaluation
8 factors.

9 (6) As provided in the request for proposals and pursuant
10 to rules, discussions may be conducted with responsible offerors
11 who submit proposals determined to be reasonably susceptible of
12 being selected for an award for the purpose of clarification to
13 assure full understanding of, and responsiveness to, the
14 solicitation requirements. Offerors shall be accorded fair and
15 equal treatment with respect to any opportunity for discussion
16 and revision of proposals, and such revisions may be permitted
17 after submissions and prior to award for the purpose of obtaining
18 best and final offers. In conducting discussions, there shall be
19 no disclosure of any information derived from proposals submitted
20 by competing offerors.

21 (7) The award shall be made to the responsible offeror
22 whose proposal is determined in writing to be the most
23 advantageous to the state, taking into consideration the price
24 and the evaluation factors set forth in the request for
25 proposals. No other factors or criteria shall be used in the
26 evaluation. The contract file shall contain the basis on which

1 24-103-301. Cancellation of invitations for bids or
2 requests for proposals. An invitation for bids, a request for
3 proposals, or any other solicitation may be cancelled or any or
4 all bids or proposals may be rejected in whole or in part as may
5 be specified in the solicitation when it is in the best interests
6 of the state pursuant to rules. The reasons therefor shall be
7 made part of the contract file.

8 PART 4

9 QUALIFICATIONS AND DUTIES

10 24-103-401. Responsibility of bidders and offerors. (1) A
11 written determination of nonresponsibility of a bidder or offeror
12 shall be made pursuant to rules. The unreasonable failure of a
13 bidder or offeror to promptly supply information in connection
14 with an inquiry with respect to responsibility may be grounds for
15 a determination of nonresponsibility with respect to such bidder
16 or offeror.

17 (2) Information furnished by a bidder or offeror pursuant
18 to this section shall not be disclosed outside of the division of
19 purchasing or the purchasing agency without prior written consent
20 by the bidder or offeror.

21 24-103-402. Pregualification of suppliers. Prospective
22 suppliers may be prequalified for particular types of supplies,
23 services, and construction, and the method of compiling and
24 soliciting from such mailing lists of potential contractors shall
25 be pursuant to rules.

26 24-103-403. Cost or pricing data. (1) A contractor shall,

1 except as provided in subsection (3) of this section, submit cost
2 or pricing data and shall certify that, to the best of his
3 knowledge and belief, the cost or pricing data submitted was
4 accurate, complete, and current as of a mutually determined
5 specified date prior to the date of:

6 (a) The pricing of any contract awarded by competitive
7 sealed proposals, section 24-103-203, or pursuant to the sole
8 source procurement authority, section 24-103-205, where the total
9 contract price is expected to exceed an amount established by
10 rule; or

11 (b) The pricing of any change order or contract
12 modification which is expected to exceed an amount established by
13 rule.

14 (2) Any contract, change order, or contract modification
15 under which a certificate is required shall contain a provision
16 that the price to the state, including profit or fee, shall be
17 adjusted to exclude any significant sums by which the state finds
18 that such price was increased because the contractor-furnished
19 cost or pricing data was inaccurate, incomplete, or not current
20 as of the date agreed upon between the parties.

21 (3) Except as provided in section 24-105-504, the
22 requirements of this section need not be applied to any contract
23 in which:

24 (a) The contract price is based on adequate price
25 competition; or

26 (b) The contract price is based on established catalogue

1 prices or market prices;

2 (c) The contract price is set by law or rule; or

3 (d) It is determined in writing, pursuant to rules, that
4 the requirements of this section may be waived and the reasons
5 for such waiver are stated in writing.

6 PART 5

7 TYPES OF CONTRACTS

8 24-103-501. Types of contracts. Subject to the limitations
9 of this section, any type of contract which will promote the best
10 interests of the state may be used; except that the use of a
11 cost-plus-a-percentage-of-cost contract is prohibited. A
12 cost-reimbursement contract may be used only when a determination
13 is made in writing that such contract is likely to be less costly
14 to the state than any other type of contract or that it is
15 impracticable to obtain the supplies, services, or construction
16 required unless the cost-reimbursement contract is used.

17 24-103-502. Approval of accounting system. Except with
18 respect to firm fixed-price contracts, no contract type shall be
19 used unless it has been determined in writing by the state
20 purchasing director, the head of a purchasing agency, or a
21 designee of either officer who is in a higher ranking employment
22 position than a procurement officer that the proposed
23 contractor's accounting system will permit timely development of
24 all necessary cost data in the form required by the specific
25 contract type contemplated and the proposed contractor's
26 accounting system is adequate to allocate costs in accordance

1 with generally accepted accounting principles.

2 24-103-503. Multiyear contracts. (1) Unless otherwise
3 provided by law, a contract for supplies or services may be
4 entered into for any period of time deemed to be in the best
5 interests of the state if the term of the contract and conditions
6 of renewal or extension, if any, are included in the solicitation
7 and if funds are available for the first year at the time of
8 contracting. Payment and performance obligations for succeeding
9 fiscal years shall be subject to the availability and
10 appropriation of funds therefor.

11 (2) Prior to the utilization of a multiyear contract, it
12 shall be determined in writing:

13 (a) That estimated requirements cover the period of the
14 contract and are reasonably firm and continuing; and

15 (b) That such a contract will serve the best interests of
16 the state by encouraging effective competition or otherwise
17 promoting economies in state procurement.

18 (3) When funds are not appropriated or otherwise made
19 available to support continuation of performance in a subsequent
20 fiscal year, the contract shall be cancelled, and the contractor
21 may be reimbursed for the reasonable value of any nonrecurring
22 costs incurred but not amortized in the price of the supplies or
23 services delivered under the contract.

24 PART 6

25 AUDIT OF RECORDS

26 24-103-601. Right to audit records. (1) The state may, at

1 reasonable times and places, audit the books and records of any
2 person who has submitted cost or pricing data pursuant to section
3 24-103-403 to the extent that such books and records relate to
4 such cost or pricing data. Any person who receives a contract,
5 change order, or contract modification for which cost or pricing
6 data is required shall maintain such books and records relating
7 to such cost or pricing data for three years after the date of
8 final payment under the contract, unless a shorter period is
9 otherwise authorized in writing.

10 (2) The state shall be entitled to audit the books and
11 records of a contractor or any subcontractor under any negotiated
12 contract or subcontract other than a firm fixed-price contract to
13 the extent that such books and records relate to the performance
14 of such contract or subcontract. Such books and records shall be
15 maintained by the contractor for a period of three years after
16 the date of final payment under the prime contract and by the
17 subcontractor for a period of three years after the date of final
18 payment under the subcontract, unless a shorter period is
19 otherwise authorized in writing.

20 PART 7

21 DETERMINATIONS AND REPORTS

22 24-103-701. Finality of determinations. The determinations
23 required by sections 24-103-202 (6), 24-103-203 (1) and (7),
24 24-103-205, 24-103-206, 24-103-401 (1), 24-103-403 (3),
25 24-103-501, 24-103-502, and 24-103-503 (2) are final and
26 conclusive unless they are clearly erroneous, arbitrary,

1 capricious, or contrary to law.

2 24-103-702. Reporting of anticompetitive practices. When
3 for any reason collusion or other anticompetitive practices are
4 suspected among any bidders or offerors, a notice of the relevant
5 facts shall be transmitted to the attorney general.

6 ARTICLE 104

7 Specifications

8 PART 1

9 DEFINITIONS

10 24-104-101. Definitions. As used in this article, unless
11 the context otherwise requires:

12 (1) "Specification" means any description of the physical
13 or functional characteristics or of the nature of a supply,
14 service, or construction item. It may include a description of
15 any requirement for inspecting, testing, or preparing a supply,
16 service, or construction item for delivery.

17 PART 2

18 SPECIFICATIONS

19 24-104-201. Duties of the executive director. The
20 executive director shall promulgate rules governing the
21 preparation, maintenance, and content of specifications for
22 supplies, services, and construction required by the state.

23 24-104-202. Duties of the state purchasing director. The
24 state purchasing director shall prepare, issue, revise, maintain,
25 and monitor the use of specifications for supplies, services, and
26 construction required by the state.

1 24-104-203. Exempted items. Specifications for supplies,
2 services, or construction items to be procured by purchasing
3 agencies exempted from centralized procurement pursuant to
4 section 24-102-302 may be prepared by those purchasing agencies
5 in accordance with the provisions of this article and rules
6 promulgated pursuant to this article.

7 24-104-204. Relationship with using agencies. The state
8 purchasing director may obtain expert advice and assistance from
9 personnel of using agencies in the development of specifications
10 and may delegate, in writing, to a using agency the authority to
11 prepare and utilize its own specifications.

12 24-104-205. Maximum practicable competition. All
13 specifications shall seek to promote overall economy for the
14 purposes intended and encourage competition in satisfying the
15 state's needs and shall not be unduly restrictive.

16 24-104-206. Ownership considerations. When feasible,
17 specifications shall incorporate the concepts of energy
18 efficiency, value analysis, and life-cycle cost.

19 24-104-207. Specifications prepared by architects and
20 engineers. The requirements of this article regarding the
21 purposes and nonrestrictiveness of specifications shall apply to
22 all specifications, including, but not limited to, those prepared
23 by architects, engineers, designers, and draftsmen for public
24 contracts.

25 ARTICLE 105

26 Procurement of Professional Construction, Architect, Engineer, Landscape

1 Architect, and Land Surveying Services

2 PART 1

3 DEFINITIONS

4 24-105-101. Definitions. As used in this article, unless
5 the context otherwise requires:

6 (1) "Continuing contract" means a contract for special
7 services entered into pursuant to this article between a
8 governmental body and a person, whereby the person provides
9 special services to the governmental body for work of a specified
10 nature, as outlined in the contract, required by the state agency
11 with no specific time limitation. Any such contract shall
12 provide a termination clause.

13 (2) "Practice of landscape architecture" means the
14 performance of services such as consultation, investigation,
15 reconnaissance, research, planning, design, or reasonable
16 supervision in connection with the development of land areas or
17 land use, where and to the extent that the dominant purpose of
18 any such service is the preservation and development of existing
19 and proposed land features, ground surface, planting,
20 naturalistic features, and aesthetic values. "Practice of
21 landscape architecture" includes the design, location, and
22 arrangement of such tangible objects and features as are
23 incidental to and necessary for the purposes outlined in this
24 subsection (2), but the term does not include the making of land
25 surveys or final engineered plats for official recording or
26 integration of design of structures of earth or other

1 construction materials.

2 (3) "Principal representative" means the governing board of
3 a state department, institution, including institutions of higher
4 education, or agency or, if there is no governing board, the
5 executive head of a state department, institution, or agency, as
6 designated by the governor or the general assembly.

7 (4) "Special services", means those services within the
8 scope of the following:

9 (a) The practice of architecture, as defined in section
10 12-4-102 (5), C.R.S. 1973;

11 (b) The practice of engineering, as defined in section
12 12-25-102 (13), C.R.S. 1973;

13 (c) The practice of land surveying, as defined in section
14 12-25-201 (3), C.R.S. 1973;

15 (d) The practice of landscape architecture, as defined in
16 subsection (2) of this section.

17 PART 2

18 MANAGEMENT OF CONSTRUCTION CONTRACTING

19 24-105-201. Responsibility for selection of methods of
20 construction contracting management. The executive director
21 shall promulgate rules providing for as many alternative methods
22 of construction contracting management as he may determine to be
23 feasible. These rules shall set forth criteria to be used in
24 determining which method of construction contracting management
25 is to be used for a particular project, grant to the head of a
26 division within the department or the head of a purchasing agency

1 which is responsible for carrying out the construction project
2 the discretion to select the appropriate method of construction
3 contracting management for a particular project, and require the
4 procurement officer to execute and include in the contract file a
5 written statement setting forth the facts which led to the
6 selection of a particular method of construction contracting
7 management for each project.

8 PART 3

9 BONDS

10 24-105-301. Bid security. (1) Bid security shall be
11 required for all competitive sealed bidding for construction
12 contracts when the price is estimated by the procurement officer
13 to exceed fifty thousand dollars. Bid security shall be a bond
14 provided by a surety company authorized to do business in this
15 state, the equivalent in cash, or otherwise supplied in a form
16 satisfactory to the state. Nothing in this subsection (1)
17 prevents the requirement of such bonds on construction contracts
18 under fifty thousand dollars.

19 (2) Bid security shall be in an amount equal to at least
20 five percent of the amount of the bid.

21 (3) When the invitation for bids requires security,
22 noncompliance requires that the bid be rejected as nonresponsive.

23 (4) After the bids are opened, they shall be irrevocable
24 for the period specified in the invitation for bids, except as
25 provided in section 24-103-202 (6). If a bidder is permitted to
26 withdraw his bid before award, no action shall be had against the

1 bidder or the bid security.

2 24-105-302. Contract performance and payment bonds.

3 (1) When a construction contract is awarded in excess of fifty
4 thousand dollars, the following bonds or security shall be
5 delivered to the state and shall become binding on the parties
6 upon the execution of the contract:

7 (a) A performance bond satisfactory to the state, executed
8 by a surety company authorized to do business in this state or
9 otherwise secured in a manner satisfactory to the state, in an
10 amount equal to one hundred percent of the price specified in the
11 contract; and

12 (b) A payment bond satisfactory to the state, executed by a
13 surety company authorized to do business in this state or
14 otherwise secured in a manner satisfactory to the state, for the
15 protection of all persons supplying labor and material to the
16 contractor or its subcontractors for the performance of the work
17 provided for in the contract. The bond shall be in an amount
18 equal to one hundred percent of the price specified in the
19 contract.

20 (2) Nothing in this section shall be construed to limit the
21 authority of the state to require a performance bond or other
22 security in addition to those bonds or in circumstances other
23 than those specified in subsection (1) of this section.

24 (3) Suits on payment bonds and labor and payment bonds
25 shall be brought in accordance with sections 38-26-105 to
26 38-26-107, C.R.S. 1973.

1 condition clauses required by the rules need not be included in a
2 contract when the contract is negotiated or when the contractor
3 provides the site or design.

4 (2) (a) Adjustments in price shall be computed in one or
5 more of the following ways:

6 (I) By agreement on a fixed price adjustment before
7 commencement of the pertinent performance or as soon thereafter
8 as practicable;

9 (II) By unit prices specified in the contract or
10 subsequently agreed upon;

11 (III) By the costs attributable to the events or situations
12 under such clauses with adjustment of profit or fee, all as
13 specified in the contract or subsequently agreed upon;

14 (IV) In such other manner as the contracting parties may
15 mutually agree; or

16 (V) In the absence of agreement by the parties, by a
17 unilateral determination by the state of the costs attributable
18 to the events or situations under such clauses with adjustment of
19 profit or fee, all as computed by the state pursuant to the
20 applicable sections of any rules issued under article 107 of this
21 title and subject to the provisions of article 109 of this title.

22 (b) A contractor shall be required to submit cost or
23 pricing data if any adjustment in contract price is subject to
24 the provisions of section 24-103-403.

25 (3) The executive director shall promulgate rules requiring
26 the inclusion in state construction contracts of clauses

1 providing for appropriate remedies and covering the following
2 subjects:

- 3 (a) Liquidated damages as appropriate;
- 4 (b) Specified excuses for delay or nonperformance;
- 5 (c) Termination of the contract for default; and
- 6 (d) Termination of the contract in whole or in part for the
7 convenience of the state.

8 (4) The contract clauses promulgated under this section
9 shall be set forth in rules. However, the head of a division
10 within the department designated by the executive director or the
11 head of a purchasing agency may vary the clauses for inclusion in
12 any particular state construction contract so long as any
13 variations are supported by a written determination that
14 describes the circumstances justifying such variations and notice
15 of any material variation is stated in the invitation for bids or
16 request for proposals.

17 24-105-402. Fiscal responsibility. Every contract
18 modification, change order, or contract price adjustment under a
19 construction contract with the state in excess of an amount
20 specified in the contract shall be subject to prior written
21 certification by the controller or other official responsible for
22 monitoring and reporting upon the status of the costs of the
23 total project or contract budget as to the effect of the contract
24 modification, change order, or adjustment in contract price on
25 the total project or contract budget. In the event that the
26 certification of the controller or other responsible official

1 discloses a resulting increase in the total project or contract
2 budget, the procurement officer shall not execute or make such
3 contract modification, change order, or adjustment in contract
4 price unless sufficient funds are available therefor or the scope
5 of the project or contract is adjusted so as to permit the degree
6 of completion that is feasible within the total project or
7 contract budget as it existed prior to the contract modification,
8 change order, or adjustment in contract price under
9 consideration; except that, with respect to the validity of any
10 executed contract modification, change order, or adjustment in
11 contract price which the contractor has reasonably relied upon,
12 it shall be presumed that there has been compliance with the
13 provisions of this section.

14 PART 5

15 ARCHITECT, ENGINEER, LANDSCAPE ARCHITECT,
16 AND LAND SURVEYING SERVICES

17 24-105-501. Legislative declaration. The purpose of this
18 part 5 is to provide managerial control by the state over
19 competitive negotiations for the acquisition of architect,
20 engineer, landscape architect, and land surveying services. It
21 is hereby declared to be the policy of this state to publicly
22 announce requirements for such special services, to encourage all
23 qualified persons to put themselves in a position to be
24 considered for a contract, and to negotiate contracts for such
25 special services on the basis of demonstrated competence and
26 qualification for the types of special services required and on

1 the basis of the furnishing of such special services at fair and
2 reasonable fees.

3 24-105-502. Listings and preliminary selection. (1) Any
4 person desiring to provide special services to a governmental
5 body shall annually submit to the department a statement of
6 qualification and performance data and such other information as
7 may be required by the department. The department may require
8 such person to update such statement before the anniversary date
9 in order to reflect changed conditions in the status of such
10 person.

11 (2) For each proposed project for which special services
12 are required, the principal representative of the state agency
13 for which the project is to be done shall evaluate current
14 statements of qualifications and performance data on file with
15 the department, together with those that may be submitted by
16 other persons, regarding the proposed contract in response to the
17 public notice issued under section 24-105-505. The principal
18 representative shall conduct discussions, where possible, with no
19 less than three persons regarding their qualifications,
20 approaches to the project, abilities to furnish the required
21 special services, anticipated design concepts, and use of
22 alternative methods of approach for furnishing the required
23 special services. The principal representative shall then select
24 the persons deemed to be qualified to perform the required
25 special services after considering, and based upon, such factors
26 as the ability of professional personnel, past performance,

1 willingness to meet time and budget requirements, location,
2 current and projected work loads, the volume of work previously
3 awarded to the person by the governmental body, and the extent to
4 which those persons have and will involve minority
5 subcontractors, with the object of effecting an equitable
6 distribution of contracts among qualified persons as long as such
7 distribution does not violate the principle of selection of a
8 qualified person. In such selection, Colorado firms shall be
9 given preference when qualifications appear to be equal.

10 24-105-503. Contract negotiation. The principal
11 representative shall solicit competitive sealed proposals from no
12 less than three qualified persons, if three are available, and
13 shall negotiate a contract with the responsible offeror whose
14 proposal is determined, in writing, to be the most advantageous
15 to the state. In making such determination, the principal
16 representative shall take into account, in the following order of
17 importance, the professional competence of offerors, the
18 technical merits of offers, the scope of the services required,
19 and the price for which the special services are to be rendered.

20 24-105-504. Certification - contract adjustments. For all
21 lump-sum or cost-plus-a-fixed-fee special service contracts, the
22 principal representative shall require the person receiving the
23 award to execute a certificate stating that the wage rates and
24 other factual unit costs supporting the compensation to be paid
25 by the governmental body for the special services are accurate,
26 complete, and current at the time of contracting. Any special

1 service contract under which such a certificate is required shall
2 contain a provision that the original contract price and any
3 additions thereto shall be adjusted to exclude any significant
4 sums by which the principal representative determines the
5 contract price had been increased due to inaccurate, incomplete,
6 or noncurrent wage rates and other factual unit costs. All such
7 contract adjustments shall be made within one year following the
8 end of the contract.

9 24-105-505. Public notice. When special services are
10 required to be contracted for, public notice shall be given by
11 the governmental body if the basic construction cost of the
12 project is estimated by the governmental body to be more than one
13 hundred thousand dollars or if the fee for those special services
14 is estimated to exceed ten thousand dollars. Such public notice
15 shall be given at least thirty days prior to the selection of the
16 most highly qualified persons. Public notice shall be given by
17 publication three times in one or more daily newspapers of
18 general circulation in this state, shall contain a general
19 description of the proposed project, and shall indicate the
20 procedure by which interested persons may apply for consideration
21 for the contract.

22 24-105-506. Clause regarding contingent fees. (1) Each
23 contract for special services entered into by the principal
24 representative shall contain the following prohibition against
25 contingent fees: "The architect, or registered land surveyor,
26 or professional engineer, or landscape architect, as applicable,

1 warrants that he has not employed or retained any company or
2 person, other than a bona fide employee working solely for him,
3 to solicit or secure this contract and that he has not paid or
4 agreed to pay any person, company, corporation, individual, or
5 firm, other than a bona fide employee working solely for him, any
6 fee, commission, percentage, gift, or other consideration
7 contingent upon or resulting from the award or the making of this
8 contract."

9 (2) Upon any violation of the clause required in subsection
10 (1) of this section, the principal representative shall have the
11 right to terminate the contract without liability and, at his
12 discretion, to deduct from the contract price, or otherwise
13 recover, the full amount of such fee, commission, percentage, or
14 consideration.

15 24-105-507. Criminal liability. (1) Any person, other
16 than a bona fide employee working solely for a person providing
17 special services, who offers, agrees, or contracts to solicit or
18 secure for any other person state contracts for special services
19 and who, in so doing, receives any fee, commission, gift, or
20 other consideration contingent upon or resulting from the making
21 of the contract commits a class 3 felony and shall be punished as
22 provided in section 18-1-105, C.R.S. 1973.

23 (2) Any person providing special services who offers to pay
24 or does pay any fee, commission, gift, or other consideration
25 contingent upon or resulting from the making of a contract for
26 special services with a governmental body commits a class 1

1 misdemeanor and shall be punished as provided in section
2 18-1-106, C.R.S. 1973.

3 (3) Any state official or employee who solicits or secures
4 or offers to solicit or secure a contract for special services
5 with a governmental body and who is paid any fee, commission,
6 gift, or other consideration contingent upon the making of such
7 contract commits a class 1 misdemeanor and shall be punished as
8 provided in section 18-1-106, C.R.S. 1973.

9 24-105-508. Continuing contracts. Nothing in this part 5
10 shall be construed to prohibit continuing contracts between
11 persons providing special services and governmental bodies. All
12 selections, contracts, and negotiations undertaken pursuant to
13 this part 5 and all processes and procedures in connection with
14 such matters shall be in conformity with this part 5.

15 24-105-509. Prior existing design plans. Notwithstanding
16 any other provision of this part 5 or of part 13 of article 30 of
17 this title, there shall be no public notice requirement or
18 utilization of the selection process as provided for in this part
19 5 or in part 13 of article 30 of this title for projects in which
20 the governmental body is able to reuse existing drawings,
21 specifications, designs, or other documents from a prior project.

22 ARTICLE 106

23 Modification and Termination of Contracts

24 24-106-101. Contract clauses - price adjustments -
25 additional clauses - modification. (1) The executive director
26 may promulgate rules permitting or requiring the inclusion of

1 clauses providing for adjustments in prices, time of performance,
2 or other appropriate clauses covering the following:

3 (a) The unilateral right of the state to order, in writing,
4 changes in the work within the scope of the contract and
5 temporary stopping of work or delaying of performance; and

6 (b) Variations occurring between estimated quantities of
7 work in a contract and actual quantities.

8 (2) (a) Adjustments in price pursuant to clauses
9 promulgated under subsection (1) of this section shall be
10 computed in one or more of the following ways:

11 (I) By agreement on a fixed price adjustment before
12 commencement of the pertinent performance or as soon thereafter
13 as practicable;

14 (II) By unit prices specified in the contract or
15 subsequently agreed upon;

16 (III) By the costs attributable to the events or situations
17 under such clauses with adjustment of profit or fee, all as
18 specified in the contract or subsequently agreed upon;

19 (IV) In such other manner as the contracting parties may
20 mutually agree; or

21 (V) In the absence of agreement by the parties, by a
22 unilateral determination by the state of the costs attributable
23 to the events or situations under such clauses with adjustment of
24 profit or fee, all as computed by the state in accordance with
25 applicable sections of the rules promulgated under article 107 of
26 this title and subject to the provisions of article 109 of this

1 title.

2 (b) A contractor shall be required to submit cost or
3 pricing data if any adjustment in contract price is subject to
4 the provisions of section 24-103-403.

5 (3) The executive director may promulgate rules including,
6 but not limited to, rules permitting or requiring the inclusion
7 in state contracts of clauses providing for appropriate remedies
8 and covering the following subjects:

9 (a) Liquidated damages as appropriate;

10 (b) Specified excuses for delay or nonperformance;

11 (c) Termination of the contract for default; and

12 (d) Termination of the contract in whole or in part for the
13 convenience of the state.

14 (4) Any contract clauses promulgated under this section
15 shall be set forth in rules. However, the state purchasing
16 director or the head of a purchasing agency may vary the clauses
17 for inclusion in any particular state contract so long as any
18 variations are supported by a written determination that
19 describes the circumstances justifying such variations and
20 notice of any material variation is stated in the invitation for
21 bids or request for proposals.

22 ARTICLE 107

23 Cost Principles

24 24-107-101. Administrative rules - cost reimbursement. The
25 executive director may promulgate rules setting forth cost
26 principles which may be used to determine the allowability of

1 incurred costs for the purpose of reimbursing costs under
2 contract provisions which provide for the reimbursement of costs;
3 except that, if a written determination is approved by a person
4 who is in a higher ranking employment position than a procurement
5 officer, such cost principles may be modified by contract.

6 ARTICLE 108

7 Supply Management

8 PART 1

9 DEFINITIONS

10 24-108-101. Definitions. As used in this article, unless
11 the context otherwise requires:

12 (1) "Excess supplies" means any supplies having a remaining
13 useful life but which are no longer required by the using agency
14 in possession of the supplies.

15 (2) "Surplus supplies" means any supplies no longer having
16 any use to the state.

17 PART 2

18 ADMINISTRATIVE RULES

19 24-108-201. Administrative rules - supply management.

20 (1) The executive director shall promulgate rules governing:

21 (a) The sale, lease, or disposal of surplus supplies by
22 public auction or competitive sealed bidding, but no public
23 employee, which for the purposes of this subsection (1) includes
24 elected officials, shall be entitled to purchase any such
25 supplies; and

26 (b) The transfer of excess supplies.

1 PART 3

2 PROCEEDS FROM SALE OR DISPOSAL

3 24-108-301. Allocation of proceeds from sale or disposal of
4 surplus supplies. The net proceeds from the sale, lease, or
5 disposal of surplus supplies shall be paid over to the state
6 treasurer and credited to the proper account, upon the
7 recommendation of the state purchasing director and with the
8 approval of the controller.

9 ARTICLE 109

10 Remedies

11 PART 1

12 PRELITIGATION RESOLUTION OF CONTROVERSIES

13 24-109-101. Protested solicitations and awards. (1) Any
14 actual or prospective bidder, offeror, or contractor who is
15 aggrieved in connection with the solicitation or award of a
16 contract may protest to the state purchasing director or the head
17 of a purchasing agency. The protest shall be submitted in
18 writing within seven working days after such aggrieved person
19 knows or should have known of the facts giving rise thereto.

20 (2) The state purchasing director, the head of a purchasing
21 agency, or a designee of either officer shall have the authority
22 to settle and resolve a protest of an aggrieved bidder, offeror,
23 or contractor, actual or prospective, concerning the solicitation
24 or award of a contract. This authority shall be exercised
25 pursuant to rules.

26 24-109-102. Stay of procurements during protests. In the

1 event of a timely protest under section 24-109-101 (1), the state
2 shall not proceed further with the solicitation or with the award
3 of the contract unless the executive director, or his designee,
4 after consultation with either the state purchasing director and
5 the using agency or the head of a purchasing agency, makes a
6 written determination that the award of the contract without
7 delay is necessary to protect substantial interests of the state.

8 24-109-103. Debarment and suspension. (1) (a) After
9 reasonable notice to the person involved and reasonable
10 opportunity for that person to be heard, the state purchasing
11 director or the head of a purchasing agency, after consultation
12 with the using agency and the attorney general, shall have
13 authority to debar a person for any of the reasons set forth in
14 subsection (2) of this section from consideration for award of
15 contracts. The debarment shall not be for a period of more than
16 three years.

17 (b) The state purchasing director or the head of a
18 purchasing agency, after consultation with the using agency and
19 the attorney general, shall have authority to suspend a person
20 from consideration for award of contracts if there is probable
21 cause to believe that such person has engaged in activities that
22 may lead to debarment. The suspension shall not be for a period
23 exceeding three months. However, if a criminal indictment has
24 been issued for an offense which would be a cause for debarment
25 under subsection (2) of this section, the suspension shall, at
26 the request of the attorney general, remain in effect until after

1 the trial of the suspended person.

2 (c) The authority to debar or suspend shall be exercised
3 pursuant to rules.

4 (2) A person may be debarred for any of the following
5 reasons:

6 (a) Conviction of a criminal offense as an incident to
7 obtaining or attempting to obtain a public or private contract or
8 subcontract, or in the performance of such contract or
9 subcontract;

10 (b) Conviction under state or federal statutes of
11 embezzlement, theft, forgery, bribery, falsification or
12 destruction of records, receiving stolen property, or any other
13 offense indicating a lack of business integrity or business
14 honesty which currently, seriously, and directly affects
15 responsibility as a state contractor;

16 (c) Conviction under state or federal antitrust statutes
17 arising out of the submission of bids or proposals;

18 (d) Failure without good cause to perform in accordance
19 with the terms of any contract; or

20 (e) Any other cause which the state purchasing director or
21 the head of a purchasing agency determines to be so serious and
22 compelling as to affect responsibility as a state contractor,
23 including debarment by another governmental entity for any cause
24 listed in the rules.

25 24-109-104. Resolution of contract and breach of contract
26 controversies - applicability - authority. (1) This section

1 applies to controversies between the state and a contractor which
2 arise under, or by virtue of, a contract between them, including,
3 without limitation, controversies which are based upon breach of
4 contract, mistake, misrepresentation, or any other cause for
5 contract modification or rescission.

6 (2) The state purchasing director, the head of a purchasing
7 agency, or a designee of either officer is authorized to settle
8 and resolve any controversy described in subsection (1) of this
9 section. This authority shall be exercised pursuant to rules.

10 24-109-105. Issuance and appeal of decision. (1) The
11 state purchasing director, the head of a purchasing agency, or a
12 designee of either officer shall promptly issue a written
13 decision regarding any protest, debarment or suspension, or
14 contract controversy if it is not settled by mutual agreement.
15 The decision shall state the reasons for the action taken and
16 give notice to the protestor, prospective contractor, or
17 contractor of his right to administrative and judicial reviews as
18 provided for in this article.

19 (2) A decision shall be effective unless stayed or until
20 reversed on appeal, except as provided in section 24-109-102. A
21 copy of the decision rendered under subsection (1) of this
22 section shall be mailed or otherwise furnished immediately to the
23 protestor, prospective contractor, or contractor. The decision
24 shall be final and conclusive unless the protestor, prospective
25 contractor, or contractor files an appeal of the decision. Such
26 decisions may be appealed. Any such appeal shall be as provided

1 in part 2 of this article.

2 (3) If the state purchasing director, the head of a
3 purchasing agency, or a designee of either officer does not issue
4 a written decision regarding a contract controversy within twenty
5 working days after written request for a final decision, or
6 within such longer period as may be agreed upon by the parties,
7 then the contractor may proceed as if a decision against him had
8 been rendered.

9 PART 2

10 APPEALS

11 24-109-201. Appeals to executive director. An appeal of a
12 decision of the state purchasing director or head of a purchasing
13 agency rendered pursuant to part 1 of this article shall be filed
14 within the time limitations set forth in section 24-109-202 and
15 shall be made to the executive director. The executive director
16 is granted the power to hear and decide such appeals and is
17 authorized to designate another person to exercise such power.
18 Such administrative hearing shall be conducted by the executive
19 director or his designee in accordance with the provisions of
20 section 24-4-105. After such hearing any person receiving an
21 adverse decision may appeal the decision of the executive
22 director or his designee to the district court for the city and
23 county of Denver as provided in section 24-109-203.

24 24-109-202. Time limitation for appeals. (1) In the case
25 of an appeal from a decision regarding a protested solicitation
26 or award, the aggrieved person shall file an appeal within seven

1 working days of a decision rendered pursuant to section
2 24-109-105.

3 (2) In the case of an appeal from a decision regarding a
4 debarment, suspension, or contract controversy, the aggrieved
5 person shall file an appeal within twenty working days of receipt
6 of a decision rendered or deemed to be rendered pursuant to
7 section 24-109-105.

8 24-109-203. Appeals to district court. An appeal of a
9 decision by the executive director or his designee rendered
10 pursuant to section 24-109-201 shall be filed with the district
11 court for the city and county of Denver, which shall have
12 exclusive jurisdiction to hear such appeals. Such judicial
13 review shall be in accordance with section 24-4-106; except that
14 the venue for such judicial review shall be the district court
15 for the city and county of Denver, and the time limitations
16 within which such appeal must be filed shall be as set forth in
17 section 24-109-204.

18 24-109-204. Time limitations on appeals to district court.

19 (1) A judicial review of a decision of the executive director or
20 his designee shall be initiated within the following time
21 periods:

22 (a) In the case of an action between the state and a
23 bidder, offeror, or contractor, prospective or actual, who is
24 aggrieved in connection with the solicitation or award of a
25 contract, within ten working days after receipt of the decision
26 of the executive director or his designee;

1 (b) In the case of a suspension or debarment, within six
2 months after receipt of the decision of the executive director or
3 his designee;

4 (c) In the case of an action on a contract or for breach of
5 a contract, within twenty working days after the date of the
6 decision of the executive director or his designee.

7 PART 3

8 INTEREST

9 24-109-301. Interest. Interest on amounts determined to be
10 due to a contractor or to the state shall be payable from the
11 date the claim was filed through the date of decision or
12 judgment, whichever is later. Interest shall be calculated at
13 the federal reserve board discount rate which was in effect on
14 the date the claim was filed.

15 PART 4

16 SOLICITATIONS AND AWARDS IN VIOLATION OF THE LAW

17 24-109-401. Applicability. This part 4 shall apply in
18 situations in which it is determined judicially or
19 administratively, or upon administrative or judicial review, that
20 a solicitation or award of a contract is in violation of the law.

21 24-109-402. Remedies prior to an award. If, prior to the
22 awarding of a contract, it is determined that a solicitation or
23 the proposed award is in violation of the law, then the
24 solicitation or proposed award shall be cancelled or shall be
25 revised in order to comply with the law.

26 24-109-403. Remedies after an award. (1) If, after the

1 awarding of a contract, it is determined that the solicitation or
2 the award of the contract is in violation of the law, and if the
3 person awarded the contract has not acted fraudulently or in bad
4 faith, the contract may be ratified and affirmed, provided it is
5 determined that doing so is in the best interests of the state,
6 or the contract may be terminated and the person awarded the
7 contract shall be compensated for the actual expenses reasonably
8 incurred under the contract prior to its termination, plus a
9 reasonable profit.

10 (2) If, after the awarding of a contract, it is determined
11 that the solicitation or the award of the contract is in
12 violation of the law, and if the person awarded the contract has
13 acted fraudulently or in bad faith, the contract may be declared
14 null and void, or the contract may be ratified and affirmed if
15 such action is in the best interests of the state, but such
16 ratification and affirmation shall be without prejudice to the
17 state's right to such damages as may be appropriate.

18 24-109-404. Liability of public employees. If any
19 governmental body purchases any supplies, services, or
20 construction contrary to the provisions of this code or the rules
21 promulgated pursuant thereto, the head of such governmental body
22 and the public employee, which for the purposes of this section
23 includes elected officials, actually making such purchase shall
24 be personally liable for the costs thereof. If such supplies,
25 services, or construction are unlawfully purchased and paid for
26 with state moneys, the amount thereof may be recovered in the

1 name of the state in an appropriate civil action.

2 ARTICLE 110

3 Intergovernmental Relations

4 PART 1

5 DEFINITIONS

6 24-110-101. Definitions. As used in this article, unless
7 the context otherwise requires:

8 (1) "Cooperative purchasing" means procurement conducted
9 by, or on behalf of, more than one public procurement unit or by
10 a public procurement unit with an external procurement activity.

11 (2) "External procurement activity" means any buying
12 organization not located in this state which, if located in this
13 state, would qualify as a public procurement unit. An agency of
14 the United States is an external procurement activity.

15 (3) "Local public procurement unit" means any county, city,
16 county and city, municipality, or other political subdivision of
17 the state, any public agency of any such political subdivision,
18 any public authority, any educational, health, or other
19 institution, and, to the extent provided by law, any other entity
20 which expends public funds for the procurement of supplies,
21 services, and construction.

22 (4) "Public procurement unit" means either a local public
23 procurement unit or a state public procurement unit.

24 (5) "State public procurement unit" means the division of
25 purchasing, within the department of administration, or any other
26 purchasing agency of this state.

PART 2

COOPERATIVE PURCHASING

24-110-201. Cooperative purchasing authorized. Any public procurement unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies, services, or construction with one or more public procurement units or external procurement activities in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between public procurement units and open-ended state public procurement unit contracts which are made available to local public procurement units.

24-110-202. Sale, acquisition, or use of supplies by a public procurement unit. Any public procurement unit may sell to, acquire from, or use any supplies belonging to another public procurement unit or external procurement activity independent of the requirements of articles 103 and 108 of this title.

24-110-203. Cooperative use of supplies or services. Any public procurement unit may enter into an agreement, independent of the requirements of articles 103 and 108 of this title, with any other public procurement unit or external procurement activity for the cooperative use of supplies or services under the terms agreed upon between the parties.

24-110-204. Joint use of facilities. Any public procurement unit may enter into agreements for the common use or

1 lease of warehousing facilities, capital equipment, and other
2 facilities with another public procurement unit or an external
3 procurement activity under the terms agreed upon between the
4 parties.

5 24-110-205. Supply of personnel, information, and technical
6 services. (1) Any public procurement unit is authorized, in its
7 discretion, upon written request from another public procurement
8 unit or external procurement activity, to provide personnel to
9 the requesting public procurement unit or external procurement
10 activity. The public procurement unit or external procurement
11 activity making the request shall reimburse the public
12 procurement unit which provides the personnel for the direct and
13 indirect expense incurred in furnishing such personnel, in
14 accordance with the agreement between the parties.

15 (2) Informational, technical, and other services of any
16 public procurement unit may be made available to any other public
17 procurement unit or external procurement activity if the
18 requirements of the public procurement unit tendering the
19 services shall have precedence over the requesting public
20 procurement unit or external procurement activity. The
21 requesting public procurement unit or external procurement
22 activity shall pay any expenses incurred in providing such
23 services, in accordance with the agreement between the parties.

24 (3) Upon request, the state purchasing director, through
25 the division of local government, within the department of local
26 affairs, may make available to local public procurement units and

1 external procurement activities the following items, including,
2 but not limited to:

- 3 (a) Standard forms;
- 4 (b) Printed manuals;
- 5 (c) Product specifications and standards;
- 6 (d) Quality assurance testing services and methods;
- 7 (e) Lists of qualified products;
- 8 (f) Source information;
- 9 (g) Lists of common use commodities;
- 10 (h) Supplier prequalification information;
- 11 (i) Supplier performance rating;
- 12 (j) Lists of debarred and suspended bidders;
- 13 (k) Forms for invitations for bids, requests for proposals,
14 instructions to bidders, general contract provisions, and other
15 contract forms; and
- 16 (l) Contracts or published summaries of contracts,
17 including price and time of delivery information.

18 (4) The state, through the division of local government
19 within the department of local affairs, may provide to local
20 public procurement units and external procurement activities
21 technical services, including, but not limited to, the following:

- 22 (a) The development of products specifications;
- 23 (b) The development of quality assurance test methods
24 including receiving, inspection, and acceptance procedures;
- 25 (c) The use of product testing and inspection facilities;
- 26 and

1 (d) The use of personnel training programs.

2 (5) The division of local government within the department
3 of local affairs may enter into contractual arrangements for and
4 may publish a schedule of fees for the provision of those
5 services which are set forth in subsections (3) and (4) of this
6 section.

7 24-110-206. Use of payments received by a supplying public
8 procurement unit. All payments from any public procurement unit
9 or external procurement activity which are received by a public
10 procurement unit for supplying personnel or services shall be
11 available for use as authorized by law or pursuant to fiscal
12 rules.

13 24-110-207. Public procurement units - compliance with
14 code. Whenever the public procurement unit or external
15 procurement activity which is administering a cooperative
16 purchase agreement complies with the requirements of this code,
17 the public procurement unit which is participating in such
18 agreement shall also be deemed to have complied with this code.
19 No public procurement unit may enter into a cooperative
20 purchasing agreement for the purpose of circumventing this code.

21 24-110-208. Review of procurement requirements. To the
22 extent possible, the state purchasing director may collect
23 information concerning the type, cost, quality, and quantity of
24 commonly used supplies, services, or construction being procured
25 or used by state public procurement units. The state purchasing
26 director, through the division of local government within the

1 department of local affairs, may also collect such information
2 from local public procurement units. The state purchasing
3 director may make available all such information to any public
4 procurement unit upon request.

5 PART 3

6 CONTRACT CONTROVERSIES

7 24-110-301. Contract controversies. In the case of a
8 cooperative purchasing agreement, controversies which arise
9 between an administering public procurement unit and its bidders,
10 offerors, or contractors shall be resolved in accordance with
11 article 109 of this title.

12 ARTICLE 111

13 Preferences In Awarding Contracts -

14 Federal Assistance Requirements

15 24-111-101. Exemptions from prescribed methods of source
16 selection. Notwithstanding the requirements of section
17 24-103-201, state procurement contracts, where appropriate, shall
18 be awarded as provided in sections 17-24-111, 24-30-1203, and
19 26-8.2-103, C.R.S. 1973.

20 24-111-102. Priorities among preferences. (1) When two or
21 more socioeconomic procurement programs are applicable to the
22 same procurement, businesses benefitting from such programs shall
23 be considered in the following order of precedence:

- 24 (a) Correctional industries;
25 (b) Industries for the visually impaired;
26 (c) Industries for the severely handicapped.

1 services, including capital construction items which are used by
2 agencies financed in whole or in part by the state, any political
3 subdivision thereof, and the federal government. The state and
4 its institutions, agencies, and departments shall purchase
5 through the state purchasing agent DIRECTOR or central purchasing
6 agency authorized by section 24-30-402-(2)-(a); 24-102-302 (2),
7 C.R.S. 1973, such goods and services as are produced by the
8 division. Such goods and services shall be provided at a price
9 comparable to the current market price for similar goods and
10 services. No similar goods and services shall be purchased by
11 state agencies from any other source than the division, unless
12 the division certifies to the state purchasing agent DIRECTOR
13 that it is not able to provide the goods or services.

14 (2) In order to assist the director in the development of
15 programs which produce goods and services needed by governmental
16 agencies, on or before July 1 of each year each institution,
17 agency, or department of the state shall furnish to the state
18 purchasing agent DIRECTOR a list of its anticipated needs for
19 goods and services for the ensuing fiscal year. The state
20 purchasing agent DIRECTOR shall make such lists available to the
21 director. In addition, on or before April 1 and October 1 of
22 each year or as often within the year as may be necessary, the
23 director shall report to the state purchasing agent DIRECTOR or
24 central purchasing agency and the office of state planning and
25 budgeting all goods and services to be produced by the division
26 during the following one-year period. The state purchasing agent

1 DIRECTOR or central purchasing agency shall inform all state
2 agencies, within thirty days, of such list. All state agencies
3 that require such goods and services for their operation shall
4 inform the state purchasing agent DIRECTOR or central purchasing
5 agency and the office of state planning and budgeting of the
6 anticipated orders for such goods and services during the next
7 one-year period. All orders for such goods and services shall be
8 placed by the agency through the state purchasing agent DIRECTOR
9 or central purchasing agency. All state agencies shall be
10 required to purchase such goods and services from the division,
11 unless the director has certified that it cannot fulfill the
12 order at a price within ten percent of the prevailing market
13 price for a comparable level of quality, and within a reasonable
14 delivery time.

15 (3) The state purchasing agent DIRECTOR or central
16 purchasing agency and the office of state planning and budgeting
17 shall ensure that all state agency purchases are made through the
18 division for correctional industry goods and services, unless
19 waivers are certified.

20 SECTION 3. 24-1-116 (2) (a), Colorado Revised Statutes
21 1973, is amended to read:

22 ~~24-1-116.~~ 24-1-116. Department of administration - creation.
23 (2) (a) Division of purchasing, the head of which shall be the
24 state purchasing agent DIRECTOR. The division of purchasing and
25 the office of state purchasing agent DIRECTOR, created by part 4
26 2 of article 30 102 of this title, and their powers, duties, and

1 functions are transferred by a type 2 transfer to the department
2 of administration as the division of purchasing.

3 SECTION 4. 24-2-102 (4), Colorado Revised Statutes 1973,
4 is amended to read:

5 24-2-102. Appointment of officers, assistants, and
6 employees. (4) If, during any fiscal period, there are not
7 sufficient revenues available for expenditure during such period
8 to carry on the functions of the state government and to support
9 its agencies and institutions and such fact is made to appear to
10 the governor, in the exercise of his discretion, by executive
11 order, he may suspend or discontinue, in whole or in part, the
12 functions or services of any department, board, bureau, or agency
13 of the state government. Such discontinuance or suspension shall
14 become effective upon the first day of the calendar month
15 following the entry of such executive order and shall continue
16 for such period of time, not to exceed three months, as shall be
17 determined by such executive order. If, during any such period
18 of time, it again appears to the governor that such deficiency of
19 revenues still persists, from time to time, he may extend the
20 operation of such executive order for a like period of time not
21 to exceed three months; but the state shall not be liable for the
22 payment of any claim for salaries or expenses purporting to have
23 accrued against any such department, board, bureau, or agency
24 during any such period of suspension, and the controller shall
25 not issue nor may the state treasurer honor any warrant therefor.
26 Elective officers shall not be subject to the provisions of

1 article 2, parts-2-and-4 PART 2 of article 30, and articles 31,
2 35, and 36, AND 101 TO 112 of this title.

3 SECTION 5. 24-14-102, Colorado Revised Statutes 1973, is
4 amended to read:

5 24-14-102. Purchase of insurance authorized. The head of a
6 department of the state of Colorado, with the approval of the
7 governor or, in the case of the county or city and county, the
8 chief executive officer or board of county commissioners, subject
9 to appropriations being available therefor, is hereby authorized
10 to procure insurance, through the state purchasing agent DIRECTOR
11 as provided in ~~part-4--of--article--30~~ THE "PROCUREMENT CODE",
12 ARTICLES 101 TO 112 of this title, for the purpose of insuring
13 its officers, employees, and agents against any liability, other
14 than a liability which may be insured against under the
15 provisions of the "Workmen's Compensation Act of Colorado", for
16 injuries or damages resulting from their negligence or other
17 tortious conduct during the course of their service or
18 employment. Counties or cities and counties are authorized to
19 insure their officers, employees, and agents against similar
20 liabilities.

21 SECTION 6. Part 4 of article 30 of title 24, Colorado
22 Revised Statutes 1973, as amended, is REPEALED AND REENACTED,
23 WITH AMENDMENTS, to read:

24 PART 4

25 MOTOR VEHICLE POOLS

26 24-30-401. Car pool. (1) The executive director of the

1 department of administration shall establish and operate a state
2 car pool system for the use of state-owned motor vehicles by
3 officers and employees of certain state departments, agencies,
4 and institutions and in such connection has the following powers
5 and duties:

6 (a) Whenever in his opinion the best interests of the state
7 shall be served, to order the transfer of any state-owned motor
8 vehicle in possession of or used by any state department, agency,
9 or institution to the state car pool system to be used as a part
10 of the pool with reimbursement at appraised value to the state
11 department, agency, or institution having possession of the
12 vehicle before such transfer, except cars operated by the
13 Colorado state patrol and the state bureau of animal protection,
14 which shall be exempt from this section and section 24-30-402;

15 (b) To require any state department, agency, or institution
16 to use vehicles from the pool in the transaction of state
17 business in lieu of the use of state-owned vehicles in its
18 possession or in lieu of the use of privately owned vehicles when
19 in his opinion economies can thus be effected;

20 (c) To assign any vehicle in the pool to any state
21 department, agency, or institution for use in the transaction of
22 state business, under such condition and at such operation cost
23 per mile, chargeable to the state department, agency, or
24 institution, as he prescribes;

25 (d) To provide for the storage, maintenance, repair, and
26 replacement of all vehicles in the pool;

1 (e) In determining where economies can most effectively be
2 made, to require the keeping and reporting by any state
3 department, agency, or institution of operation and maintenance
4 costs of all state-owned vehicles in their possession and the
5 keeping and reporting of expense costs incurred and paid by them
6 to their officers and employees for the use of privately owned
7 vehicles in the transaction of state business;

8 (f) To prescribe rules and regulations regarding the
9 custody, care, maintenance, and use of all state-owned motor
10 vehicles as he may deem necessary and desirable for the
11 protection of such state property;

12 (g) To establish procedures in regard to the state car pool
13 system and prescribe such rules and regulations as will most
14 effectively carry out the provisions and purposes of this section
15 and section 24-30-402.

16 24-30-402. Claims for operations. No claim shall be
17 approved for any costs incurred in connection with the operation
18 or maintenance of any state-owned or privately owned motor
19 vehicle by any state department, agency, or institution not in
20 compliance with the provisions of this section and section
21 24-30-401 and the orders, rules, and regulations of the executive
22 director of the department of administration prescribed under
23 this section and section 24-30-401.

24 24-30-403. Vanpooling - state-owned vehicles - revolving
25 account. (1) The executive director of the department of
26 administration shall promulgate rules and regulations governing

1 the use of vans with a seating capacity of eight or more persons
2 in carrying state employees to and from work. Such rules and
3 regulations shall permit persons who are not state employees to
4 participate in such program and to ride to and from work in such
5 vans if space is available in a van and its established route
6 makes such participation reasonable.

7 (2) Such rules and regulations shall require persons
8 participating in the program to pay a monthly fee sufficient to
9 recover, over the projected life of the van, that portion of the
10 purchase cost and operating expenses of the van which are
11 attributable to the use of the van in carrying such persons to
12 and from work. For the purpose of calculating the monthly fee,
13 the life of the van shall be deemed to be one hundred thousand
14 miles or ten years, whichever may come first. Such monthly fee
15 shall also include a charge sufficient to recover the cost, if
16 any, of additional insurance purchased by a state agency to cover
17 the added risk incurred by the state through permitting such
18 vanpooling.

19 (3) Such vans may be maintained and repaired in state
20 facilities upon payment of a ten-dollar monthly fee for each van
21 by the state agency controlling the use of the van. Such
22 ten-dollar fee shall be included in determining the monthly fee
23 charged to participants in the vanpool program.

24 (4) Such rules and regulations may include provisions
25 permitting the use of such vans for personal use during nonwork
26 hours by the employee who regularly drives the van in going to

1 and returning from work if the state agency controlling the use
2 of the van so desires on condition that said employee pay the
3 state's vanpool fund or controlling agency vanpool fund, as
4 appropriate, an amount of money sufficient to cover the cost of
5 gasoline used by said employee for the first two hundred fifty
6 miles of personal use per month. For personal miles driven in
7 excess of two hundred fifty miles per month, said employee shall
8 pay the appropriate fund at a mileage rate sufficient to cover
9 the full cost of van operation.

10 (5) Such rules and regulations may include provisions
11 permitting the use by participants in the vanpool program of
12 other state-owned passenger vehicles in going to and returning
13 from work when the vans which they usually use are being
14 inspected, repaired, or maintained.

15 (6) (a) There is hereby created a special account to be
16 known as the vanpool program revolving account. Receipts from
17 participants in vanpools which use state-owned vehicles shall be
18 deposited to said account and shall be used only to pay the
19 monthly operating and maintenance costs of such vehicles which
20 are attributable to the use of such motor vehicles in carrying
21 persons to and from work and to pay that portion of the purchase
22 cost of replacement vehicles which is attributable to the use of
23 the motor vehicles in carrying persons to and from work.

24 (b) The controller, upon presentation of vouchers properly
25 drawn and signed by the executive director or an authorized
26 employee of the department of administration, shall issue

1 warrants drawn on such account for the purposes authorized in
2 paragraph (a) of this subsection (6).

3 (c) The controller, with the consent and approval of the
4 executive director of the department of administration, is
5 authorized and directed to establish an adequate system of
6 accounting which accurately records:

7 (I) All moneys received and from what sources;

8 (II) All moneys expended and for what purposes.

9 (d) In his annual budget request to the governor, the
10 executive director of the department of administration shall
11 clearly show the allocation of moneys in the account to operating
12 and maintenance costs, replacement costs, and surplus, if any.

13 SECTION 7. Part 2 of article 70 of title 24, Colorado
14 Revised Statutes 1973, as amended, is amended BY THE ADDITION OF
15 A NEW SECTION to read:

16 24-70-230. Remedies. Disputes arising in connection with
17 the solicitation, award, or performance of contracts for public
18 printing shall be resolved pursuant to the provisions of article
19 109 of this title.

20 SECTION 8. 24-75-203 (4), Colorado Revised Statutes 1973,
21 as amended, is amended to read:

22 24-75-203. Loans and advances. (4) Upon the prior written
23 approval of the governor and the controller as to purpose and
24 amount, the state treasurer may lend the approved amount, out of
25 any moneys in the state treasury not immediately required to be
26 disbursed, to the executive director of the department of

1 administration, to provide temporary funds for the account
2 created pursuant to section ~~24-38-414-(6)~~ 24-30-403 (6). Any
3 such loan shall be repaid prior to the end of the fiscal year in
4 which the loan is made.

5 SECTION 9. 2-2-320 (2), Colorado Revised Statutes 1973,
6 1980 Repl. Vol., is amended to read:

7 2-2-320. Legislative department contracts - approval.

8 (2) The attorney general shall approve all legislative
9 department contracts as to form. The controller shall approve
10 such contracts in accordance with section 24-30-202, C.R.S. 1973.
11 Whenever any such contract concerns automated data processing
12 operations or equipment, the contract shall be submitted to the
13 executive director of the department of administration or his
14 designee, who shall make recommendations as to whether the
15 provisions thereof are compatible with existing or planned
16 hardware and software systems. The state purchasing agent
17 DIRECTOR shall maintain a registry and file of legislative
18 department contracts in the same manner as such registry and file
19 are maintained for contracts of the executive department.

20 SECTION 10. 2-5-105, Colorado Revised Statutes 1973, 1980
21 Repl. Vol., is amended to read:

22 2-5-105. Publication contract. The work of printing,
23 binding, and packaging of Colorado Revised Statutes 1973,
24 including supplements and ancillary publications thereto, and
25 other similar operations precedent to the distribution thereof
26 when published, shall be performed pursuant to a contract

1 negotiated and executed in lieu of the remainder of the contract
2 for the publication of Colorado Revised Statutes 1963, and
3 supplements thereto, and whereby the state of Colorado will
4 acquire the rights to annotations previously published in
5 Colorado Statutes Annotated 1935, and supplements thereto;
6 otherwise such work shall be let by contract to the lowest and
7 best bidder for the performance of such work and the acquisition
8 for the state of such annotations, through the state purchasing
9 agent DIRECTOR after advertisement and call for bids, in which
10 latter case the provisions of sections 2-5-106 to 2-5-108 shall
11 apply. The state purchasing agent DIRECTOR shall advertise for
12 bids for at least ten days in at least two daily newspapers
13 published and printed in the city and county of Denver. The
14 advertisement shall fix a final time for receiving bids not less
15 than forty-five nor more than sixty days after the date of final
16 publication of advertisement.

17 SECTION 11. 2-5-106 (2), Colorado Revised Statutes 1973,
18 1980 Repl. Vol., is amended to read:

19 2-5-106. Bid and contract forms, guarantee, bonds.

20 (2) Each bid received shall be accompanied by a bank cashier's
21 or certified check of not less than three percent of the amount
22 of the bid drawn to the order of the state purchasing agent
23 DIRECTOR as a guarantee that the bidder, if awarded a contract,
24 will, within fifteen days after notice of award, execute the
25 contract and furnish a surety bond, in the form and conditions
26 approved by the committee, for the full performance of the

1 contract. A bidder submitting alternative bids may furnish a
2 single bank cashier's or certified check for three percent of his
3 highest alternative bid for the protection of all his bids.

4 SECTION 12. 2-5-107, Colorado Revised Statutes 1973, 1980
5 Repl. Vol., is amended to read:

6 2-5-107. Notification of bidders. The published
7 advertisement for bids shall contain the substance of section
8 2-5-106 and shall state that contract forms, bid forms, and
9 specifications for the work may be obtained from the revisor or
10 the state purchasing agent DIRECTOR together with such other
11 matter of notice as the committee prescribes. The committee may
12 use other and additional means to notify prospective bidders to
13 the end that competitive bidding may be assured and the lowest
14 and best bid for such work obtained.

15 SECTION 13. 2-5-109, Colorado Revised Statutes 1973, 1980
16 Repl. Vol., is amended to read:

17 2-5-109. Contract approval and execution. The contract and
18 all proceedings included therein shall be approved by the
19 attorney general as to legality and by the controller and shall
20 be executed by the chairman of the committee and by the state
21 purchasing agent DIRECTOR for and in behalf of the state.

22 SECTION 14. 10-1-103 (2), Colorado Revised Statutes 1973,
23 is amended to read:

24 10-1-103. Division of insurance - subject to termination.

25 (2) The commissioner of insurance, before incurring any expense
26 for his office and the maintenance thereof, exclusive of salaries

1 and wages, shall make requisition therefor upon and receive the
2 approval of the state purchasing agent DIRECTOR as required by
3 law.

4 SECTION 15. 23-1-109 (1) (b), Colorado Revised Statutes
5 1973, is amended to read:

6 23-1-109. Duties of commission with respect to state
7 administrative agencies. (1) (b) Recommend to the state
8 purchasing agent DIRECTOR systems of purchasing which recognize
9 the distinct nature of such institutions;

10 SECTION 16. 24-14-103, Colorado Revised Statutes 1973, is
11 amended to read:

12 24-14-103. Approval of seller - premium cost. Any policy
13 of insurance shall be obtained from an insurer authorized to
14 transact business in this state and deemed by the state
15 purchasing agent DIRECTOR or the appropriate governing body of
16 the governmental subdivision to be responsible and financially
17 sound considering the extent of the coverage required. The
18 premium for such insurance shall be a proper charge against the
19 state or the appropriate governmental subdivision.

20 SECTION 17. 24-30-802 (2), Colorado Revised Statutes 1973,
21 is amended to read:

22 24-30-802. Board organization - meetings. (2) There shall
23 be three ex officio and four rotating members of the board. The
24 three ex officio members shall be the controller, the state
25 purchasing agent DIRECTOR, and the state personnel director or
26 such alternates as each may designate from his agency. The

1 governor shall designate the chairman of the board. The governor
2 shall appoint the four rotating members for terms of two years
3 each on July 1 of each year for the terms which then become
4 vacant. Interim vacancies shall be filled by the governor for
5 unexpired terms.

6 SECTION 18. 24-34-102 (5) and (6), Colorado Revised
7 Statutes 1973, are amended to read:

8 24-34-102. Division of registrations - creation - duties
9 of division and department heads. (5) Each of the examining and
10 licensing boards or agencies shall be provided with suitable
11 offices in the capitol buildings group if space is available in
12 any of such buildings and, if not, then in a suitable office
13 building in the city and county of Denver selected by the state
14 purchasing agent DIRECTOR. It is lawful and proper for two or
15 more of such boards or agencies to be assigned space in the same
16 office room or suite, if such grouping or joint occupancy, in the
17 opinion of the executive director of the department of regulatory
18 agencies, will not unreasonably interfere with the efficient
19 operation of any of such boards or agencies so grouped or joined.

20 (6) Each of the examining and licensing boards or agencies
21 to which office space is provided shall pay into the general
22 revenue fund of the state out of the moneys appropriated to it by
23 the general assembly a monthly or annual charge for rental, heat,
24 light, telephone, collection, legal, and other state services
25 made available to such board or agency as may be fixed by the
26 state purchasing agent DIRECTOR, with the approval of the

1 executive director of the department of regulatory agencies, such
2 charges to be not more than twenty-five percent of the moneys
3 appropriated to it by the general assembly.

4 SECTION 19. 24-70-202, Colorado Revised Statutes 1973, is
5 amended to read:

6 24-70-202. State purchasing director to supervise. The
7 state purchasing agent DIRECTOR shall have full direction and
8 supervision of all public printing of the state of Colorado and
9 particularly as specified in this part 2. The general assembly
10 declares that it is in the public interest and necessary for
11 economy in the expenditure of public moneys, and in the
12 prevention of the duplication of public offices, to provide for
13 the supervision and direction of public printing by the state
14 purchasing agent DIRECTOR. The state purchasing agent DIRECTOR
15 shall supervise and direct all public printing as a part of and
16 in connection with his duties as state purchasing agent DIRECTOR
17 without additional compensation. He shall employ, pursuant to
18 section 13 of article XII of the state constitution and laws
19 relating to the state personnel system, such persons as he may
20 deem necessary to properly and fully direct and supervise all
21 public printing of the state of Colorado, who shall be practical
22 printers with at least five years' experience in commercial
23 printing.

24 SECTION 20. 24-70-205, Colorado Revised Statutes 1973, is
25 amended to read:

26 24-70-205. Contracts for public printing. (1) All public

1 printing for the state of Colorado shall be performed under
2 contract, to be given to the lowest responsible bidder, under the
3 regulations set forth in this part 2 and under a specific
4 provision that all persons employed by the contractor in the
5 manufacture or furnishing of materials, supplies, or articles in
6 the performance of the contract shall observe the prevailing
7 standards of working hours and conditions fixed and prescribed by
8 the industrial commission of Colorado as a condition precedent to
9 the submission of such bid and while performing such contract.
10 Such contracts shall be made by the state purchasing agent
11 DIRECTOR after bids have been submitted to him, but printing to
12 be done for state agencies outside the Denver area may be
13 purchased under the direction of the respective heads of such
14 agencies in accordance with the rules and regulations established
15 by the state purchasing agent DIRECTOR. The provisions of this
16 subsection (1) shall not apply to fourth-class printing required
17 by the legislative department of the state in the regular course
18 of its activities.

19 (2) The state purchasing agent DIRECTOR shall advertise at
20 least two times in newspapers of general circulation published
21 and printed in the city and county of Denver, in sufficient time
22 to insure furnishing of such printing when needed, inviting
23 sealed proposals for doing printing included in the first,
24 second, or third classes. Calls for bids for the printing
25 specified in the fourth class shall be made from time to time in
26 the discretion of the state purchasing agent DIRECTOR as such

1 printing may be required for the state and its departments. The
2 state purchasing agent DIRECTOR may call for bids on any item or
3 group of items at such times as he may designate; except that
4 printing for the state agencies outside the Denver area may be
5 secured by the respective heads of such agencies by securing the
6 approval of the state purchasing agent DIRECTOR after a call for
7 bids, as specified under rules and regulations established by the
8 state purchasing agent DIRECTOR.

9 SECTION 21. 24-70-206, Colorado Revised Statutes 1973, is
10 amended to read:

11 24-70-206. Bids - specifications. The state purchasing
12 agent DIRECTOR shall have the responsibility for setting detailed
13 standards and specifications for the submission of all bids.
14 Bids which do not comply with such standards and specifications
15 may be rejected by the state purchasing agent DIRECTOR. The
16 state purchasing agent DIRECTOR shall consult with the president
17 of the senate and the speaker of the house of representatives and
18 the chief justice of the Colorado supreme court, as applicable,
19 concerning the content, format, and specifications for printing
20 in classes one, two, and three. Publications of the executive
21 branch in class four of public printing shall be approved by the
22 controller before being submitted for bid.

23 SECTION 22. 24-70-207, Colorado Revised Statutes 1973, is
24 amended to read:

25 24-70-207. Delivery of sealed bids. All bids and proposals
26 shall be delivered at the office of the state purchasing agent

1 DIRECTOR, in the state capitol buildings group, endorsed,
2 "Proposals for state printing; Class", and shall be and
3 remain sealed until the hour specified in the advertisements or
4 call for the opening of such bids and proposals, and in no case
5 shall bids be received by the state purchasing agent DIRECTOR
6 after such hour, except for bids of state institutions.

7 SECTION 23. 24-70-208, Colorado Revised Statutes 1973, is
8 amended to read:

9 24-70-208. Bid guarantee - opening bid. The state
10 purchasing agent DIRECTOR, in the case of classes one, two, or
11 three, shall consider only bids which are accompanied by a bid
12 guarantee satisfactory to the state purchasing agent DIRECTOR, in
13 the sum of at least five percent of the established value of the
14 contract, conditioned that the person making the bid, if the
15 contract is awarded him, within ten days after notification that
16 his bid has been accepted, will enter into such contract in
17 accordance with his bid or proposal and in accordance with the
18 provisions of this part 2 and all specifications submitted by the
19 state purchasing agent DIRECTOR.

20 SECTION 24. 24-70-209, Colorado Revised Statutes 1973, is
21 amended to read:

22 24-70-209. Letting of contract - bond. (1) At the hour
23 specified for the opening of bids submitted for printing under
24 classes one, two, or three, the state purchasing agent DIRECTOR,
25 in the presence of such bidders as may choose to attend, shall
26 open such bids and proceed to determine the lowest responsible

1 bidder for each class, having full regard for the probable
2 aggregate cost of all things to be furnished and work to be done
3 under such contract in accordance with such bid. After the
4 determination of same, said purchasing agent DIRECTOR immediately
5 shall notify such lowest responsible bidder of his appointment to
6 execute the work, and such bidder, within ten days after
7 receiving such notice, shall execute a bond to the state of
8 Colorado in such sum as the state purchasing agent DIRECTOR
9 determines, conditioned for the faithful performance of his
10 contract in all respects, with sureties to be approved by the
11 state purchasing agent DIRECTOR, and such bonds shall be
12 deposited with and remain in the custody of the secretary of
13 state.

14 (2) In case the lowest bidder fails to execute such bond or
15 fails to enter into contract in accordance with the terms of his
16 bid, he and the sureties on his bond tendered with his bid shall
17 be liable for all costs which may accrue to the state by reason
18 of such failure, to be recovered from him and the sureties on his
19 bond, and any such failure shall be conclusive evidence of
20 damages in at least the sum of one hundred dollars. In case of
21 such failure, the state purchasing agent DIRECTOR shall
22 immediately award the contract to the next lowest responsible
23 bidder, and the same steps shall be taken successively until a
24 proper contract has been executed. The state purchasing agent
25 DIRECTOR, if he deems it for the best interest of the state, may
26 reject any or all bids, or parts of bids, and in such case, as

1 well as on the failure of any successful bidder to enter into
2 contract in accordance with his bid or proposal, the state
3 purchasing agent DIRECTOR shall readvertise for such bids or
4 parts of bids.

5 SECTION 25. 24-70-211, Colorado Revised Statutes 1973, is
6 amended to read:

7 24-70-211. Right to print, publish, and sell state laws and
8 supreme court and court of appeals reports. Unless otherwise
9 provided by law, nothing in this part 2 authorizes any person, by
10 virtue of a contract for printing the laws or supreme court and
11 court of appeals reports of this state, either directly or
12 indirectly to print, publish, sell, or give away for his own use
13 or benefit any such laws or reports; but the right to print,
14 publish, sell, or give away such laws or supreme court and court
15 of appeals reports shall always remain with the state, and, in
16 case any such laws or supreme court and court of appeals reports
17 shall be printed, published, sold, or given away by any person,
18 except by authority of the state purchasing agent DIRECTOR, such
19 books so printed, published, sold, or given away may be seized by
20 the state as its property, and the person so printing,
21 publishing, selling, or giving away the same shall forfeit to the
22 state the sum of one hundred dollars for each and every book,
23 volume, or pamphlet so printed, to be recovered by an action in
24 the name of the state. Unless otherwise provided by law, the
25 state purchasing agent DIRECTOR shall take necessary steps to
26 secure and shall secure copyrights for and on behalf of the state

1 of Colorado for the printing and publishing of all statutes of
2 the state, supreme court reports, and reports of the court of
3 appeals.

4 SECTION 26. 24-70-212, Colorado Revised Statutes 1973, is
5 amended to read:

6 24-70-212. Quality of paper. The quality of paper to be
7 used for blanks, stationery, and blank books shall be number one
8 grade flat writing, twenty pound, twenty-five percent rag content
9 bond and number one grade ledger, which shall be furnished by the
10 contractor according to the specifications of the state
11 purchasing agent DIRECTOR, unless otherwise specified in the call
12 for bids, as the nature of the job may require.

13 SECTION 27. 24-70-214, Colorado Revised Statutes 1973, is
14 amended to read:

15 24-70-214. Invoices to be made in duplicate. All invoices
16 for work done or materials furnished under this part 2 shall be
17 made out in duplicate, and so marked, with each item plainly
18 specified and the amount charged for the same, which invoices
19 shall be filed in the office of the state purchasing agent
20 DIRECTOR, who shall carefully examine all such invoices and
21 carefully compare the same with the prices specified in the
22 contract therefor and shall certify to the controller the amount
23 found due thereon. The controller shall thereupon examine and
24 audit the same and issue his warrant on the state treasurer for
25 the amount due. The state purchasing agent DIRECTOR shall in no
26 case certify to the correctness of any invoice or account which

1 is not in strict accord with the requirements of the contract
2 therefor, and in no case shall any sum be paid out of the state
3 treasury for any public printing or binding in excess of the fair
4 market price or special contract price therefor.

5 SECTION 28. 24-70-215, Colorado Revised Statutes 1973, is
6 amended to read:

7 24-70-215. Requisitions for printing. No public printing
8 of any sort or description whatever may be furnished to any
9 department of the state government or to any officer or employee
10 of the state, except on requisition of the head of a department,
11 addressed to the state purchasing agent DIRECTOR; but the
12 provisions of this section do not apply to the printing,
13 publishing, or binding of the reports of the decisions of the
14 supreme court or the court of appeals.

15 SECTION 29. 29-70-218, Colorado Revised Statutes 1973, is
16 amended to read:

17 24-70-218. Attorney general to bring action, when. If any
18 person making any bid or proposal under this part 2 fails or
19 refuses to enter into a contract pursuant to the terms of his bid
20 or proposal within the time mentioned in his bond presented with
21 such bid or proposal or fails to fulfill his contract or if there
22 is any unreasonable delay in performing the things required under
23 the terms of such contract, it is the duty of the state
24 purchasing agent DIRECTOR to notify the attorney general of the
25 state, who shall at once bring suit on the bond of such
26 contractor against such contractor and his sureties and shall

1 prosecute the same to judgment and final execution.

2 SECTION 30. 24-70-219, Colorado Revised Statutes 1973, is
3 amended to read:

4 24-70-219. Annulment of contract. Upon the failure or
5 nonperformance in any particular of the terms of any of the
6 contracts on the part of a contractor with the state or for any
7 unreasonable delay in performing the things required under the
8 terms of such contract, the governor may annul the contract in
9 which such default is made, and payment for all work theretofore
10 done by the contractor shall be withheld until the damage to the
11 state is ascertained by proper adjudication, and the state
12 purchasing agent DIRECTOR may thereupon readvertise and enter
13 into a contract for the balance of the uncompleted term of any
14 contract so annulled or abrogated in the manner prescribed for
15 contracting by the terms of this part 2.

16 SECTION 31. 24-70-221, Colorado Revised Statutes 1973, is
17 amended to read:

18 24-70-221. Account not approved, when. All printing that
19 is purchased for the use of the general assembly, or the members
20 thereof, or for any officer or person whatever to whom such
21 printing is furnished at the expense of the state shall be
22 printed on the quality and size of paper and in the manner
23 specified in the contract for printing and furnishing such
24 printing, and the state purchasing agent DIRECTOR shall not
25 approve any account, nor shall any money be paid from the state
26 treasury, for any work or material that is not in accordance with

1 the requirements of such contract or for which a higher price is
2 charged than that specified in the contract for such printing.

3 SECTION 32. 24-82-202, Colorado Revised Statutes 1973, as
4 amended, is amended to read:

5 24-82-202. Approval. Any easement or right-of-way given or
6 granted under this part 2 shall be only upon approval of the
7 chief executive officer and the commission or board, if any, of
8 the institution, department, or agency across the premises of
9 which such easement or right-of-way shall cross, the state
10 purchasing agent DIRECTOR, the executive director of the
11 department of administration, the governor, and the attorney
12 general as to the legal form of the easement or right-of-way.

13 SECTION 33. 24-82-402, Colorado Revised Statutes 1973, is
14 amended to read:

15 24-82-402. Director - staff. The Colorado state agency for
16 surplus property, referred to in this part 4 as the "state
17 agency", shall consist of a director, who shall be the executive
18 officer of the state agency, and such deputies, assistants, and
19 employees as in the opinion of the director and the governor are
20 necessary to carry out the provisions of this part 4. The
21 director shall be the state purchasing agent DIRECTOR. All
22 deputies, assistants, and employees shall be appointed by the
23 director pursuant to section 13 of article XII of the state
24 constitution and shall receive such compensation and
25 reimbursement of expenses incurred in the performance of their
26 duties as other employees of the state government are paid.

1 SECTION 34. 24-82-408, Colorado Revised Statutes 1973, is
2 amended to read:

3 24-82-408. Purchases - how made. All purchases of
4 equipment, supplies, and material required for the operation of
5 the state agency shall be made through the state purchasing agent
6 DIRECTOR.

7 SECTION 35. 25-7-105 (9), Colorado Revised Statutes 1973,
8 as amended, is amended to read:

9 25-7-105. Duties of commission. (9) The commission shall
10 adopt exhaust emissions standards for motor vehicles purchased
11 for state use and shall assist the state purchasing agent
12 DIRECTOR in determining those vehicles which meet or exceed such
13 standards.

14 SECTION 36. 26-8.2-104, Colorado Revised Statutes 1973, as
15 amended, is amended to read:

16 26-8.2-104. Contracts. The state purchasing agent DIRECTOR
17 shall not approve any contracts made in violation of this article
18 by any public agency over which he has control of purchasing.

19 SECTION 37. 28-3-106 (1) (o), Colorado Revised Statutes
20 1973, is amended to read:

21 28-3-106. Powers and duties of adjutant general.
22 (1) (o) All purchases, with the exception of emergency
23 purchases, shall be made through the state purchasing agent
24 DIRECTOR in the manner provided by law. All property purchased
25 under the authority granted shall be inspected by an inspector or
26 an officer detailed for that purpose by the adjutant general, and

1 no payment shall be made therefor until it appears by the
2 certificate of such officer that such property is of the kind and
3 quality specified in such agreement or contract. In case of
4 emergency, the governor may suspend the operation of this
5 paragraph (o) and direct the adjutant general in writing to
6 purchase such military property as may be required in the open
7 market. The governor shall report such actions with the reasons
8 therefor and statement of the property purchased and the prices
9 paid therefor to the general assembly at its next session. All
10 payments shall be made by voucher drawn upon the military fund of
11 the state upon such form as may be provided by the controller of
12 the state of Colorado. Each voucher shall show the attestation
13 of the adjutant general that it is within the budget as approved
14 by the governor.

15 SECTION 38. 34-21-126, Colorado Revised Statutes 1973, is
16 amended to read:

17 34-21-126. Analyses - supplies - inventory. The chief
18 inspector is authorized to have all analyses made which he deems
19 necessary, and to purchase such instruments, apparatus, safety
20 lamps, books, stationery, and other supplies as may be necessary
21 for the proper discharge of his duties and the duties of the
22 district inspectors. When the expenditure is more than
23 seventy-five dollars for any one item, the chief inspector must
24 first receive the approval of the state purchasing agent
25 DIRECTOR. The chief inspector, on entering upon the duties of
26 his office, shall make an inventory of all papers, books,

1 instruments, and other property pertaining to said office, and
2 during his services as chief inspector shall keep a true and
3 correct account of all purchases made under the provisions of
4 articles 20 to 30 of this title and account for the same to the
5 secretary of state at the end of each fiscal year and to his
6 successor at the expiration of his term of office or upon his
7 vacation of office for any other cause, and any shortage of
8 papers, books, instruments, and any other property which cannot
9 be accounted for by the usual and ordinary wear and tear due to
10 their use shall be covered by the bond as provided for in section
11 34-21-122.

12 SECTION 39. Repeal. Part 14 of article 30 of title 24,
13 Colorado Revised Statutes 1973, as amended, is repealed.

14 SECTION 40. Effective date. This act shall take effect
15 January 1, 1982, and shall apply to contracts solicited or
16 entered into on or after said date.

17 SECTION 41. Safety clause. The general assembly hereby
18 finds, determines, and declares that this act is necessary for
19 the immediate preservation of the public peace, health, and
20 safety.