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0289 Committees on: Medical Care Cost Containment, School Finance, Capitol Complex

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Report to the Colorado General Assembly:

**RECOMMENDATIONS FOR 1985
COMMITTEES ON:**

**Medical Care Cost Containment
School Finance
Capitol Complex**



COLORADO LEGISLATIVE COUNCIL

**RESEARCH PUBLICATION NO. 289
December, 1984**

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recommendations for 1985

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The fourteen-member Legislative Council serves as the fact-finding and information-collecting agency of the General Assembly. The Speaker of the House and the Majority Leader of the Senate serve ex officio with twelve appointed legislators -- six senators and six representatives.

Between sessions, the interim legislative committees concentrate on specific study assignments approved by resolution of the General Assembly or directed by the council. Committee documents, data, and reports are prepared with the aid of the council's professional staff.

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COLORADO LEGISLATIVE COUNCIL
" RECOMMENDATIONS FOR 1985

COMMITTEES ON:

Medical Care Cost Containment
School Finance
Capitol Complex

Legislative Council
Report to the
Colorado General Assembly

Research Publication No. 289
December, 1984

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To Members of the Fifty-fifth Colorado General Assembly:

Submitted herewith are the final reports of the Committees on Medical Care Cost Containment, School Finance, and the Capitol Complex. The committees on Medical Care Cost Containment and School Finance were appointed by the Legislative Council pursuant to House Joint Resolution No. 1027, 1984 session. The Capitol Complex Committee was created by the Executive Committee of the Legislative Council, with the cooperation of the Governor, on November 22, 1983.

At its meeting of October 15, the Legislative Council reviewed these reports and approved a motion to forward the committees' recommendations to the Fifty-fifth General Assembly.

Respectfully submitted,

/s/ Senator Ted L. Strickland
Chairman
Colorado Legislative Council

TLS/pn

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LEGISLATIVE COUNCIL
COMMITTEE ON MEDICAL CARE COST CONTAINMENT

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George Bogart Staff Attorney	Lee Donelson Staff Attorney
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COMMITTEE ON MEDICAL CARE COST CONTAINMENT

SUMMARY OF COMMITTEE ACTIVITY AND RECOMMENDATIONS

The committee was directed by House Joint Resolution No. 1027 to: identify the problems of increasing medical costs as they affect the private and public sectors; examine possible solutions that will promote an acceptable quality of health care services; and study improvements in the efficiency and cost effectiveness of such services. The committee was directed to prepare and submit legislation which the committee believes will further the containment of medical costs in both the public and private sectors.

The committee established the following objectives to guide it in the study:

- 1) identify and analyze the underlying causes of health care cost increases;
- 2) examine proposed solutions to the problem of rising health care costs; and
- 3) identify actions that the General Assembly can take to affect the quality and cost of health care services as they are delivered in the public and private sector.

In this effort, the committee held ten meetings, received testimony from over forty witnesses representing over twenty organizations or interests, and consulted with two nationally recognized experts in the health care cost containment field. The first six meetings were devoted to receiving testimony concerning the cause of rising health care costs. Possible solutions to the problem were offered by the various witnesses before the committee. Based on testimony and information presented to the committee, an outline of approximately 150 suggested proposals or recommendations was prepared to guide the committee in examining proposed solutions.

The last four meetings were devoted to examining the various proposals for legislation. In an attempt to narrow the scope of the various proposals for legislation, the committee initially decided to recommend no more than fifteen bills. The committee then engaged in a process of narrowing the various recommendations to thirteen proposals for bill drafts. In subsequent meetings, four of the thirteen bill drafts were rejected by the committee, and the committee agreed to forward nine proposals for consideration by the General Assembly.

The committee recommends a total of eight bills and one constitutional amendment. These bills and the constitutional amendment are summarized in the committee report. Briefly, the bills and the constitutional amendment are recommended to:

- establish a health data commission in the Department of Health;
- provide for the distribution of medically indigent funds on a geographic or regional basis;
- transfer the administration of the medically indigent program to the Department of Social Services and authorize the department to solicit competitive bids from providers for the delivery of medical services to the medically indigent;
- eliminate the prohibition against the corporate practice of medicine;
- amend the Colorado Constitution to eliminate the Old Age Pension-B program on or after January 1, 1987;
- limit medical malpractice recoveries for failure to perform unnecessary diagnostic tests;
- provide for a case-mix reimbursement system for nursing homes;
- permit hospitals to own and operate alternative health delivery systems; and
- enact so-called "living will" legislation.

COMMITTEE PROCEDURES

Introduction and Background

The health care system in the United States is an enormous and rapidly expanding enterprise. Americans spend nearly \$1 billion daily on health care and that amount is growing rapidly. The system's share of the gross national product (GNP) has increased from 4.4 percent in 1950 to 10.8 percent (or \$355.4 billion) in 1983. During the recent 1982 recession, prices for all goods and services increased 4 percent, while prices for medical care rose 12 percent. Given this type of growth, national health care expenditures are projected to be \$2,724 per capita in 1990, resulting in expenditures of more than \$700 billion while consuming roughly 12 percent of the GNP. (Source: Health Care Financing Administration.)

Health care costs continue to be pushed up by new and expensive medical technologies, general economic inflation, increased demands for medical care, the widespread availability of health insurance, the growth of an aging population, and the fear of malpractice suits. Perhaps the most significant factor contributing to rising health care costs, however, is the way providers of medical care are paid. The health care system is unlike other industries operating within the marketplace because of the presence of third-party payors. The third-party payor system (health insurance and government programs) relieves patients and providers from concerns about the cost of care. Under the fee-for-service payment system, a charge is made for each service rendered. This rewards providers by paying them more money when they engage in more activities. This system has been criticized because it does not provide an effective incentive to be efficient. In 1981, third parties reimbursed approximately 98 percent of hospital care services, 62 percent of physician services, and 41 percent of all other health care expenditures.

During the past two decades, government (federal and state) has acted as the health insurance company for those who do not otherwise have the means to purchase their own health care coverage. Governments are now responsible for approximately 42 percent of the total health care bill. Under Medicaid and Medicare, federal and state government purchased over 45 percent of all hospital care in the United States, and also paid for the majority (70 percent) of nursing home care. In Colorado, by fiscal year 1982-83, the Medicaid budget had grown at an annual average rate of 13.3 percent since fiscal year 1969-70, from \$49.6 million to \$250 million. The general fund share has grown even faster, at an annual average rate of 14.5 percent. (Source: Governor's Task Force on Health Care Costs Containment Final Report, 1983.)

Because of decreasing state revenues, the nationwide economic recession, and rising costs of health care, the state has become increasingly concerned over its ability to provide quality health care

for those who need it. When U.S. health system costs increase, the state's Medicaid costs also increase. State policymakers have begun recognizing the impossibility of controlling Medicaid expenditures without also paying attention to the larger health care system, which generated much of the cost.

American industry has also noted the increasingly high cost of medical benefits. In 1983, \$70 billion was spent by the private sector to cover employees' health insurance premiums. Health insurance premium increases have cut heavily into businesses' profit margins. The concern over health benefits is particularly reflected in large companies that have traditionally provided comprehensive medical care benefits. General Motors Corporation's (GM) health benefits costs nearly tripled between 1975 and 1983 to \$2.177 billion. These costs affect consumers; in 1983 an estimated \$430 in employee medical costs was built into the price of each new GM car and truck. Health care costs are also affecting American industry's competitiveness with other nations. Ford Motor Company's medical benefits cost six times as much as medical benefits provided by their Japanese affiliate. (Source: Issues in Science and Technology, Vol. 1, No. 1, Fall 1984, page 95.)

Private health insurance premiums have risen from \$22 billion in 1972 to \$84 billion in 1982. Concern over rising health care costs in the insurance industry has focused on the use of "cost-shifting." Reimbursement from federal and state government programs do not pay for the actual costs of a patient's treatment. The hospitals make up the loss by shifting the unpaid costs of the Medicaid and Medicare programs to private patients and other payors such as the insurance industry. In Colorado, it is estimated that the average hospital bill for a nongovernment patient is nearly 19 percent higher because of cost shifting. The Health Insurance Association of America has estimated the cost shift for 1983 at \$7.2 billion, up \$1.4 billion from 1982. (Source: Fair Payment Systems - A Major Step Toward Containing Health Care Costs, Health Insurance Association of America, 1984, and Critical Choices, Colorado Hospital Association, 1984.)

There is recent evidence that the rate of health care spending is declining. The length of Medicare hospital stays has dropped from 9.4 to 8.7 days in the past year. The annual change in health care spending in the U.S. is estimated at 10.1 percent for 1983, a 2.6 percentage point reduction from the 1982 level of 12.7 percent. Reasons for this slowdown include the slowing in general inflation, anticipation of the effect of changes in the federal government's hospital reimbursement procedures, and the effects of actions by major purchasers of health care to slow down rising costs. (Source: Private Sector Initiatives and Health Care Costs, Business Roundtable Task Force on Health, 1984, page 1.)

Committee Charge and Activities

As a result of rising health care costs and the expanding government share of health care expenditures and with a recognition of the private sector's concern with the effect of medical benefits' costs on profit margins, the General Assembly, through the enactment of House Joint Resolution 1027, created an interim committee on medical care cost containment. The committee was directed to identify the problems of rising medical costs as they affect the private and public sectors and to examine possible solutions to the problem that would ensure access while maintaining adequate medical care quality. The committee recognized that although health care costs may be rising more slowly, they are still one of the fastest growing costs in the nation.

Early in its deliberations, the committee established goals and priorities to guide it in the study. These goals were to achieve the following purposes:

- 1) identify and analyze the underlying causes of health care cost increases;
- 2) examine proposed solutions to the problem of rising health care costs; and
- 3) identify actions that the General Assembly can take to affect the quality and cost of health care services, as they are delivered in the public and private sector.

In this effort, the committee held ten meetings and received testimony from over forty witnesses.

Identification of Causes of Rising Health Care Cost

During the meetings devoted to identifying the reasons for the rising cost of health care, the committee received testimony from representatives of over twenty organizations. Representatives from health care providers (hospitals, physicians, nursing homes, pharmacists, and nurses), third-party payors (Blue Cross/Blue Shield, commercial insurers, and the Department of Social Services), business interests, labor interests, alternative health delivery systems (health maintenance organizations, preferred provider organizations, and free-standing emergency medical clinics), a peer review organization, and the Colorado Task Force on the Medically Indigent presented testimony before the committee. In addition, two nationally recognized experts in the health care cost containment field (Dr. Alain Enthoven and Dr. Walter McClure) were consulted during the interim.

Testimony before the committee indicated that rapidly rising health care costs may be attributed to a number of factors including

price inflation, demographic changes, and changes in the nature and intensity of services provided. The health care industry has become increasingly complex. Patterns of care are changing rapidly and services are being delivered in a variety of settings. Testimony also indicated that there is a lack of agreement on the efficacy of alternative cost containment strategies. The increasing size and complexity of this system and the number of factors that account for escalating costs point to the difficulty of developing a comprehensive policy designed to curb rising health care costs.

Examination of Proposed Solutions

Based on testimony and information presented to the committee, a summary of approximately 150 suggested proposals or recommendations was prepared as a checklist for committee action. Suggested recommendations included legislative, private sector, and administrative solutions, short-term strategies, and long-range structural reforms in the organization, financing, and delivery of health services.

The committee recognizes that health care is a complex system. The committee also recognizes that there are no quick fixes and there is no apparent single approach that offers a sure and certain remedy. It is unrealistic to expect that any single initiative will bring health care costs under control. The problem involves a complex mix of issues involving health care providers and facilities, insurers, consumers and government on the state, federal and local levels, each with its own interests and priorities.

Committee Recommendations

In the examination of proposed solutions, the committee focused on the question: What can the State of Colorado do, as one segment in a dynamic and complicated process, to ensure that the citizens of this state have access to quality health care services at a reasonable cost? In an attempt to narrow the scope of the various proposals for legislation, the committee initially decided to recommend no more than fifteen bills. The committee then engaged in a process of narrowing the various recommendations to thirteen proposals for bill drafts. In subsequent meetings, four of the thirteen bill drafts were rejected by the committee. Thus, the committee recommends a total of eight bills and one constitutional amendment. These bills and the constitutional amendment are summarized in the next section of this report.

Underlying the committee recommendations for legislation is a recognition of the many factors contributing to rising health care cost increases, the need to address both public and private health care programs, and the growing competitiveness of the health care industry. These recommendations are designed to:

- improve the cost effectiveness of state health care programs;
- achieve greater cost effectiveness in private sector health care programs; and
- ensure the availability of meaningful and comparable data that will facilitate active decision making by health care consumers.

Continuation of Study

The committee recognized that a spirit of cooperation between health care providers, labor, business, industry, insurance carriers and government is essential if efforts are to be effective in containing health care cost increases. The task before the committee, to propose meaningful state actions designed to contain the growth of health care spending, is enormous. Finding solutions to such a complex issue cannot be expected to be fully developed from this initial interim process. There is also a continuing need to monitor the developments in the health care system and the cooperation between the various actors. The committee, therefore, recommends that the Fifty-Fifth General Assembly, at the First Regular Session in 1985, adopt a resolution to continue this study.

BILL SUMMARIES

Concerning the Colorado Health Data Commission, and Making an Appropriation Therefor -- Bill 1

Bill 1 establishes the Colorado Health Data Commission within the Department of Health as a statewide clearinghouse for health care information. The commission is composed of seven members: the executive directors of the departments of health and social services, the Commissioner of Insurance, one member of the Senate, one member of the House of Representatives, and two persons knowledgeable in health care cost-effectiveness analysis.

The commission is authorized to require the submittal of information -- including hospital inpatient and outpatient claims data and physician claims data -- from state agencies, the state Medicaid program, health care providers, third-party payors, and other appropriate sources. Information provided on average charges, total charges for specific procedures, and length of stay will be compiled by the commission and made available to health care providers, third-party payors, and the general public. Although the information provided to the commission is to be made public, it is exempted from the "Open Public Records Law" and its availability is determined by the commission. The data provided to the commission is not to identify a patient by name, address, or identification number.

In addition, the health data commission is to submit an annual report to the General Assembly regarding its activities. Bill 1 appropriates \$200,000 to the Department of Health for allocation to the commission.

Concerning the Compensation of Providers Under the "Reform Act for the Provision of Health Care for the Medically Indigent" -- Bill 2

Bill 2 amends the "Reform Act for the Provision of Health Care for the Medically Indigent" to require contracts with providers under the program to reflect medical services provided to the indigent on a geographic basis. Currently, the majority of medically indigent program monies are concentrated in the Denver metropolitan area. The purpose of Bill 2 is to require that distribution of medically indigent funds be made geographically so that out-state areas receive a larger share of the funds than they receive presently.

Concerning the Program for the Provision of Health Care Services for the Medically Indigent, and Making an Appropriation Therefor -- Bill 3

Bill 3 substantially restructures Colorado's medically indigent program. The bill transfers administrative responsibility for the program from the University of Colorado Health Sciences Center to the Department of Social Services. The transfer of responsibility for the

program includes the transfer of books, records, equipment, property, accounts, liabilities, and appropriated funds and full-time equivalent authorizations. The department is authorized to promulgate rules and regulations to implement the program.

The program is altered to provide for two different methods of delivering medical services to the indigent: 1) a case management method for children under the age of eighteen and pregnant women; and 2) emergency care. Children and pregnant women are required to select a primary care physician who will be responsible for authorizing and monitoring all of their medical services. Providers awarded contracts for the program are also to provide emergency care within the limits of the funds made available.

The bill states that the department is not to reimburse providers for inpatient services which could have been performed less expensively in an outpatient setting. The specific types of medical services provided to children under eighteen and pregnant women eligible for program reimbursement include physician's services, outpatient and inpatient hospital care upon referral of the primary care physician, and limited prescription drugs related to either childhood immunization or to pregnancy. In addition, pregnant women are to receive laboratory and X-ray services and a postpartum visit, while severely handicapped children are to receive limited eye and audiological care and related appliances as needed. All other recipients are eligible to receive outpatient emergency care and inpatient hospital care when immediately necessary.

Specific types of medical services which are not eligible for reimbursement are also enumerated in the bill. These include renal dialysis, mental health or psychiatric treatment, alcoholism or controlled substance abuse treatment, cosmetic surgery, dental care, patient transportation, and prescription drugs.

The Department of Social Services is required by Bill 3 to divide the state into geographic regions and is authorized to solicit competitive bids from providers in each region. To the extent possible, reimbursement for medical services is only to be made for residents of the region in which the provider is located. Contracts with providers are to reflect the geographic distribution of funds by July 1, 1988.

Bill 3 includes free-standing ambulatory surgical facilities and licensed physicians in the definition of a program provider. The Department of Social Services assumes responsibility for the determination of applicant eligibility while each provider is responsible for using and enforcing a department-approved ability-to-pay scale or copayment schedule. The bill repeals the designation of the Denver Health and Hospitals System and the University of Colorado Health Sciences Center as primary providers of care in the Denver metropolitan area.

Additionally, the following provisions are included in Bill 3:

- hospital providers are to be reimbursed at levels not to exceed costs as determined by the Medicare/Medicaid cost report;
- providers, other than hospitals, are to be reimbursed at a level not to exceed amounts provided by the state Medicaid scale;
- contract providers are not liable in civil damages for refusing to admit or treat indigent persons with conditions outside the scope of the program;
- applicants authorize the Department of Social Services to obtain records from financial institutions and insurance companies and to obtain wage and employment data from the Department of Labor and Employment;
- applicants waive their right to file a civil action for damages against a provider who renders medical services pursuant to the program;
- an employed person who does not choose to participate in a group medical insurance plan through his place of employment is prohibited from being eligible for the program;
- a single detection of fraud or abuse by providers or recipients will preclude payment from the program for two years; and
- the medically indigent program is declared to be a payor of last resort.

The bill authorizes the establishment of a central registry for the medically indigent in order to expedite verification of an applicant's eligibility and to improve recordkeeping accuracy. An amount of \$1.9 million is appropriated to the Department of Social Services for fiscal year 1985-86 to implement the changes provided by the bill.

Concerning Limitations on the Practice of Medicine -- Bill 4

Bill 4 eliminates the prohibition against the corporate practice of medicine. Currently, pursuant to section 12-36-117 (1) (m), Colorado Revised Statutes, licensed physicians are prohibited from practicing medicine as the partner, agent, or employee of any person who is not also a licensed physician or any association whose partners or associates are not all licensed physicians. Bill 4 allows hospitals, health maintenance organizations, and other health care providers to directly employ physicians. In addition, physicians will be allowed to form partnerships and associations with persons who do not hold a license to practice medicine.

Submitting to the Registered Electors of the State of Colorado an Amendment to Section 3 of Article XXIV of the Constitution of the State of Colorado, Changing the Minimum Age of Eligibility for Public Assistance in the Form of Old Age Pensions to Age Sixty-Five -- Bill 5

Bill 5, a concurrent resolution, eliminates the Old Age Pension - B (OAP-B) by changing the minimum age of eligibility for state public assistance in the form of pensions from age sixty to age sixty-five. The issue will be submitted to the state's electors at the next general election (1986) to become effective on or after January 1, 1987. The amendment does not affect those persons already participating in the OAP-B program.

Currently, there are two types of old age pension programs in Colorado -- one for persons between the ages of sixty and sixty-five; and one for persons over sixty-five. The latter program is funded by both the state and federal governments while the former is funded only by the state. Prior to 1979, applicants for the OAP-B program were required to live in Colorado for thirty-five continuous years immediately preceding the date of application. However, the Colorado Supreme Court held, in Jeffrey v. Colorado State Department of Social Services, 599 P.2d 874 (1979), that the state old age pension statute which established two classes of needy citizens between the ages of sixty and sixty-five -- the only distinguishing characteristic being the length of continuous residence in Colorado -- was unconstitutional and denied equal protection. Since 1979, all residents of Colorado over the age of sixty are eligible for application to the OAP-B program.

Concerning Limitation of Action Against Physicians -- Bill 6

Bill 6 limits medical malpractice recoveries for a physician's failure to perform unnecessary diagnostic tests. The bill adds a new section to article 80, title 13, Colorado Revised Statutes (limitation of actions) which states that a physician may determine that additional tests are not necessary for the diagnosis of a patient and may then select another physician to render a second opinion. If the second opinion physician concurs that additional tests are not medically necessary, the patient is not permitted to maintain an action against either physician for failure to perform the tests in question. The bill authorizes the Department of Health to maintain a list of licensed physicians available to render second opinions for the purpose of limiting causes of action.

Concerning Provider Costs Under the "Colorado Medical Assistance Act" -- Bill 7

Bill 7 adds the cost of nursing services to the definition of "reasonable cost of services" in the "Colorado Medical Assistance Act." This change authorizes the Department of Social Services to consider each patient's need for care and the amount of nursing time

needed for each patient when determining the reimbursable dollar amount per patient day for long-term care Medicaid patients. Nursing homes will receive different levels of reimbursement for patients with different levels of care. This type of reimbursement system is known as "case-mix reimbursement" and allows for additional specificity in the reimbursement methodology. Food costs, other health care costs, administration, property, and room and board costs remain reimbursable at the ninetieth percentile of Medicaid patients in participating nursing homes.

Concerning the Authorization to Organize and Operate Alternative Health Delivery Systems -- Bill 8

Bill 8 specifically authorizes a licensed or certified hospital to organize and operate a health maintenance organization. Currently, insurance companies, nonprofit hospitals, and health service corporations may own and operate health maintenance organizations and health maintenance organizations may own and operate hospitals. However, hospitals may not own and operate health maintenance organizations. This bill will allow for-profit hospitals access to the health maintenance organization market.

Concerning the Right of Persons to Accept or Reject Medical or Surgical Treatment -- Bill 9

Bill 9 is what is commonly known as a "living will" bill. It provides that a competent adult may declare that his life not be artificially prolonged if he becomes incapacitated by a terminal medical condition and is unable to reject artificially life-prolonging medical procedures. Colorado law has traditionally recognized the right of a competent adult to accept or reject medical or surgical treatment affecting his person. This recognition has been complicated by recent advances in medical science which have made it possible to prolong dying through the use of artificial, extraordinary, or radical medical or surgical procedures, often involving unconscious or otherwise incompetent patients. Bill 9 affirms the traditional right of a person to accept or reject treatment and establishes a procedure by which competent adults may make such decisions in advance.

The bill sets forth the terms of the declaration concerning possible medical or surgical treatment. In addition, the bill requires two physicians to determine that the patient in question has a terminal condition prior to the withdrawal or withholding of life-sustaining procedures. (Life-sustaining procedures, as defined in Bill 9, do not include the administration of nourishment, sedatives, or medication for the alleviation of pain.)

Any person may, pursuant to procedures in Bill 9, challenge the validity of a declaration. A declaration may be revoked by the patient orally, in writing, or by destroying the document. Physicians and hospitals who comply with a declaration are not to be subject to

civil liability, criminal penalty, or licensing sanctions. A death resulting from the withholding of treatment pursuant to a declaration is not to be considered a suicide or a homicide and thus is not to affect a contract of life insurance.

The bill establishes penalties for persons who damage, destroy, falsify, or forge the declaration of another person. Physicians who fail to comply with a declaration and who refuse to transfer the patient's care to another physician are exhibiting unprofessional conduct pursuant to Bill 9.

Bill 1

A BILL FOR AN ACT

1 CONCERNING THE COLORADO HEALTH DATA COMMISSION, 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.)

Creates the Colorado health data commission within the department of health to acquire, compile, correlate, and disseminate data from agencies of state government, health care providers, the state medicaid program, third-party payers, and other appropriate sources. Provides administrative guidelines for the operation of the commission. Permits the commission to conduct or contract for studies which will enable the commission to carry out its duties under this act. Mandates the use of a uniform billing system by third-party payers, hospitals, and doctors by a specified date. Provides safeguards to protect the identity of patients. Requires the commission to make annual reports to the general assembly regarding its progress under this act. Makes an appropriation to enable the commission to perform its duties under this act.

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

4 SECTION 1. 24-1-119, Colorado Revised Statutes, 1982
5 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
6 SUBSECTION to read:

1 24-1-119. Department of health - creation. (8) The
2 Colorado health data commission, created by article 28 of
3 title 25, C.R.S., shall exercise its powers and perform its
4 duties and functions as if the same were transferred by a type
5 1 transfer to the department of health as the Colorado health
6 data commission.

7 SECTION 2. Title 25, Colorado Revised Statutes, 1982
8 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
9 ARTICLE to read:

10 ARTICLE 28

11 Colorado Health Data Commission

12 25-28-101. Short title. This article shall be known and
13 may be cited as the "Colorado Health Data Commission Act".

14 25-28-102. Definitions. As used in this article, unless
15 the context otherwise requires:

16 (1) "Commission" means the Colorado health data
17 commission created by section 25-28-103.

18 (2) "Medicaid" means federal insurance or assistance, as
19 such is provided by the provisions of Title XIX of the federal
20 "Social Security Act", as amended, and the "Colorado Medical
21 Assistance Act", article 4 of title 26, C.R.S.

22 25-28-103. Health data commission - created. (1) There
23 is hereby created, in the department of health, the Colorado
24 health data commission, which shall act as a statewide health
25 data clearinghouse for the acquisition, compilation,
26 correlation, and dissemination of data from health care

1 providers, the state medicaid program, third-party payers, and
2 other appropriate sources.

3 (2) The commission shall consist of seven members, as
4 follows: The executive director of the department of health,
5 the executive director of the department of social services,
6 the commissioner of insurance, one member from the senate who
7 shall be appointed no later than ten days after the convening
8 of the first regular session of each general assembly by the
9 president of the senate, one member from the house of
10 representatives who shall be appointed no later than ten days
11 after the convening of the first regular session of each
12 general assembly by the speaker of the house, and two members
13 knowledgeable in matters relating to the cost-effectiveness of
14 health care and not of the same political party who shall be
15 appointed by the governor, with the consent of the senate.
16 The commission members shall annually elect the chairman of
17 the commission from among its seven members. A majority of
18 the seven members shall constitute a quorum.

19 (3) (a) The commission shall meet at least once during
20 each calendar quarter. Meeting dates shall be set upon
21 written request by four or more members of the commission or
22 by call of the chairman upon five days' notice to the members.
23 Action of the commission shall not be taken except upon the
24 affirmative vote of a majority of a quorum of the commission.

25 (b) The three executive agency members of the commission
26 shall not receive a per diem for being on the commission but

1 shall receive reimbursement for reasonable necessary travel
2 and expenses while engaged in commission business. Funds for
3 reimbursement shall come from the moneys appropriated to the
4 department of which the member is the head. The two
5 legislative members of the commission and the two members of
6 the commission appointed by the governor shall each be
7 entitled to a per diem of seventy five dollars for each day
8 that the commission meets and to reimbursement for reasonable
9 and necessary travel and expenses while engaged in commission
10 business.

11 (c) (I) Except as provided for in subparagraph (II) of
12 this paragraph (c), all meetings of the commission shall be
13 open to the public pursuant to section 24-6-402, C.R.S.

14 (II) Upon the affirmative vote of two-thirds of the
15 entire membership of the commission, the commission may hold
16 an executive session for the purpose of maintaining patient
17 confidentiality pursuant to section 25-28-105.

18 25-28-104. General powers and duties of the commission.

19 (1) The commission shall compile, correlate, and develop data
20 which it collects pursuant to this article and may conduct or
21 contract with any corporation, association, or entity it deems
22 appropriate for studies on health-related questions which will
23 enable the commission to carry out its duties under this
24 article. The commission may prepare and distribute or make
25 available data to health care providers, health care
26 subscribers, third-party payers, and the general public.

1 (2) (a) The commission may require agencies of state
2 government to obtain for and make available to the commission
3 data reasonably needed to carry out its purpose. The
4 commission may also require health care providers, third-party
5 payers, the state medicaid program, and other appropriate
6 sources to make available to the commission data reasonably
7 needed to carry out its purpose.

8 (b) The data collected by and furnished to the
9 commission pursuant to this section shall not be public
10 records under part 2 of article 72 of title 24, C.R.S. The
11 compilations prepared from the data collected shall be public
12 records under part 2 of article 72 of title 24, C.R.S. Except
13 to the extent provided in section 25-28-105, the
14 confidentiality of patients is to be protected, and the laws
15 of this state in regard to patient confidentiality shall
16 apply.

17 (3) (a) By July 1, 1986, all third-party payers and all
18 health care providers shall use a uniform hospital billing
19 form and a uniform health care provider billing form as
20 adopted by the commission. The commission shall establish
21 uniform definitions for such billing forms.

22 (b) The commission may require all third-party payers,
23 including but not limited to licensed insurers, medical and
24 hospital service corporations, health maintenance
25 organizations, and self-funded employee health plans, to
26 provide hospital inpatient and outpatient claims data and

1 corresponding physician claims data to the commission. This
2 data may include the patient's age; sex; county; zip code;
3 third-party coverage; date of admission, procedure, and
4 discharge; principal diagnosis and other diagnoses; principal
5 procedure and other procedures; total charges and components
6 of those charges; attending physician identification number;
7 and hospital identification number.

8 (c) The commission shall compile and disseminate
9 comparative information on average charges, total and
10 ancillary charge components, and length of stay on
11 diagnosis-specific and procedure-specific cases on a hospital
12 basis from the data gathered in paragraph (b) of this
13 subsection (3). Prior to the release or dissemination of the
14 compilations, the commission shall permit providers an
15 opportunity to verify the accuracy of any information
16 pertaining to the provider. The providers may submit to the
17 commission any corrections of errors in the compilations of
18 the data with any supporting evidence and comments the
19 provider may submit. The commission shall correct data found
20 to be in error.

21 (d) The commission shall require the executive director
22 of the department of health and the commissioner of insurance
23 to establish a system which requires the use of a common
24 patient identification number between the uniform hospital
25 billing form and the hospital discharge abstract.

26 (e) The commission shall require the executive director

1 of the department of health to adopt a system of uniform
2 physician identification numbers for use on the hospital
3 discharge abstract forms.

4 (f) The commission may require the executive director of
5 the department of social services to make available to the
6 commission data and information on the medicaid program
7 similar to that required of other third-party payers.

8 (4) (a) The commission may require that the uniform
9 discharge abstract form designated or established by the
10 commission be used by all hospitals by July 1, 1986.

11 (b) The commission may require entities regulated by the
12 commissioner who provide health care insurance or service
13 plans to provide health care policyholder or subscriber data
14 by geographic area or other demographics.

15 (c) The commission may require hospitals to submit
16 annually to the executive director and to post notification in
17 a public area that there is available for public examination
18 in each facility the established charges for services, where
19 applicable.

20 (5) The commission shall adopt rules and regulations as
21 necessary to implement this article.

22 25-28-105. Confidential information and records.

23 (1) Notwithstanding any other provision of law to the
24 contrary, it is lawful to provide information requested
25 pursuant to section 25-28-104, as follows:

26 (a) From hospitals, third-party payers, and other

1 persons to the executive director of the department of health,
2 the commissioner of insurance, or the executive director of
3 the department of social services;

4 (b) From the executive director of the department of
5 health, the commissioner of insurance, or the executive
6 director of the department of social services to the
7 commission; and

8 (c) From the commission or its designee to interested
9 persons.

10 (2) Information provided pursuant to section 25-28-104
11 shall not identify a patient by name, address, or patient
12 identification number unless authorized by the patient.

13 (3) The commission shall determine the form in which
14 information shall be made available and to whom, when, and
15 under what circumstances the information shall be made
16 available.

17 (4) A person shall not be civilly liable as a result of
18 the person's acts, omissions, or decisions as a member of the
19 commission or as an employee or agent in connection with the
20 person's duties for the commission. However, this section
21 shall not provide immunity for disclosing or furnishing
22 confidential information with malice or willful intent to
23 injure a person.

24 25-28-106. Release of information. Data furnished to
25 the commission pursuant to section 25-28-104 shall not be
26 public records under part 2 of article 72 of title 24, C.R.S.

1 A cause of action in the nature of defamation, invasion of
2 privacy, or negligence shall not arise against a person for
3 disclosing information in accordance with section 25-28-104,
4 unless the act or omission was wanton, willful, or grossly
5 negligent. However, this section shall not provide immunity
6 for disclosing or furnishing confidential information with
7 malice or willful intent to injure a person.

8 25-28-107. Reports of commission. The commission shall
9 submit a report on its actions to the general assembly not
10 later than January 15, 1987, and annually thereafter.

11 SECTION 3. 24-72-204 (3) (a) (VI) and (3) (a) (VII),
12 Colorado Revised Statutes, 1982 Repl. Vol., as amended, are
13 amended, and the said 24-72-204 (3) (a) is further amended BY
14 THE ADDITION OF A NEW SUBPARAGRAPH, to read:

15 24-72-204. Allowance or denial of inspection - grounds
16 - procedure - appeal. (3) (a) (VI) Addresses and telephone
17 numbers of students in any public elementary or secondary
18 school; and

19 (VII) Library records disclosing the identity of a user
20 as prohibited by section 24-90-119; AND

21 (VIII) Data collected by and furnished to the Colorado
22 health data commission pursuant to article 28 of title 25,
23 C.R.S.

24 SECTION 4. Appropriation. In addition to any other
25 appropriation, there is hereby appropriated out of any moneys
26 in the state treasury not otherwise appropriated, to the

1 department of health for allocation to the Colorado health
2 data commission, for the fiscal year beginning July 1, 1985,
3 the sum of two hundred thousand dollars (\$200,000), or so much
4 thereof as may be necessary, to provide for the compilation
5 and dissemination of health data in accordance with the
6 provisions and intent of this act.

7 SECTION 5. Effective date. This act shall take effect
8 July 1, 1985.

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

Bill 2

A BILL FOR AN ACT

1 CONCERNING THE COMPENSATION OF PROVIDERS UNDER THE "REFORM ACT
2 FOR THE PROVISION OF HEALTH CARE FOR THE MEDICALLY
3 INDIGENT".

Bill Summary

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

Removes conditional language pertaining to the geographic distribution of contracts with providers under the medically indigent program, leaving a requirement that such contracts reflect medical services rendered to the medically indigent in different regions of the state.

4 Be it enacted by the General Assembly of the State of Colorado:
5 SECTION 1. 26-15-106 (4), Colorado Revised Statutes,
6 1982 Repl. Vol., as amended, is amended to read:
7 26-15-106. Responsibility of the health sciences center
8 - provider contracts. (4) Contracts with providers ~~to the~~
9 ~~extent possible;~~ shall reflect medical services rendered to
10 the medically indigent in different regions of the state on a
11 geographic basis.

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

Bill 3

A BILL FOR AN ACT

1 CONCERNING THE PROGRAM FOR THE PROVISION OF HEALTH CARE
2 SERVICES FOR THE MEDICALLY INDIGENT, AND MAKING AN
3 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.)

Designates the department of social services to administer and implement the program for the medically indigent. The program is currently administered by the University of Colorado health sciences center.

Divides the program into two methods of service delivery: (1) A case management method for children under the age of eighteen and pregnant women; and (2) Emergency care. Specifies types of medical services which are eligible and which are not eligible for reimbursement under the program. Provides that the state department shall not reimburse inpatient services which can be performed less expensively in the outpatient setting. Includes free-standing ambulatory surgical facilities, free-standing emergency facilities, and licensed physicians as providers within the program. Makes the state department responsible for determining the eligibility of persons seeking assistance under the program. Requires providers to use and enforce an ability-to-pay scale or a copayment schedule before providing medical assistance.

Requires the state department to divide the state into regions for the purpose of administering the program on a geographic basis. Requires that, by a specified date, contracts with providers shall reflect medical services rendered to the medically indigent in different regions of the state on a geographic basis. Authorizes the state department

to solicit competitive bids from providers to provide medical services under the program. With specified exceptions, limits reimbursement to providers to reimbursement for medical services rendered to residents of the region in which the provider awarded a contract is located.

Repeals the designation of Denver health and hospitals and the University of Colorado health sciences center as primary providers of care in the city and county of Denver and the Denver standard metropolitan statistical area, thus allowing for open provider bidding in these areas. Designates the University of Colorado health sciences center and the children's hospital as the primary providers of complex care in the entire state. Currently, only the health sciences center provides such care under the program.

Specifies maximum levels for the reimbursement of providers under the program. Authorizes the department of social services to obtain wage and employment data concerning applicants for medical services from the department of labor and employment. Establishes a registry for the medically indigent to expedite verification procedures and information exchanges and improve accuracy with respect to the keeping of records. Prohibits a person who does not choose to participate in a group medical insurance plan offered through his place of employment from being eligible for medical services pursuant to the program. Stipulates that all other sources of payment shall be exhausted before medically indigent funds are utilized for reimbursement pursuant to this article. Provides that a single detection of fraud or abuse committed by a recipient or provider shall preclude receipt of benefits or payments under the program for a period of two years.

Makes an appropriation to provide for the implementation of this act.

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

2 SECTION 1. 26-15-102 (1) (a) and (2), Colorado Revised
3 Statutes, 1982 Repl. Vol., as amended, are amended to read:

4 26-15-102. Legislative declaration - qualification for
5 federal funds. (1) (a) The state has insufficient resources
6 to pay for all medical services for persons who are indigent
7 and must therefore allocate available resources in a UNIFORM
8 manner THROUGHOUT THE STATE which will provide treatment of

1 those conditions constituting the most serious threats to the
2 health of such medically indigent persons, as well as increase
3 access to primary medical care to prevent deterioration of the
4 health conditions among medically indigent people; and

5 (2) The general assembly further determines, finds, and
6 declares that, EXCEPT TO THE EXTENT NECESSARY TO QUALIFY FOR
7 FEDERAL FUNDS UNDER TITLE XIX OF THE FEDERAL "SOCIAL SECURITY
8 ACT", medically indigent persons are not entitled to receive
9 medical services rendered under the conditions specified in
10 subsection (1) of this section as a matter of right.
11 Therefore, medically indigent persons accepting such medical
12 services shall be subject to the limitations and requirements
13 imposed in this article.

14 SECTION 2. 26-15-103 (4), Colorado Revised Statutes,
15 1982 Repl. Vol., as amended, is amended, and the said
16 26-15-103 is further amended BY THE ADDITION OF THE FOLLOWING
17 NEW SUBSECTIONS, to read:

18 26-15-103. Definitions. (4) "Provider" means any
19 general hospital, community clinic, or maternity hospital,
20 FREE-STANDING AMBULATORY SURGICAL FACILITY, OR FREE-STANDING
21 EMERGENCY FACILITY licensed or certified by the department of
22 health pursuant to section 25-1-107 (1) (1) (I) or (1) (1)
23 (II), C.R.S., any health maintenance organization issued a
24 certificate of authority pursuant to section 10-17-104,
25 C.R.S., and the health sciences center when acting pursuant to
26 ~~section-26-15-106-(5)-(a)~~ THIS ARTICLE. A home health agency

1 may also serve as a provider of community maternity services.
2 For the purposes of the program, "provider" includes
3 associated physicians AND A PHYSICIAN LICENSED PURSUANT TO
4 ARTICLE 36 OF TITLE 12, C.R.S.

5 (5) "Department" means the department of social
6 services.

7 (6) "Professional review organization" means an
8 organization which performs medical utilization review under
9 contract with the department.

10 SECTION 3. 26-15-104, Colorado Revised Statutes, 1982
11 Repl. Vol., as amended, is amended to read:

12 26-15-104. Program for the medically indigent
13 established. A program for the medically indigent is hereby
14 established, to commence July 1, 1983, which shall be
15 administered by the ~~health--sciences--center~~ DEPARTMENT, to
16 provide payment to providers for the provision of medical
17 services to eligible persons who are medically indigent. The
18 ~~health-sciences-center~~ DEPARTMENT may promulgate such rules
19 and regulations as are necessary for the implementation of
20 this article in accordance with article 4 of title 24, C.R.S.

21 SECTION 4. The introductory portion to 26-15-105 (1),
22 Colorado Revised Statutes, 1982 Repl. Vol., as amended, is
23 amended to read:

24 26-15-105. Report concerning the program. (1) The
25 ~~health-sciences-center~~ DEPARTMENT, in cooperation with the
26 technical advisory committee created pursuant to section

1 26-15-108, shall prepare an annual report to the joint review
2 committee created pursuant to section 26-15-107 concerning the
3 ~~medically--indigent~~ program. The report shall be prepared
4 following consultation with contract providers in the program
5 ~~state-department-personnel~~; and other agencies, organizations,
6 or individuals as it deems appropriate in order to obtain
7 comprehensive and objective information about the program.
8 The report ~~shall~~ MAY contain a plan for a delivery system to
9 provide medical services to medically indigent persons of
10 Colorado in a manner which assures appropriateness of care,
11 prudent utilization of state resources, and accountability to
12 the general assembly. The ~~health-sciences-center~~ DEPARTMENT
13 shall submit the report to the general assembly no later than
14 February 1 of each year. The report ~~shall~~ MAY include
15 ~~recommendations-regarding~~ ITEMS SUCH AS the following:

16 SECTION 5. The introductory portion to 26-15-106 (1),
17 26-15-106 (1) (a), (1) (b), (2), (3), (4), (5), (6), (10), and
18 (13) (a), the introductory portion to 26-15-106 (13) (b), and
19 26-15-106 (13) (b) (II) and (14), Colorado Revised Statutes,
20 1982 Repl. Vol., as amended, are amended, and the said
21 26-15-106 (13) is further amended BY THE ADDITION OF THE
22 FOLLOWING NEW PARAGRAPHS, to read:

23 26-15-106. Responsibility of the department - provider
24 contracts - methods of program service delivery - registry
25 established. (1) The ~~health-sciences-center~~ DEPARTMENT shall
26 be responsible for:

1 (a) Execution of such contracts with providers for
2 payment of costs of medical services rendered to the medically
3 indigent as the health--sciences--center DEPARTMENT shall
4 determine are necessary for the continuation of the
5 ~~state-funded-programs--for--the--medically--indigent--existing~~
6 ~~prior--to--July--1,--1983~~ PROGRAM, including any short-term or
7 transitional contracts and contract extensions which may be
8 necessary to allow time for promulgation of rules and
9 negotiation and execution of detailed contracts;

10 (b) Promulgating such rules and regulations as are
11 necessary to continuation of said program, including but not
12 limited to matters enumerated in section 26-15-105; and
13 ~~program--scope--and--content--concerning--community--maternity~~
14 ~~programs~~; and

15 (2) The contracts required by paragraph (a) of
16 subsection (1) of this section shall be negotiated between the
17 health--sciences-center DEPARTMENT and the providers and shall
18 include contracts with providers to provide tertiary or
19 specialized services. ~~The--center--may-award-such-contracts~~
20 ~~upon-a-determination-that-it-would-not-be-cost--effective--nor~~
21 ~~result--in--adequate--quality--of-care-for-such-services-to-be~~
22 ~~developed-by-the-contract-providers;-or-upon--a--determination~~
23 ~~that-the-contract-providers-are-unable-or-unwilling-to-provide~~
24 ~~such-services~~;

25 (3) Every contract between the health-sciences-center
26 DEPARTMENT and a provider shall provide for proof of indigency

1 to be submitted by the person seeking assistance; but the
2 provider shall be responsible for ~~the-determination~~ RECEIPT OF
3 APPLICATIONS FOR MEDICAL SERVICES, AND THE DEPARTMENT SHALL BE
4 RESPONSIBLE FOR DETERMINATION AND VERIFICATION of eligibility.
5 EACH SUCH CONTRACT SHALL REQUIRE THE PROVIDER TO USE AND
6 ENFORCE AN ABILITY-TO-PAY SCALE CURRENTLY APPROVED BY THE
7 DEPARTMENT OR A COPAYMENT SCHEDULE CURRENTLY APPROVED BY THE
8 DEPARTMENT BEFORE PROVIDING MEDICAL SERVICES PURSUANT TO THIS
9 ARTICLE. THE DEPARTMENT SHALL USE SUCH CURRENT ABILITY-TO-PAY
10 SCALE OR SUCH CURRENT COPAYMENT SCHEDULE TO DETERMINE THE
11 EXTENT OF STATE REIMBURSEMENT PURSUANT TO THIS ARTICLE.

12 (4) (a) (I) BY JULY 1, 1988, contracts with providers to
13 ~~the-extent-possible;~~ shall reflect medical services rendered
14 to the medically indigent in different regions of the state on
15 a geographic basis. THE DEPARTMENT SHALL DIVIDE THE STATE
16 INTO REGIONS FOR THE PURPOSE OF ADMINISTERING THE PROGRAM ON A
17 GEOGRAPHIC BASIS. TO THE EXTENT POSSIBLE, THE BOUNDARIES OF
18 THE REGIONS SHALL BE COTERMINOUS WITH COUNTY BOUNDARIES, AND,
19 WHERE POSSIBLE, A REGION SHALL CONSIST OF ONE OR MORE ENTIRE
20 COUNTIES OR CITY AND COUNTIES. THE DEPARTMENT MAY MAKE
21 CHANGES IN THE BOUNDARIES OF THE REGIONS WHEN DEEMED NECESSARY
22 OR APPROPRIATE.

23 (II) THE DEPARTMENT IS AUTHORIZED TO SOLICIT COMPETITIVE
24 BIDS PURSUANT TO PART 2 OF ARTICLE 103 OF TITLE 24, C.R.S.,
25 FROM PROVIDERS TO PROVIDE MEDICAL SERVICES PURSUANT TO THIS
26 ARTICLE.

1 (III) TO THE EXTENT POSSIBLE AND EXCEPT AS PROVIDED IN
2 SUBPARAGRAPH (IV) OF THIS PARAGRAPH (a), REIMBURSEMENT FOR
3 MEDICAL SERVICES SHALL ONLY BE MADE FOR SERVICES RENDERED TO
4 RESIDENTS OF THE REGION IN WHICH THE PROVIDER AWARDED A
5 CONTRACT IS LOCATED.

6 (IV) PROVIDERS MAY APPLY TO THE DEPARTMENT FOR
7 REIMBURSEMENT FOR EMERGENCY CARE RENDERED TO AN ELIGIBLE
8 MEDICALLY INDIGENT PERSON WHO IS NOT A RESIDENT OF THE REGION
9 IN WHICH THE PROVIDER IS LOCATED. SUCH REIMBURSEMENTS SHALL
10 BE SUBJECT TO AVAILABLE APPROPRIATIONS.

11 (V) REIMBURSEMENTS MADE PURSUANT TO SUBPARAGRAPH (IV) OF
12 THIS PARAGRAPH (a) SHALL BE ONLY FOR THE MEDICAL SERVICES
13 NECESSARY TO STABILIZE THE PERSON'S CONDITION.

14 (b) IN THE EVENT THAT THERE IS NO QUALIFIED BID
15 SUBMITTED FOR A REGION, THE DEPARTMENT MAY INCLUDE THE AREA IN
16 ANOTHER REGION OR REGIONS, OR IT MAY ASK FOR NEW BIDS.

17 (5) ~~(a)-(i)--Denver--health--and--hospitals;--including~~
18 ~~associated--physicians;--shall;--up-to-its-physical;--staff;--and~~
19 ~~financial--capabilities--as--provided--for--under--this--program;--be~~
20 ~~designated--by--contract--as--the--primary--providers--of--medical~~
21 ~~services--to--the--medically--indigent--for--the--city--and--county--of~~
22 ~~Denver;~~

23 ~~(ii)--The--health--sciences--center;--including--associated~~
24 ~~physicians;--shall;--up-to-its-physical;--staff;--and--financial~~
25 ~~capabilities--as--provided--for--under--this--program;--be--the~~
26 ~~primary--provider--of--medical--services--to--the--medically--indigent~~

1 ~~for-the-Denver-standard-metropolitan-statistical-area-~~

2 (b) (a) The university of Colorado health sciences
3 center AND THE CHILDREN'S HOSPITAL, including associated
4 physicians, shall be the primary provider PROVIDERS of such
5 complex care as is not available or is not contracted for in
6 the ~~remaining-areas-of-the~~ state up to its THEIR physical,
7 staff, and financial capabilities as provided for under this
8 program.

9 (c) ~~When-acting-in--the--capacity--of--a--provider;--the~~
10 ~~health--sciences--center-shall-comply-with-all-requirements-of~~
11 ~~this-article-relating-to-contracts-with-providers-~~

12 (d) (b) Any two or more providers awarded contracts
13 may, with the approval of the ~~health--sciences--center~~
14 DEPARTMENT, redistribute their respective populations and
15 associated funds.

16 (6) (a) Contracts with providers shall specify the
17 aggregate level of funding which will be available for the
18 care of the medically indigent. ~~However;--providers-will-not~~
19 ~~be-funded-at-a-level-exceeding-actual-costs~~ HOSPITAL PROVIDERS
20 SHALL BE REIMBURSED AT A LEVEL NOT TO EXCEED COSTS AS
21 DETERMINED BY THE MEDICARE/MEDICAID COST REPORT. OTHER
22 PROVIDERS SHALL BE REIMBURSED AT A LEVEL NOT TO EXCEED AMOUNTS
23 PROVIDED BY THE STATE MEDICAID SCALE. Each year, funds will
24 be allocated to providers based on the anticipated ACTUAL
25 utilization of services ~~in-the-respective--region--giving--due~~
26 ~~consideration--to--actual--utilization-of-comparable--services~~

1 within-the-program (including specialty and tertiary services)
2 in the respective region, for the prior fiscal year.

3 (b) For the fiscal year beginning July 1, 1983 1985, the
4 contract amounts for provision of services to the medically
5 indigent shall be those identified in the general
6 appropriation bill as follows:

7 Denver-health-and-hospitals	\$-16,340,162
8 University-of-Colorado-health	
9 sciences-center	\$-15,490,596
10 Community-maternity-providers	\$--1,709,435
11 All-other-providers	\$--1,509,531
12 MEDICALLY INDIGENT PROGRAM	
13 FAMILY PLANNING PROGRAM	
14 HANDICAPPED CHILDREN'S PROGRAM	
15 MATERNAL AND CHILD HEALTH SERVICES	
16 MIGRANT HEALTH SERVICES	
17 TITLE V	

18 (10) A provider awarded a contract shall not be liable
19 in civil damages for refusing to admit for treatment or for
20 refusing to treat any medically indigent person for a
21 condition which the health-sciences-center DEPARTMENT or the
22 provider has determined to be outside of the scope of the
23 program.

24 (13) (a) Every contract shall require that a medically
25 indigent person who wishes to be determined eligible for
26 assistance under this article shall submit a signed

1 application therefor to the provider. or--to--the--health
2 sciences-center:

3 (b) By signing the application, the medically indigent
4 person specifically authorizes the health--sciences--center
5 DEPARTMENT to:

6 (II) Obtain records pertaining to eligibility from a
7 financial institution, as defined in section 15-15-101 (3),
8 C.R.S., or from any insurance company OR FROM ANY WAGE AND
9 EMPLOYMENT DATA AVAILABLE FROM THE DEPARTMENT OF LABOR AND
10 EMPLOYMENT.

11 (d) By signing the application, the medically indigent
12 person specifically waives any right to file a civil action
13 for damages against any provider who renders medical services
14 to such person pursuant to the provisions of this article for
15 good faith acts or omissions.

16 (e) Eligibility determination shall be made by the
17 department.

18 (14) With the approval of the health--sciences--center
19 DEPARTMENT, any provider awarded a contract may enter into
20 subcontracts or other agreements for services related to the
21 program.

22 SECTION 6. 26-15-106 (9), Colorado Revised Statutes,
23 1982 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH
24 AMENDMENTS, to read:

25 26-15-106. Responsibility of the department - provider
26 contracts - methods of program service delivery - registry

1 established. (9) The program shall consist of two methods of
2 service delivery, as follows:

3 (a) (I) Regarding medical services provided to children
4 under the age of eighteen years and pregnant women eligible to
5 receive medical services under this program, each such
6 eligible recipient shall select a primary care physician from
7 among the providers participating in the program in the region
8 where the medically indigent person resides. The primary care
9 physician shall be responsible for authorizing, coordinating,
10 and monitoring all medical services available to such eligible
11 recipient under the program. Once such a eligible recipient
12 has selected a primary care physician, the recipient shall
13 receive all medical care from that primary care physician or
14 on a referral therefrom, except for emergency care.

15 (II) The duration of eligibility for pregnant women
16 shall be from the time pregnancy is established through time
17 of delivery and shall include one postpartum visit.

18 (III) The eligibility for children under the age of
19 eighteen years shall be determined on a quarterly basis.

20 (b) Except regarding medical services provided to
21 children under the age of eighteen years and pregnant women
22 pursuant to subparagraph (I) of paragraph (a) of this
23 subsection (9), every provider awarded a contract pursuant to
24 this section shall provide, within the limits of the funds
25 which will be made available to it in the contracts, emergency
26 care for the full year.

1 SECTION 7. 26-15-106, Colorado Revised Statutes, 1982
2 Repl. Vol., as amended, is amended BY THE ADDITION OF THE
3 FOLLOWING NEW SUBSECTIONS to read:

4 26-15-106. Responsibility of the department - provider
5 contracts - methods of program service delivery - registry
6 established. (17) (a) The department shall not reimburse
7 inpatient services which can be performed less expensively in
8 the outpatient setting.

9 (b) The following types of medical services are eligible
10 for reimbursement pursuant to this article:

11 (I) For pregnant women:

12 (A) Physicians' services;

13 (B) Necessary related laboratory and X-ray services;

14 (C) Outpatient hospital care upon referral by the
15 appropriate primary care physician or in an emergency;

16 (D) Inpatient hospital care upon referral by the
17 appropriate primary care physician and with approval by a
18 professional review organization;

19 (E) A postpartum visit, which may include family
20 planning services; and

21 (F) A limited drug formulary related to the pregnancy.

22 (II) For children under the age of eighteen years:

23 (A) Physicians' services;

24 (B) Outpatient hospital care upon referral by the
25 appropriate primary care physician or in an emergency;

26 (C) Inpatient hospital care upon referral by the

1 appropriate primary care physician, with approval by a
2 professional review organization;

3 (D) A limited drug formulary related to childhood
4 immunization;

5 (E) In the case of severely visually handicapped
6 children, limited eye care and related appliances, subject to
7 prior authorization by the department or its designee; and

8 (F) In the case of severely hearing impaired handicapped
9 children, limited audiological care and related appliances,
10 subject to prior authorization by the department or its
11 designee.

12 (III) For all other eligible recipients:

13 (A) Outpatient emergency care; and

14 (B) Inpatient hospital care when determined to be
15 immediately necessary.

16 (c) The following types of medical services are not
17 eligible for reimbursement pursuant to this article:

18 (I) Renal dialysis;

19 (II) Mental health or psychiatric treatment;

20 (III) Alcoholism or controlled substance abuse
21 treatment;

22 (IV) Cosmetic surgery, except for reconstructive
23 cosmetic surgery;

24 (V) Dental care;

25 (VI) The transportation of patients, except as
26 specifically authorized by the department or its designee; and

1 (VII) The provision of prescription drugs, except as
2 otherwise provided in this article.

3 (18) The department shall establish a registry for the
4 medically indigent, which shall contain the names and places
5 of residence of applicants and other data submitted by
6 providers or applicants desiring coverage under the program
7 established in section 26-15-104. The department shall
8 establish procedures for enrolling persons to participate in
9 this program and shall periodically review and revise records
10 concerning the eligibility of persons to participate in the
11 program. It is intended that the registry for the medically
12 indigent shall expedite verification procedures and
13 information exchanges and improve accuracy with respect to the
14 keeping of records. The department shall submit annual
15 reports to the joint review committee established in section
16 26-15-107 analyzing such data, including patient demographics,
17 diagnosis, treatment, costs, and charges as contained in the
18 registry.

19 (19) A person who, at the time of application for
20 medical services, is employed but does not choose to
21 participate in a group medical insurance plan offered through
22 his place of employment shall not be eligible for medical
23 services pursuant to this article.

24 SECTION 8. 26-15-107, Colorado Revised Statutes, 1982
25 Repl. Vol., as amended, is amended to read:

26 26-15-107. Joint review committee for the medically

1 indigent. In order to give guidance and direction to the
2 ~~health--sciences--center~~ DEPARTMENT in the development of the
3 program for the medically indigent and to provide legislative
4 overview of and advice concerning the development of the
5 program, there is hereby established the joint review
6 committee for the medically indigent. The membership of the
7 committee shall consist of six representatives appointed by
8 the speaker of the house of representatives and four senators
9 appointed by the president of the senate, who shall be
10 appointed no later than ten days after the convening of the
11 first regular session of each general assembly. ~~except--that~~
12 ~~the--members--for--the--fifty-fourth--generat--assembly--may--be~~
13 ~~appointed-at-any-time-after-june-12;--1983~~. The appointments
14 shall include representation from each of the political
15 parties. The committee shall meet when necessary with
16 providers and the ~~health-sciences-center~~ DEPARTMENT to review
17 progress in the development of the program. The committee may
18 consult with such experts as may be necessary. The staffs of
19 the legislative council and of the state auditor AUDITOR'S
20 OFFICE shall assist the committee.

21 SECTION 9. 26-15-108, Colorado Revised Statutes, 1982
22 Repl. Vol., as amended, is amended to read:

23 26-15-108. Technical advisory committee. (1) THE
24 GENERAL ASSEMBLY HEREBY DETERMINES, FINDS, AND DECLARES THAT:

25 (a) THE TECHNICAL ADVISORY COMMITTEE AS PROVIDED FOR IN
26 PARAGRAPH (b) OF THIS SUBSECTION (1) WILL PROVIDE NECESSARY

1 EXPERTISE, LEADERSHIP, AND DIRECTION TO THE DEPARTMENT AND TO
2 THE JOINT REVIEW COMMITTEE ESTABLISHED PURSUANT TO SECTION
3 26-15-107;

4 (b) THE COMPOSITION OF THE TECHNICAL ADVISORY COMMITTEE
5 IS INTENDED TO ALLOW FOR AN INDEPENDENT, PROFESSIONAL
6 ASSESSMENT OF THE EFFECTIVENESS OF THE PROGRAM AND TO PROVIDE
7 USEFUL SUGGESTIONS FOR IMPROVING THE PROGRAM; AND

8 (c) IN THAT THE TECHNICAL ADVISORY COMMITTEE IS
9 APPOINTED BY THE STATE AUDITOR, THE COMMITTEE IS INTENDED TO
10 PROVIDE PARTICULAR EXPERTISE IN ASSESSING THE
11 COST-EFFECTIVENESS OF VARIOUS ASPECTS OF THE PROGRAM.

12 (2) There is hereby created a technical advisory
13 committee on the medically indigent to aid and advise the
14 joint review committee for the medically indigent and the
15 health--sciences--center DEPARTMENT with respect to the
16 development of the program. The state auditor shall appoint a
17 committee, not to exceed nine members, comprised of providers,
18 accountants or auditors, representatives of the health
19 insurance industry, public members, and any other persons
20 offering technical expertise. The technical advisory
21 committee shall assist in the development of the program
22 requirements, and review and comment on the report provided
23 for in section 26-15-105.

24 SECTION 10. 26-15-109, Colorado Revised Statutes, 1982
25 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH
26 AMENDMENTS, to read:

1 26-15-109. Medically indigent program - payor of last
2 resort. All other means of payment shall be exhausted before
3 medically indigent funds are utilized for reimbursement
4 pursuant to this article. The medically indigent program
5 shall be the payor of last resort.

6 SECTION 11. 26-15-110, Colorado Revised Statutes, 1982
7 Repl. Vol., as amended, is amended to read:

8 26-15-110. Existing programs included - exceptions -
9 appropriations. (1) It is the intention of the general
10 assembly to incorporate all state-funded programs for the
11 medically indigent existing prior to July 1, 1983 1985, except
12 those APPROPRIATIONS FOR THE programs funded---through
13 appropriations--to--the--department--of--health STIPULATED IN
14 SECTION 26-15-106 (6) (b), into the program established by
15 this article.

16 (2) The general assembly shall make annual
17 appropriations to the health--sciences--center DEPARTMENT to
18 accomplish the purposes of this article.

19 SECTION 12. Article 15 of title 26, Colorado Revised
20 Statutes, 1982 Repl. Vol., as amended, is amended BY THE
21 ADDITION OF THE FOLLOWING NEW SECTIONS to read:

22 26-15-110.2. Reference in contracts, documents.
23 Whenever the health sciences center is referred to or
24 designated by any contract or other document in connection
25 with the powers, duties, and functions vested in the
26 department by this article, such reference or designation

1 shall be deemed to apply to the state department. All
2 contracts entered into by the health sciences center prior to
3 July 1, 1985, in connection with the duties and functions
4 transferred to the state department by this article are hereby
5 validated, with the department succeeding to all the rights
6 and obligations of such contracts.

7 26-15-110.5. Transfer of records, equipment, and moneys
8 to the department. All books, records, equipment, property,
9 accounts, and liabilities of the health sciences center which
10 pertain to the powers, duties, and functions vested in the
11 state department by this article shall be transferred thereto.
12 Any moneys available from appropriations to the department of
13 higher education for purposes of this article, and any related
14 full-time equivalent authorizations, are hereby transferred
15 and appropriated to the state department for such purposes.

16 SECTION 13. 26-15-112, Colorado Revised Statutes, 1982
17 Repl. Vol., as amended, is amended to read:

18 26-15-112. Penalties. (1) Any person who represents
19 that any medical service is reimbursable or subject to payment
20 under this article when he knows that it is not and any person
21 who represents that he is eligible for assistance under this
22 article when he knows that he is not commits a class 2
23 misdemeanor and shall be punished as provided in section
24 18-1-106, C.R.S.

25 (2) A SINGLE DETECTION OF FRAUD OR ABUSE COMMITTED BY A
26 RECIPIENT OR PROVIDER SHALL PRECLUDE RECEIPT OF BENEFITS OR

1 PAYMENTS FROM THE MEDICALLY INDIGENT PROGRAM FOR A PERIOD OF
2 TWO YEARS.

3 SECTION 14. Repeal. 26-15-106 (7), (11), (12), and
4 (15), Colorado Revised Statutes, 1982 Repl. Vol., as amended,
5 are repealed.

6 SECTION 15. Appropriation. In addition to any other
7 appropriation, there is hereby appropriated, out of any moneys
8 in the state treasury not otherwise appropriated, to the
9 department of social services, for the fiscal year beginning
10 July 1, 1985, the sum of one million nine hundred thousand
11 dollars (\$1,900,000), or so much thereof as may be necessary
12 to implement the provisions of this act.

13 SECTION 16. Effective date. This act shall take effect
14 July 1, 1985.

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

Bill 4

A BILL FOR AN ACT

1 CONCERNING LIMITATIONS ON THE PRACTICE OF MEDICINE.

Bill Summary

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

Repeals the prohibition on a licensed physician practicing medicine as the partner, agent, or employee of, or in joint adventure with, any person who does not hold a license to practice medicine within Colorado, or practicing medicine as an employee of, or in joint adventure with, any partnership or association any of whose partners or associates do not hold a license to practice medicine within this state, or practicing medicine as an employee of or in joint adventure with any corporation other than a professional service corporation for the practice of medicine.

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

3 SECTION 1. Repeal. 12-36-117 (1) (m) and 12-36-134 (7),
4 Colorado Revised Statutes, 1978 Repl. Vol., as amended, are
5 repealed.

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

Bill 5

CONCURRENT RESOLUTION NO.

1 SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO
2 AN AMENDMENT TO SECTION 3 OF ARTICLE XXIV OF THE
3 CONSTITUTION OF THE STATE OF COLORADO, CHANGING THE
4 MINIMUM AGE OF ELIGIBILITY FOR PUBLIC ASSISTANCE IN THE
5 FORM OF OLD AGE PENSIONS TO AGE SIXTY-FIVE.

Resolution Summary

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

Amends section 3 of article XXIV of the state constitution to change the minimum age of eligibility for state public assistance in the form of old age pensions from age sixty to age sixty-five.

6 Be It Resolved by the Senate of the Fifty-fifth General
7 Assembly of the State of Colorado, the House of
8 Representatives concurring herein:

9 SECTION 1. At the next general election for members of
10 the general assembly, there shall be submitted to the
11 registered electors of the state of Colorado, for their

1 approval or rejection, the following amendment to the
2 constitution of the state of Colorado, to wit:

3 Section 3 of article XXIV of the constitution of the
4 state of Colorado is amended to read:

5 Section 3. Persons entitled to receive pensions. From
6 ~~and-after-January-1;-1957~~ ON OR AFTER JANUARY 1, 1987, every
7 citizen of the United States who has been a resident of the
8 state of Colorado for such period as the general assembly may
9 determine, who has attained the age of ~~sixty~~ SIXTY-FIVE years
10 or more, and who qualifies under the laws of Colorado to
11 receive a pension, shall be entitled to receive the same;
12 ~~provided;-however;~~ EXCEPT that no person otherwise qualified
13 shall be denied a pension by reason of the fact that he is the
14 owner of real estate occupied by him as a residence; nor for
15 the reason that relatives may be financially able to
16 contribute to his support and maintenance; nor shall any
17 person be denied a pension for the reason that he owns
18 personal property which by law is exempt from execution or
19 attachment; nor shall any person be required, in order to
20 receive a pension, to repay, or promise to repay, the state of
21 Colorado any money paid to him as an old age pension. ON OR
22 AFTER JANUARY 1, 1987, NO FURTHER APPLICATIONS WILL BE
23 ACCEPTED FOR OLD AGE PENSIONS FROM PERSONS UNDER THE AGE OF
24 SIXTY-FIVE.

1 SECTION 2. Each elector voting at said election and
2 desirous of voting for or against said amendment shall cast
3 his vote as provided by law either "Yes" or "No" on the
4 proposition: "An amendment to section 3 of article XXIV of
5 the constitution of the state of Colorado, changing the
6 minimum age of eligibility for public assistance in the form
7 of old age pensions to age sixty-five."

8 SECTION 3. The votes cast for the adoption or rejection
9 of said amendment shall be canvassed and the result determined
10 in the manner provided by law for the canvassing of votes for
11 representatives in Congress, and if a majority of the electors
12 voting on the question shall have voted "Yes", the said
13 amendment shall become a part of the state constitution.

Bill 6

A BILL FOR AN ACT

1 CONCERNING LIMITATION OF ACTIONS AGAINST PHYSICIANS.

Bill Summary

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

Limits medical malpractice recoveries for failure to perform procedures where a treating physician and a physician rendering a second opinion concur that additional procedures are not medically necessary to the proper diagnosis and treatment of the patient. Authorizes the department of health to establish a list of physicians to render a second opinion.

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

3 SECTION 1. Article 80 of title 13, Colorado Revised
4 Statutes, as amended, is amended BY THE ADDITION OF A NEW
5 SECTION to read:

6 13-80-105.1. Limitation of actions against physicians -
7 second opinions. If, during diagnosis and treatment, a
8 patient's treating physician determines that additional tests
9 or procedures are not medically necessary to the proper
10 diagnosis or treatment of the patient, the treating physician
11 may select from the list of physicians established by the

1 department of health pursuant to section 25-1-107 (1) (dd),
2 C.R.S., a physician to render a second opinion. The treating
3 physician may request a determination from the selected
4 physician as to whether additional tests or procedures are
5 medically necessary for the proper diagnosis and treatment of
6 the patient. If the physician rendering the second opinion
7 concurs that such additional tests or procedures are not
8 medically necessary for the proper diagnosis and treatment of
9 the patient, no person shall be permitted to maintain an
10 action against either the treating physician or the *physician
11 rendering the second opinion for the failure to perform
12 additional tests or procedures or for making a determination
13 that such additional tests or procedures were not medically
14 necessary.

15 SECTION 2. 25-1-107 (1), Colorado Revised Statutes,
16 1982 Repl. Vol., as amended, is amended BY THE ADDITION OF A
17 NEW PARAGRAPH to read:

18 25-1-107. Powers and duties of the department.
19 (1) (dd) To establish and maintain a list of physicians
20 licensed in this state, who shall be available, at the request
21 of treating physicians, to render second opinions regarding
22 the necessity of performing additional medical tests or
23 procedures on the patients of said primary treating
24 physicians, for purposes of limiting causes of action as
25 provided in section 13-80-105.1, C.R.S.

26 SECTION 3. Effective date - applicability. This act

1 shall take effect July 1, 1985, and shall apply to causes of
2 action which accrue on or after said date.

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

Bill 7

A BILL FOR AN ACT

1 CONCERNING PROVIDER COSTS UNDER THE "COLORADO MEDICAL
2 ASSISTANCE ACT".

Bill Summary

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

Adds the cost of nursing services to the definition of "reasonable cost of services" in the "Colorado Medical Assistance Act" and sets forth criteria to be used by the state board of social services in determining the actual cost of nursing services. Changes reimbursement for all other health care to the ninetieth percentile.

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

4 SECTION 1. 26-4-103 (4.5), Colorado Revised Statutes,
5 1982 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH
6 AMENDMENTS, to read:

7 26-4-103. Definitions. (4.5) (a) "Reasonable cost of
8 services" means the following actual costs of providing
9 certain services subject to the limitations of this paragraph:

10 (I) Nursing costs calculated from prospective resident -
11 specific standard per diem rates according to the following
12 factors:

1 (A) The patient's need for care and frequency with which
2 his care requires reimbursable procedures;

3 (B) The amount of nursing time needed for each type of
4 nurse and wage, including fringe benefits, by geographic
5 region;

6 (C) An allowance for nursing supplies and a specific
7 list of specialized services; and

8 (D) An allowance for associated supplies which shall be
9 included in the rates for any of the special services deemed
10 necessary;

11 (II) Food costs to the ninetieth percentile, but food
12 costs shall not include the costs of real or personal
13 property, staff, preparation, or other items related to the
14 food program; and

15 (III) All other health care, administration, property,
16 and room and board costs to the ninetieth percentile of
17 medicaid patients in participating nursing homes, and any
18 portion of staff costs directly attributable to administration
19 shall be reimbursed to the ninetieth percentile.

20 (b) The reimbursable dollar amount per patient day shall
21 be established every six months in accordance with the rules
22 and regulations of the state board.

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

Bill 8

A BILL FOR AN ACT

1 CONCERNING THE AUTHORIZATION TO ORGANIZE AND OPERATE
2 ALTERNATIVE HEALTH CARE DELIVERY SYSTEMS.

Bill Summary

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

Specifically authorizes hospitals licensed or certified in Colorado to organize and operate health maintenance organizations in Colorado.

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

4 SECTION 1. 10-17-117 (1), Colorado Revised Statutes, is
5 amended to read:

6 10-17-117. Powers of insurers, nonprofit hospital,
7 medical-surgical, and health service corporations, and
8 hospitals. (1) An insurance company licensed in this state,
9 or a nonprofit hospital, medical-surgical, and health service
10 corporation authorized to do business in this state, OR A
11 HOSPITAL LICENSED OR CERTIFIED IN THIS STATE, may, either
12 directly or through a subsidiary or affiliate, organize and

1 operate a health maintenance organization under the provisions
2 of this article. Notwithstanding any other law which may be
3 inconsistent, any two or more such insurance companies,
4 nonprofit hospital, medical-surgical, and health service
5 corporation CORPORATIONS, HOSPITALS, or subsidiaries or
6 affiliates thereof, may jointly organize and operate a health
7 maintenance organization. An insurance company shall not be
8 considered in violation of the laws regulating insurance by
9 the providing of health care by a health maintenance
10 organization owned or operated by an insurer or a subsidiary
11 thereof.

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

Bill 9

A BILL FOR AN ACT

1 CONCERNING THE RIGHT OF PERSONS TO ACCEPT OR REJECT MEDICAL OR
2 SURGICAL TREATMENT.

Bill Summary

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

Allows a competent adult to declare that his life shall not be artificially prolonged if, at some future time, he becomes incapacitated by a terminal medical condition and is unable to reject artificially life-prolonging medical procedures. Sets out procedures to challenge the validity of such declarations and provides for revocation thereof. Provides that a death resulting from compliance with the terms of a declaration cannot be considered a suicide or homicide for other legal purposes. Imposes penalties for forging, defacing, destroying, or withholding information about a declaration. Makes it unprofessional conduct for a physician to refuse to comply with the terms of his patient's declaration and to fail to transfer care of the patient to another physician.

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

4 SECTION 1. Title 15, Colorado Revised Statutes, as
5 amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

6 ARTICLE 18

7 Colorado Medical Treatment Decision Act

1 15-18-101. Short title. This article shall be known and
2 may be cited as the "Colorado Medical Treatment Decision Act".

3 15-18-102. Legislative declaration. (1) The general
4 assembly hereby finds, determines, and declares that:

5 (a) Colorado law has traditionally recognized the right
6 of a competent adult to accept or reject medical or surgical
7 treatment affecting his person;

8 (b) Recent advances in medical science have made it
9 possible to prolong dying through the use of artificial,
10 extraordinary, extreme, or radical medical or surgical
11 procedures;

12 (c) The use of such medical or surgical procedures
13 increasingly involves patients who are unconscious or
14 otherwise incompetent to accept or reject medical or surgical
15 treatment affecting their persons;

16 (d) The traditional right to accept or reject medical or
17 surgical treatment should be available to an adult while he is
18 competent, notwithstanding the fact that such medical or
19 surgical treatment may be offered or applied when he is
20 suffering from a terminal condition which has caused him to be
21 incompetent to decide whether such medical or surgical
22 treatment should be accepted or rejected;

23 (e) This article affirms the traditional right to accept
24 or reject medical or surgical treatment affecting one's
25 person, and creates a procedure by which a competent adult may
26 make such decisions in advance, before he becomes incompetent

1 to do so.

2 15-18-103. Definitions. As used in this article, unless
3 the context otherwise requires:

4 (1) "Adult" means any person eighteen years of age or
5 older.

6 (2) "Attending physician" means the physician, whether
7 selected by or assigned to a patient, who has primary
8 responsibility for the treatment and care of said patient.

9 (3) "Court" means the district court of the county in
10 which a declarant having a terminal condition is located at
11 the time of commencement of a proceeding pursuant to this
12 article.

13 (4) "Declarant" means a mentally competent adult who
14 executes a declaration.

15 (5) "Declaration" means a written document executed by a
16 declarant in accordance with the requirements of section
17 15-18-104.

18 (6) "Hospital" means an institution holding a license or
19 certificate of compliance as a hospital issued by the
20 department of health of this state and includes hospitals
21 operated by the federal government in Colorado.

22 (7) "Incapacitated" means impaired by reason of mental
23 illness, mental deficiency, physical illness or disability,
24 advanced age, chronic use of drugs, chronic intoxication, or
25 other cause to the extent that a person lacks sufficient
26 understanding or capacity to make medical or surgical

1 treatment decisions affecting his person.

2 (8) "Life-sustaining procedure" means any medical
3 procedure or intervention, whether chemical or mechanical,
4 administered to restore or supplant a vital function and
5 serving to artificially postpone the moment of death which, in
6 the judgment of the attending physician and at least one other
7 physician, would serve only to prolong the dying process and
8 where death would occur in the absence of life-sustaining
9 procedures. The term does not include any procedure or agent
10 to nourish the declarant or to alleviate pain.

11 (9) "Physician" means a person duly licensed under the
12 provisions of article 36 of title 12, C.R.S.

13 (10) "Terminal condition" means a condition caused by
14 injury, disease, or illness which, based upon reasonable
15 standards of medical knowledge and practice, is not reversible
16 and would lead to death in the absence of administration of
17 life-sustaining procedures.

18 15-18-104. Declaration as to medical or surgical
19 treatment. A declaration executed before two witnesses by any
20 competent adult in substantially the following form shall be
21 legally effective according to its terms:

22 DECLARATION AS TO MEDICAL OR SURGICAL TREATMENT

23 I, (name of declarant), being of sound mind and at
24 least eighteen years of age, direct that my life shall not be
25 artificially prolonged under the circumstances set forth below
26 and hereby declare that:

1 Dated at _____, Colorado, this _____ day of
2 _____, 19____.

3 _____
4 Name and Address

5 _____
6 Name and Address

7 STATE OF COLORADO)
8) ss.
9 County of _____)

10 SUBSCRIBED and sworn to before me by _____, the
11 declarant, and _____, and _____,
12 witnesses, as the voluntary act and deed of the declarant,
13 this ____ day of _____, 19 __.

14 My commission expires:

15 _____
16 Notary Public

17 15-18-105. Inability of declarant to sign. (1) In the
18 event the declarant is physically unable to sign the
19 declaration, it may be signed by some other person in the
20 declarant's presence and at his direction. Such other person
21 shall not be:

- 22 (a) The attending physician or any other physician; or
23 (b) An employee of the attending physician or health
24 care facility in which the declarant is a patient; or
25 (c) A person who has a claim against any portion of the

1 estate of the declarant at his death at the time the
2 declaration is signed; or

3 (d) A person who is entitled to any portion of the
4 estate of the declarant upon his death either as a beneficiary
5 of a will in existence at the time the declaration is signed
6 or as an heir-at-law.

7 15-18-106. Witnesses. (1) The declaration shall be
8 signed by the declarant in the presence of two witnesses.
9 Said witnesses shall not include any person specified in
10 section 15-18-105.

11 (2) If the declarant is a patient or resident of a
12 health care facility, the witnesses shall not be patients of
13 that facility.

14 15-18-107. Withdrawal - withholding of life-sustaining
15 procedures. In the event an attending physician is presented
16 with an unrevoked declaration executed by a declarant whom the
17 physician believes has a terminal condition, the attending
18 physician shall cause the declarant to be examined by one
19 other physician. If both physicians find that the declarant
20 has a terminal condition, they shall certify such fact in
21 writing. Provided the attending physician has actual
22 knowledge of the whereabouts of the declarant's spouse, any of
23 his adult children, or a parent, the attending physician shall
24 immediately make a reasonable effort to notify at least one of
25 said persons, in the order named, that a certificate of
26 terminal condition has been signed. If no action to challenge

1 the validity of a declaration has been filed within
2 forty-eight consecutive hours after the certification is made
3 by the physicians, the attending physician shall then withdraw
4 or withhold all life-sustaining procedures pursuant to the
5 terms of the declaration. The administration of nourishment,
6 sedatives, or medication for the alleviation of pain shall not
7 be withdrawn or withheld.

8 15-18-108. Determination of validity. (1) Any person
9 may challenge the validity of a declaration in the district
10 court of the county in which the declarant is located. Upon
11 the filing of a petition to challenge the validity of a
12 declaration and notification to the attending physician, a
13 temporary restraining order shall be issued until a final
14 determination as to validity is made.

15 (2) (a) In proceedings pursuant to this section, the
16 court shall appoint a guardian ad litem for the declarant, and
17 the guardian ad litem shall take such action as he deems
18 necessary and prudent in the best interest of the declarant
19 and shall present to the court a report of his actions,
20 findings, conclusions, and recommendations.

21 (b) (I) Unless the court for good cause shown provides
22 for a different method or time of notice, the petitioner, at
23 least five days prior to the hearing, shall cause notice of
24 the time and place of hearing to be given as follows:

25 (A) To the declarant's guardian or conservator, if any,
26 and the court-appointed guardian ad litem; and

1 (B) To the declarant's spouse, if the identity and
2 whereabouts of the spouse are known, to the petitioner, or
3 otherwise to an adult child or parent of the declarant.

4 (II) Notice as required in this paragraph (b) shall be
5 made in accordance with the Colorado rules of civil procedure.

6 (c) The court may require such evidence, including
7 independent medical evidence, as it deems necessary.

8 (3) Upon a determination of the validity of the
9 declaration, the court shall enter any appropriate order.

10 15-18-109. Revocation of declaration. A declaration may
11 be revoked by the declarant orally, in writing, or by burning,
12 tearing, cancelling, obliterating, or destroying said
13 declaration.

14 15-18-110. Liability. (1) With respect to any
15 declaration which appears on its face to have been executed in
16 accordance with the requirements of this article:

17 (a) Any physician may act in compliance with such
18 declaration in the absence of actual notice of revocation,
19 fraud, misrepresentation, or improper execution;

20 (b) No physician signing a certificate of terminal
21 condition or withholding or withdrawing life-sustaining
22 procedures in compliance with a declaration shall be subject
23 to civil liability, criminal penalty, or licensing sanctions
24 therefor;

25 (c) No hospital or person acting under the direction of
26 a physician and participating in the withholding or withdrawal

1 of life-sustaining procedures in compliance with a declaration
2 shall be subject to civil liability, criminal penalty, or
3 licensing sanctions therefor.

4 15-18-111. Determination of suicide - effect on
5 insurance. The withholding or withdrawal of life-sustaining
6 procedures from a declarant pursuant to this article shall
7 not, for any purpose, constitute a suicide or a homicide. The
8 existence of a declaration shall not affect, impair, or modify
9 any contract of life insurance or annuity or be the basis of
10 any delay in issuing or refusal to issue an annuity or policy
11 of life insurance, or increase of the premium therefor. No
12 insurer or provider of health care shall require any person to
13 execute a declaration as a condition of being insured for or
14 receiving health care services; nor shall the failure to
15 execute a declaration be the basis for any increased or
16 additional premium for a contract or policy for medical or
17 health insurance.

18 15-18-112. Application of article. Nothing in this
19 article shall be construed as altering or amending the
20 standards of the practice of medicine, absent a valid
21 declaration, nor as condoning, authorizing, or approving
22 euthanasia or mercy killing, nor as permitting any affirmative
23 or deliberate act or omission to end life, except to permit
24 natural death as provided in this article.

25 15-18-113. Penalties. (1) Any person who willfully
26 defaces, damages, or destroys a declaration of another,

1 without the knowledge and consent of the declarant, commits a
2 class 1 misdemeanor and shall be punished as provided in
3 section 18-1-106, C.R.S.

4 (2) Any person who falsifies or forges a declaration of
5 another commits a class 4 felony and shall be punished as
6 provided in section 18-1-105, C.R.S.

7 (3) Any person who falsifies or forges a declaration of
8 another, and the terms of the declaration are carried out,
9 resulting in the death of the purported declarant, commits a
10 class 2 felony and shall be punished as provided in section
11 18-1-105, C.R.S.

12 (4) Any person who willfully withholds information
13 concerning the revocation of the declaration of another
14 commits a class 1 misdemeanor and shall be punished as
15 provided in section 18-1-106, C.R.S.

16 (5) An attending physician who refuses to comply with
17 the terms of a declaration valid on its face shall transfer
18 the care of the declarant to another physician. Refusal of an
19 attending physician to comply with a declaration and failure
20 to transfer the care of the declarant to another physician
21 shall constitute unprofessional conduct as defined in section
22 12-36-117, C.R.S.

23 SECTION 2. 12-36-117 (1), Colorado Revised Statutes,
24 1978 Repl. Vol., as amended, is amended BY THE ADDITION OF A
25 NEW PARAGRAPH to read:

26 12-36-117. Unprofessional conduct. (1) (r) Refusal of

1 an attending physician to comply with the terms of a
2 declaration executed by a patient pursuant to the provisions
3 of article 18 of title 15, C.R.S., and failure of the
4 attending physician to transfer care of said patient to
5 another physician.

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

LEGISLATIVE COUNCIL
COMMITTEE ON SCHOOL FINANCE

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SUMMARY OF RECOMMENDATIONS

The 1984 interim Committee on School Finance was directed by House Joint Resolution 1027 to undertake a comprehensive study of school finance. Specifically, the committee was instructed to conduct a study:

(a) evaluating the capacity of local school districts to finance basic educational programs;

(b) defining the state's role in supplementing the ability of local school districts to finance thorough and uniform educational programs in each district;

(c) analyzing the impact of declining and increasing school enrollments and the consequences of high student growth rates on both the operational and capital needs of school districts;

(d) examining the relationship between educational excellence in school districts in Colorado and the financial resources of such districts;

(e) evaluating the role of and alternatives to the State Board of Education's function under section 22-50-107;

(f) considering alternative approaches to state financing of public education including, but not limited to, the provisions of House Bill 1390, 1984 Session;

(g) determining the impact of school finance on the total state budget, including estimates of the source and level of state resources that should be made available for kindergarten through twelfth grade education; and

(h) analyzing methods to provide funding for categorical programs including: programs for gifted and talented children, the "Exceptional Children's Educational Act" (including handicapped children and gifted and talented children), and the "English Language Proficiency Act."

A total of six meetings were held by the committee. The meetings were used to review the status of the current Public School Finance Act and to consider a wide variety of proposals for improving the state's system of funding and administering education. The committee used its first two meetings to review background materials and to hear presentations on the current status of Colorado's system of public school finance. A series of ten memos was prepared by staff to provide an overview of school finance history, litigation, state comparisons, and to analyze the current workings of the Public School Finance Act. A listing of these memos is contained in Appendix A. At its third meeting, the committee reviewed the status of state general fund revenues and also initiated a goal-setting exercise to outline

the goals and objectives of a model public school finance system. The fourth and fifth meetings were used to draft proposals for legislation which would address those goals and objectives. The committee studied twenty-one proposed bills and appointed a subcommittee to study yet another approach to modifying the existing school finance mechanism. A listing of these proposed bills is contained in Appendix B.

At its sixth and final meeting, the committee adopted a resolution to the Legislative Council which summarized and prioritized its findings and recommendations for improvement of the Public School Finance Act. The resolution rank orders the committee recommendations as follows:

- (1) stabilize local property taxes by increasing the state's percentage share of the Public School Finance Act;
- (2) designate a portion of the annual appropriation to the Department of Education to be used for ongoing monitoring and evaluation of school district performance, for technical assistance to local districts, and for pilot programs to improve the public school system;
- (3) phase in full funding of the state's share of the "Exceptional Children's Educational Act";
- (4) provide state equalization funding for school district capital construction needs;
- (5) maintain annual increases in district authorized revenue bases equal to 7 percent of the statewide, average ARB in the previous calendar year;
- (6) provide for early intervention assistance to handicapped children and to children whose dominant language is not English;
- (7) create a "Schools of Excellence" program to reward schools achieving specified standards of excellence;
- (8) increase state reimbursement for district transportation expenses; and
- (9) fully fund the state's portion of the "English Language Proficiency Act."

In order to provide sufficient funds for public school education and to mitigate property tax increases, the resolution advises the General Assembly to examine and adjust the state tax structure and to modify the 7 percent limitation on state general fund appropriations if necessary. The final section of the resolution contains the committee's recommendations to increase available funding by reducing the minimum guarantee from \$10 to \$5 and by phasing out funding of full-day kindergarten programs.

In addition to the committee resolution, the following five bills are recommended to the General Assembly:

- a bill to allow school districts to deposit funds which have been received from the sale or lease of land or buildings into the district general fund (Previously, proceeds from the sale of school buildings went to either the capital reserve or bond redemption fund of the district.) -- Bill 10;
- a bill to allow counties that are severely impacted by residential growth to levy general property taxes against newly constructed buildings in the same year that they are completed and distribute the tax revenues in the same manner as all other property tax revenues (except that the portion of these revenues going to school districts would go to the districts' capital reserve funds.) -- Bill 11;
- a bill to authorize the State Board of Education to make a four-year, in-depth study of elementary, secondary, and teacher education programs in order to identify problems and weaknesses in the school systems, and fund the study from current state appropriations in an amount equal to one-eighth of 1 percent of the sum of total state aid and property tax collections -- Bill 12;
- a bill to establish a system of statewide, standardized proficiency testing for high school students to determine whether a graduating student would be entitled to a diploma or to a certificate of attendance upon completion of a secondary school program -- Bill 13; and
- a bill to require that a State Board of Education select and administer standardized achievement tests annually to students in third, sixth, and ninth grades and that the results of these tests be submitted to the State Department of Education -- Bill 14.

COMMITTEE DELIBERATIONS

During the course of the legislative interim, the Committee on School Finance pursued solutions to a variety of issues surrounding the Public School Finance Act. These issues, by and large, fell into five major categories: (1) modifications to the existing power equalization formula; (2) educational quality and measurement; (3) capital construction and capital equalization; (4) categorical programs and their costs; and (5) other related issues. The committee addressed each category by first identifying those areas of concern associated with each issue. Secondly, the committee developed a list of articulated goals of a model school finance act and evaluated each area of concern in light of these goals. Finally, committee members proposed a range of solutions in the form of draft bills which were then reviewed and refined by the committee as a whole.

At the final committee meeting, it was announced by the chairman that no bills requiring an appropriation would be considered for recommendation unless such bills contained a funding source or alternative to meet additional expenditures. As no consensus on alternative financing mechanisms was forthcoming, the chairman suggested that the appropriate vehicle for the committee's recommendations would be a resolution to the Legislative Council. Committee Resolution No. 1 reflects the committee's recommendations for each of the major issue categories. In addition, five bills which do not contain an appropriation were recommended by the committee.

The evolution of the committee's thought in each of the six categories is described below.

Altering the "Modified Power Equalization Formula"

In an effort to achieve property tax equity and equity in total expenditures between districts, the General Assembly adopted a modified power equalization formula in 1973. Power equalization, in this context, means equalizing the differences in the ability of districts to raise revenue through their property tax. The power equalization formula was "modified" by inclusion of minimum state distributions to all districts, regardless of tax wealth.

Under this program, the state guarantees that each district is able to raise a specified level of revenue per pupil for each mill levied. Districts that fall short of this level of revenue receive state funding as a supplement to bring them up to the guaranteed level. Districts that are able to reach the state guaranteed level of funding solely through local revenues are given a flat state contribution or "minimum guarantee" so that all districts receive state support.

The committee identified the major problems perceived in the current formula and established model goals to rectify the problems. The following main issues of concern were raised as problems in the current formula:

- lack of a definition of the basis for the main unit of measuring state and local support, the authorized revenue base (ARB);
- inability to take into account other factors such as poverty and economies of scale in achieving equity;
- lack of an incentive for consolidation of districts with low numbers of pupils;
- inability to take into account regional differences and their impacts on districts (e.g., districts located in mountainous versus urban areas);
- difficulty in managing the impact of the growth or decline in the number of pupils;
- lack of control of the rate of growth in state and local funding;
- confusion caused by the use of different fiscal years by the state and by school districts;
- equity issues raised by the recent Colorado Supreme Court ruling in Lujan v. State of Colorado;
- effects of the density factor which act to offset property tax contributions to the Denver School District for meeting certain pupil density requirements; and
- need to consider other sources of revenue in providing state funding under the school finance formula.

The committee also worked to reach a consensus on the salient features of an "ideal" school finance act. The following goals were identified by the committee (this does not reflect a priority ranking):

- an adequate funding source which displays historic reliability and predictability;
- features which act to continue Colorado's commitment to local control of programs;
- a funding formula which promotes equal educational opportunities within the 180 school districts and extends those opportunities to students with differing needs among districts of differing resources;

- a funding formula which promotes tax equity in terms of the varying abilities of individual taxpayers to support public education;
- provision of controllable, predictable rates of growth in the state's financial commitment to public education;
- recognition of the finite nature of local fiscal resources by stabilization of local property taxes and adoption of reasonable spending limits;
- recognition of special factors such as high pupil growth, declining enrollments, rural diseconomies of scale, pupil transportation costs, urban problems, and the special needs of students; and
- a linkage between funding and measurable outputs of educational quality.

Upon determining these goals, the committee began to review specific proposals made by individual members. The chairman specified that major reforms of the formula requiring additional appropriations would have to include provisions for funding those reforms.

Committee Proposals

Three proposals for extensive reform of the power equalization formula were reviewed. They ranged from adjusting the major components of the formula to replacing the current formula entirely.

The first proposal reviewed, but not adopted, was a bill Concerning Public Schools and Making an Appropriation Therefor which amends the formula by designating the future levels of certain factors. Currently, the formula will continue beyond 1985 by automatically increasing the ARB's of districts by 5 1/2 percent of the statewide average ARB for each year, maintaining the minimum ARB at its current level, and allowing the state share of the total equalization program to increase at a level that does not require an increase in the state appropriation for school finance of more than 7 percent over the prior year. In contrast, this proposal specifies that after 1985 district ARB's would increase at 7 percent annually, the minimum ARB would increase by approximately 10 percent for each year through 1989, and that the state share would increase by one-half of 1 percent each year through 1991, beginning with 50 percent in 1986. The proposal also repeals the minimum guarantee and the density factor, which are retained under current law. The proposal would also repeal small attendance center funding but would allow districts to "grandfather" that funding into their ARB. A final proposed change would be to repeal restrictions on additional increases in district ARB's as approved by the State Board of Education. The board would be given the power to approve an unlimited number of such increases and grant first-year state equalization of the increases. Furthermore,

the board would be required to grant such increases when they are shown to be necessary to help a district maintain: (a) a pupil/teacher ratio of 15:1 in kindergarten through third grade and (b) a certain level of minimum salaries for teachers.

A second proposal, Concerning Public School Finance, was reviewed but not adopted by the committee. This proposal amended the current formula by providing that the level of ARB increases be determined according to district size. That is, districts with 650 pupils or less would receive a different ARB increase from districts with more than 650 pupils. The means of calculating this difference were not developed in the proposal. However, the proposal called for eliminating small attendance center aid in establishing a two-tiered ARB increase schedule.

A third proposal, Concerning Public Education, and Providing an Equalized System of State Financing Thereof and a Revenue Source Therefor, was also reviewed but not adopted by the committee. This proposal would have replaced the power equalization formula with a formula in which the state would provide funding to school districts based on the number of "teacher entitlements" they are determined to need. A pupil/teacher ratio is specified in the bill for each district according to the geographic location of the school district (e.g., rural agricultural, mountainous, outlying cities, suburban, and urban). The state funding which a district would receive is equalized to account for local wealth. Districts with low assessed valuation per pupil would have their funding increased while districts with high assessed valuation per pupil would have their funding decreased with regard to the statewide average assessed valuation per pupil. The state contribution would be first distributed for use towards funding teacher salaries and benefits and then for other district general fund purposes. State funding of teacher entitlements would be financed exclusively from revenues from the state sales and use tax. The level of funding per teacher entitlement would be determined by dividing total available sales and use tax revenues by the total number of teacher entitlements which all districts are eligible to receive. In terms of local funding, restrictions on the local mill levy are removed, but the state would provide no further equalization support to the local effort. This proposal was considered by the General Assembly during the 1984 Session as House Bill 1390.

Quality in Public Education

During committee discussion of concerns regarding public school finance in Colorado, several members stated that issues of quality in education should be taken into greater account when issues of school finance are addressed. Members opined that the General Assembly and the public would be more favorably inclined to change the "Public School Finance Act of 1973" if improvements in the quality of education were demonstrated. At its third meeting the committee conducted a session during which members outlined goals and objectives

for a model school finance act. One of the goals articulated by the committee was that funding should be linked to measurable outputs of educational quality. It was proposed that standards of educational quality should be recognized in the act and funding for quality be established as a permanent component of the act. Several of the quality issues identified were addressed in six of the proposals offered to the committee.

Committee Proposals

Some of the provisions of the proposed bill, Concerning Public Schools and Making an Appropriation Therefor, affected a variety of quality issues (the bill was not adopted). Provisions of the bill included:

- a state administered program to assist school districts in providing services for students identified as gifted and talented;
- a program to foster excellence in public schools by providing a monetary grant from the state to schools achieving a level of excellence as defined by the State Board of Education;
- a provision to require the State Board of Education to grant ARB increases necessary for districts to maintain pupil/teacher ratios of 15:1 in grades kindergarten through three, and a requirement for the state to equalize such increases in the first year;
- a requirement for the State Board of Education to grant ARB increases necessary for districts to establish minimum teacher salaries of \$14,000 per year in 1986 up to \$18,000 in 1990, and a requirement for the state to equalize such increases in the first year; and
- a provision to create an ascending ladder of certification for teachers and principals, similar to "master teacher" proposals.

The committee was presented three proposals regarding measurement of student achievement. The first of these proposals, Concerning a System of Uniform Statewide Standardized Proficiency Testing, was adopted by the committee. The proposal, Bill 13, requires the State Board of Education to establish a uniform, statewide, standardized proficiency examination. Successful completion of this exam would be a requirement for high school graduation with a diploma. Students who fail the exam would receive a certificate of completion.

A second proposal, Concerning Academic Standards for Education in Colorado, and Making an Appropriation Thereto, was not adopted by the committee. This proposal would also require schools to administer a statewide proficiency examination and would establish remedial courses for students wishing to retake the exam. A special provision for

certain handicapped students would be included. The proposal would also add an incentive to districts in the form of an increase in a district's attendance entitlement based on the number of students receiving diplomas.

A third proposal, Concerning a System of Statewide Standardized Achievement Testing and Providing for an Evaluation of Results Therefrom and Aid to School Districts Resulting from Such Evaluation, was adopted by the committee. The proposal, Bill 14, would require districts to administer standardized achievement tests selected by the State Board of Education at the third, sixth, and ninth grades and report results to the State Department of Education.

The committee entertained two other proposals intended to encourage achievement in public schools. The first proposal, Concerning Remedial Instruction for Students in Institutions of Higher Education, was not adopted by the committee. The proposal would empower a postsecondary educational institution to seek reimbursement for the costs of designated remedial courses. These costs would be "charged back" to a school district which had issued a high school diploma to a student requiring such remedial work.

The second proposal, Concerning a Study of Elementary, Secondary, and Teacher Education Programs, and Making an Appropriation Therefor, was adopted by the committee. The proposal, Bill 12, authorizes the State Board of Education to make a four-year, in-depth study of kindergarten through twelfth grade programs and teacher education programs within the state. Under this proposal, the state board would identify educational problems and weaknesses, address them through changes and initiation of new programs, and report its findings to the General Assembly.

Capital Reserve and Bond Redemption

The committee also reviewed the area of financing for school district capital projects. There are two main sources of revenue that schools have for capital projects: capital reserve funds and bond redemption funds. Generally, capital reserve funds are used to finance short-term, capital investments while bond redemption funds are used for long-term investments. School districts are allowed a property tax levy of up to four mills for their capital reserve fund. The use of these moneys is limited to the following purposes:

- acquisition of land and buildings or other structures;
- acquisition of improvements to land or buildings;
- construction of structures or additions to structures;
- alterations and improvements to existing structures where the total estimated project costs are in excess of \$2,500;

- acquisition of school buses or other equipment with unit costs exceeding \$500; and
- installment purchase agreements or lease agreements with an option to purchase for a period not to exceed twenty years (an election is required if the agreement is longer than one year and when payment is not made through an annual appropriation).

The bond redemption fund may be used to finance similar projects that require long-term indebtedness. Presently, section 22-42-104, C.R.S., specifies that a school district may not incur indebtedness exceeding 20 percent of its assessed valuation. Furthermore, an election must be held to approve the bonds before they are issued. The revenue generated by the mills levied for the Bond Redemption Fund is limited in use to the following:

- for the purpose of satisfying local district, bonded, indebtedness obligations, both principal and interest; and
- making payments under installment purchase agreements or under lease or rental agreements having a term of more than one year.

Committee Proposals

In discussing the current system, the committee agreed that a main issue of concern is equalization as it relates to local funding of capital projects. A proposal contained in the draft bill, Concerning Public Schools, and Making an Appropriation Therefor, would have equalized one mill of capital reserve fund levies. Another proposal, Concerning the Creation of the State Public School Capital Reserve Fund, was not adopted by the committee. The bill would have established a state public school capital reserve fund. The fund would have consisted of an annual state appropriation of approximately \$1 million and would have been used to assist districts in funding capital construction projects as ascertained by the State Board of Education.

A proposal, Bill 11, was adopted to enhance local funding of capital reserve funds. The proposal, Concerning the Taxation of Newly Constructed Buildings, would allow counties to collect general property taxes on new construction in the same year that the construction is completed. Revenues from the portion of those taxes which are levied by school districts would go into the capital reserve funds of the districts regardless of whether or not they were a general fund levy. A further explanation of this proposal is contained in the summary of recommendations.

Categorical Programs

The ability of school districts to meet the costs of mandated categorical programs was an issue of ongoing concern to the committee. Underscored at the first meeting was the fact that the state currently pays only 46 percent of the required 80 percent of reimbursable costs incurred by districts under the "Exceptional Children's Educational Act." This shortfall means that districts must make up the difference out of their ARB. The committee articulated its concern with this problem and with the underfunding of other categorical programs in its statement of goals for a model public school finance act. In this regard, the committee stated that a model act "must recognize the special requirements of districts (and students) with special needs ... the special needs of students must be addressed through commitment to funding of mandated categorical costs."

Committee Recommendations

The committee considered but did not adopt a provision of the bill, Concerning Public Schools and Making an Appropriation Therefor, which would have phased in the full funding of the "Exceptional Children's Educational Act" over a four-year period. Although the committee did not adopt this bill, the concept of phasing in full funding of the act is included in Committee Resolution No. 1. Committee Resolution No. 1 also contains a call for full funding of the English language proficiency program. These priorities were viewed as important measures assuring that the state commitment to mandated costs be met, thus reducing the local burden in covering excess costs.

Other Issues

Alternative Revenue Streams

One critical area of concern which was highlighted by the committee at its initial meeting was the need to examine alternative funding sources for financing public education. Recognizing the finite nature of state and local resources and the already sizeable proportion of the state budget going to education, the committee explored possible alternative financing mechanisms.

In order to address this need, the committee considered two proposals. The first proposal was a draft bill, Concerning Public Education, and Providing an Equalized System of State Financing Thereof and a Revenue Source Thereof, earmarking the state sales and use tax for school finance purposes and creating a distribution formula for disposition of those funds. The proposal emphasized the importance of maintaining an ongoing, known source of funding for financing schools. In addition, the proposal would have removed

restrictions on a school district's ability to levy additional property taxes for its general fund, but would provide no state funds for such additional levies. A second proposal, Concerning an Increase in the Sales and Use Tax, proposed adding an additional 1/2 cent increment to the existing sales and use tax. No specific earmark was included in the bill, but the sentiment of the committee was that such an increase would provide a larger pot of resources for the General Assembly to draw from when considering problems of school finance.

A third proposal, although not viewed by the committee as an ongoing revenue source, was presented to enhance the operating budgets of some school districts. The proposal, Bill 10, Concerning Income Derived From the Sale or Lease of Land or Buildings Owned by a School District, provides that the proceeds from the sale or lease of school district real property can be deposited in the school district's general fund as well as in its capital reserve or bond redemption fund. Current law stipulates that these amounts be deposited in the district's capital reserve or bond redemption funds.

The committee adopted the third proposal but was unable to achieve consensus on either of the preceding proposals; however, the committee expressed its concern regarding funding sources in Committee Resolution No. 1. In order to provide sufficient funds for public school education, the resolution advises the General Assembly to examine and adjust the state tax structure and to modify the present 7 percent limitation, if necessary.

Extended School Year

The committee considered, but did not pass, a proposal to increase the number of days a school district is entitled to state support from 172 to 200 days. The proposal, Concerning the Scheduled Days of Operation of a School District, was viewed as one way to justify increases in teacher salary support.

Adult High School Education

The committee considered, but did not pass, a proposal, Concerning a Program for Adult High School Education, which would have permitted districts to establish programs of adult high school education for persons who had not received a high school diploma or its equivalent. No appropriation was included in the proposal, which would have stipulated that no adult program could interfere with the regular school program.

Prevention of Dropouts

The committee considered, but did not pass, a proposal to financially reward districts which had been successful in reducing their dropout rates from year to year. The proposal, Concerning

Prevention of Dropouts from Public Schools, would have alternatively penalized districts in which dropout rates had increased.

School District Fiscal Year

The committee considered, but did not pass, a proposal, Concerning the Fiscal Year of School Districts, to change the fiscal year of school districts from the current January 1 though December 31 fiscal year to the state's fiscal year of July 1 through June 30. Other provisions of the bill would have required school property taxes to be paid in one payment no later than July 31.

Assessed Value of School Districts

The committee considered, but did not pass, a bill, Concerning Valuation for Assessment of Property Within a School District, to reduce a school district's assessed valuation to reflect property taxes not paid because of judicial proceedings affecting the valuation of certain property within the district. The thrust of this proposal was to hold harmless those districts whose assessed valuation could be substantially influenced by appeals of a few major taxpayers within the district.

Funding of Full-day Kindergarten Pupils

Current law provides that kindergarten pupils may only be counted as half-day pupils for purposes of the "Public School Finance Act of 1973" except in certain instances. Currently, this provision is set to expire after 1985. The committee reviewed this issue and considered three proposals, two of which were both entitled Concerning Pupils Enrolled in Kindergarten Classes for the Purpose of Arriving at the Aggregate of Daily Attendance, and one which was entitled Concerning Counting Pupils With Special Needs for the Purpose of Arriving at Aggregate of Daily Attendance. None of the proposals was adopted by the committee. The first proposal would have extended the full-day count to all districts. A second proposal would have extended the full-day count only to kindergarten pupils with handicaps or language barriers. The third proposal would have repealed the full-day count entirely. At the request of the State Department of Education, the committee included a provision in Committee Resolution No. 1 to eliminate the full-day counting of kindergarten pupils. In other words, districts that have been counting kindergarten pupils as full-time pupils would only be able to count them as half-day pupils.

COMMITTEE RECOMMENDATIONS

Committee on School Finance Resolution No. 1 embodies the committee's consensus as to a rank ordering of the most needed reforms in Colorado's current system of public school finance. The resolution represents the committee's collective effort to issue a comprehensive statement of the needs of public education together with a list of recommendations for meeting those needs. The committee resolution contains three principal concepts as set forth below.

First, the committee recommends that the General Assembly "make a thorough examination and adjustment of the state tax structure as a means of determining how to provide sufficient funds to meet public education needs." The goal of the committee in this regard is to provide adequate funding for ongoing educational needs, and to mitigate increases in local property taxes caused by increased education costs. It is recommended that the General Assembly consider modification of the statutory 7 percent limit on state general fund appropriations, if necessary, to achieve the dual goals of adequate funding and limiting reliance on local property taxes. The committee expresses concern that without additional revenue sources or modifications in the existing structure of funding schools, the possibility of enacting needed reforms or limiting local property taxes is seriously impaired.

Secondly, and in keeping with the goals of enhancing resources available to education, the committee makes two recommendations which result in either reductions in the current level of expenditures or promotion of greater fiscal equity between districts. The first of these recommendations is to reduce the current level of the state minimum guarantee from \$10 to \$5. The reduction of the minimum guarantee is viewed as a means of reallocating some state resources from high wealth districts to low wealth districts. Although there is no net savings to the state, the redistribution of these funds is seen as a way of reducing disparities between districts. A second measure recommended by the committee, the phase-out of funding for full-time kindergarten programs, is also an attempt to correct an inequity between districts and to create a net savings to the state.

Under current law, kindergarten students with full-time attendance are counted for the purpose of determining a district's ARB, up to a maximum of 3,500 students statewide. This limit restricts growth in this practice, but a "grandfathering" clause in the law allows districts which had full-day kindergarten programs prior to passage of the current "Public School Finance Act of 1973" to continue the practice. The resolution recommends that the General Assembly phase out all funding of full-day kindergarten programs in order to place all districts on an equal basis.

The third major component of the committee resolution is a rank ordering of those educational reforms considered to be most urgent by a consensus of the committee. In its deliberations the committee

identified numerous potential topics for change, but agreed to limit the list of recommendations to the following nine priorities.

1. Stabilize property taxes. The committee placed its greatest emphasis on stabilization of local property taxes. To decrease or stabilize reliance on the property tax as a revenue source for public education, the committee recommends that the General Assembly act to increase the state's percentage share of the total equalization program for all districts. This recommendation reflects the committee's concern that increases in property taxes represent an unfair burden on those citizens with the least resources available to meet such increases.
2. Performance evaluation. A critical concern during committee deliberations was the current inability of the public school system to measure educational outputs, particularly the quality of those programs funded through the "Public School Finance Act of 1973." To respond to this issue, the committee recommends that the General Assembly authorize an expenditure of one-eighth of 1 percent of the total state equalization program to the Colorado Department of Education for purposes of evaluating the educational performance of school districts. The committee also recommends enabling legislation (see Bill 12) to achieve this end.
3. Handicapped children. The committee recommends a phase-in of full funding of the state's share of the "Exceptional Children's Educational Act." Currently, the state funds this mandated categorical program at approximately 46 percent of the required 80 percent state share.
4. Capital equalization. The committee expresses its support for state assistance to local districts' capital construction needs by recommending that the state equalize one mill of a district's levy for its capital reserve fund. The recommendation reflects the committee's concern that current limits on local capital reserve and bond redemption funds may negatively impact low wealth districts in their ability to raise funds for capital construction.
5. Increase authorized revenue base. The resolution includes a provision to raise the rate of annual increase in a school district's authorized revenue base from the current 5 1/2 percent of the statewide average to a rate of 7 percent. The committee emphasized the need to restore rates of ARB increase to the 7 percent level as a means of assuring that adequate ongoing funding would be provided to school districts.
6. Early intervention program. A recommendation is made that the General Assembly implement an early intervention program for handicapped pupils and for pupils whose dominant language is not English. The committee posits that allocation of funds to such a program is a most cost effective way of treating children with

special needs and should serve to moderate future special education costs.

7. Schools of excellence. A proposal to reward outstanding schools in Colorado is incorporated in recommendation of a "Schools of Excellence" program. The program would provide monetary awards to schools determined by the State Board of Education as having met designated standards of excellence.
8. Transportation reimbursement. The committee recommends that the General Assembly assist local districts in meeting increased pupil transportation costs by authorizing increased reimbursement for designated pupil transportation expenses.
9. English language proficiency. The committee's final recommendation is that the General Assembly fully fund the state's share of the mandated costs of the "English Language Proficiency Act."

In addition to the committee resolution, the following five bills are recommended by the Committee on School Finance.

Bill 10 -- Concerning Income Derived From the Sale or Lease of Land or Buildings Owned by a School District allows income derived from the sale or lease of land or buildings owned by a school district to be deposited in a district's general fund, capital reserve, or bond redemption fund. Districts are now required to deposit income from the sale of land or buildings in the district's bond redemption fund or capital reserve fund. No provision currently exists for proceeds from leasing of school buildings or lands.

Bill 11 -- Concerning the Taxation of Newly Constructed Buildings, and Providing for the Distribution of Revenue Therefrom to School Districts allows the general property tax levy to be applied to new residential construction immediately upon its completion and for the resulting revenue to be used only for capital construction. Currently, new residential construction is added to the assessed value of land on January 1 of the year following its completion. Since property taxes are applied against the assessed value of property in the previous year, new residential construction is not taxed until the second year following its completion.

To implement the provisions of the bill, a county must make a finding of severe impact due to growth in residential construction and must pass a resolution allowing taxation of new construction immediately upon its completion. General property taxes would then be applied to the increase in assessed valuation from new residential construction completed prior to August 1 and would be paid in that same year. Taxpayers would be given the right to appeal the tax assessment in the following year as part of the regular appeals process. In the event that the tax assessment is found to be in error, the taxpayer would be credited for taxes paid on future tax bills.

As is normally done, revenues from the application of the general property tax to new construction would be distributed to the taxing entities for which the tax was levied. However, these revenues could only be used for capital expenditures.

Bill 12 -- Concerning a Study of Elementary, Secondary, and Teacher Education Programs authorizes the State Board of Education to conduct a four-year, in-depth study of elementary and secondary education and teacher education programs within the state. The state board would also be empowered to identify problems based on the findings of the study and "shall initiate changes to address identified problems, including the initiation of new approaches and pilot programs." The program would be funded by a diversion of one-eighth of 1 percent of the total equalization program made from the state share prior to the distribution of equalization funding to districts. While performing the study, the state board would be required to report annually to the General Assembly on its findings.

Bill 13 -- Concerning a System of Uniform Statewide Standardized Proficiency Testing provides for a uniform, statewide proficiency test as a criteria of graduation. The test would be one of the guidelines established by the State Board of Education for use by local school boards in setting the criteria for graduation from high school. Prior to graduating from high school, students would be required to take the test as a means of determining whether they should receive a diploma or a certificate of attendance. The test would measure the student's knowledge in English, mathematics, reading and other areas.

Bill 14 -- Concerning a System of Statewide Standardized Achievement Testing, and Providing for an Evaluation of Results Therefrom establishes statewide, standardized achievement tests for evaluating the performance of students and districts. Currently, districts use a variety of tests in measuring the performance of students. Under this proposal, districts would be required to annually administer statewide, standardized achievement tests as selected by the state board of education to all students enrolled in regular third-grade, sixth-grade, and ninth-grade school programs. Districts would then report the results of these tests to the Department of Education which would use them as a basis for evaluating student performance within each district and on a statewide basis.

BILL 10

A BILL FOR AN ACT

1 CONCERNING INCOME DERIVED FROM THE SALE OR LEASE OF LAND OR
2 BUILDINGS OWNED BY A SCHOOL DISTRICT.

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 income derived from the sale or lease of land or buildings owned by a school district may be deposited in the district's general fund. Previously proceeds from the sale of such assets were required to be deposited in the district's bond redemption fund or capital reserve fund.

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

4 SECTION 1. 22-45-112, Colorado Revised Statutes, is
5 amended to read:

6 22-45-112. Sale or lease of assets. If lands,
7 buildings, or lands and buildings are sold OR LEASED by a
8 school district, the proceeds INCOME DERIVED, less the costs,
9 of FROM such safe TRANSACTION shall be deposited in and
10 expended from either the bond redemption fund or the capital
11 reserve fund, or both such funds of the school district, OR

1 THE GENERAL FUND OF THE SCHOOL DISTRICT, as determined by the
2 board of education. This provision shall apply also to the
3 proceeds from any insurance which may accrue as a result of
4 fire, explosion, or other casualty when such insurance
5 proceeds cannot be used in an advantageous manner to repair
6 the property to which the damage occurred.

7 SECTION 2. Effective date - applicability. This act
8 shall take effect July 1, 1985, and shall apply to
9 transactions commenced on or after said date.

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

BILL 11

A BILL FOR AN ACT

1 CONCERNING THE TAXATION OF NEWLY CONSTRUCTED BUILDINGS.

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 a county is becoming severely impacted by residential growth, the board of county commissioners shall make a finding to that extent and resolve to assess and levy property taxes against newly constructed buildings completed in the county after the assessment date and prior to August 1. Specifies procedures for notification of the taxpayer, appeal of the valuation for assessment of the newly constructed taxable building, and prompt transmission of information on newly constructed taxable buildings to the county assessor.

Specifies that all general property taxes which are levied on all other taxable real property within the county in the tax year shall be levied on the newly constructed taxable building for collection the following year. Provides that distribution of the moneys collected from such levy shall be in the same manner as all other property tax revenues are distributed, except that such moneys shall be used by the receiving taxing authority for capital expenditures only.

Specifies that moneys received by a school district from such levy shall be deposited in the district's capital reserve fund, and shall not be included in calculating the amount of revenue the district is entitled to receive from the property tax levy for the general fund of the district under the "Public School Finance Act of 1973".

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

1 SECTION 1. Part 1 of article 5 of title 39, Colorado
2 Revised Statutes, 1982 Repl. Vol., as amended, is amended BY
3 THE ADDITION OF A NEW SECTION to read:

4 39-5-132. Assessment and taxation of new construction.

5 (1) The general assembly hereby finds and declares that it is
6 a matter of statewide concern that revenues from property
7 taxes on newly constructed buildings may need to be put to
8 special use in order to accommodate the capital needs
9 resulting from such new construction, especially to
10 accommodate the capital needs of the public schools in this
11 state. The general assembly further declares that it is
12 essential that such revenue be available as soon as possible
13 after the time such new construction is put to use.

14 (2) (a) (I) (A) When a county is becoming severely
15 impacted by residential growth, the board of county
16 commissioners shall make a finding of severe growth impact
17 based upon examination of the number of residential units
18 zoned and platted within the county, the increase in pupil
19 enrollment in school districts within the county, and other
20 factors which indicate patterns of growth and growth impact,
21 and shall, on or before January 1, resolve to implement the
22 assessment and levy procedures required under this section.
23 When a board of county commissioners makes such resolution,
24 the provisions of this section shall apply notwithstanding any
25 law to the contrary.

26 (B) Whenever construction of any taxable building within

1 the boundaries of a county is completed subsequent to the
2 assessment date of a tax year but before August 1 of such tax
3 year, the assessor shall add the valuation for assessment
4 thereof to the abstract of assessment for such tax year except
5 that portion of the valuation for assessment as is excluded
6 by paragraph (b) of this subsection (2). Such valuation for
7 assessment shall be prorated at the same ratio as the number
8 of months it is completed bears to the full year. For the
9 purposes of this section, the total valuation for assessment
10 of all newly constructed taxable buildings in a county as
11 calculated pursuant to this subsection (2) shall be known as
12 the "growth valuation for assessment" for such county.

13 (C) The assessor shall give written notification of the
14 valuation for assessment of such newly constructed taxable
15 building to the taxpayer. The notice shall, at a minimum, set
16 forth the valuation for assessment on the assessment date, the
17 prorated valuation for assessment of the newly constructed
18 taxable building, and the total valuation for assessment for
19 the property tax year. The notice shall also advise the
20 taxpayer that he may appeal the valuation for assessment of
21 the newly constructed taxable building at the same time and in
22 the same manner as the total valuation for assessment of his
23 property for the next property tax year may be appealed. If
24 the taxpayer is successful in the appeal, he shall receive a
25 credit against the following year's tax bill, and, if the
26 amount to be credited is greater than the tax bill, the amount

1 in excess shall be refunded directly to the taxpayer by the
2 county treasurer.

3 (D) In order to promote the most efficient
4 administration of this section, each county shall ensure that
5 any county office or agency that received information relative
6 to the completion of new taxable buildings shall promptly
7 transmit such information to the county assessor.

8 (II) All general property taxes which are levied on all
9 other taxable real and personal property within a county in
10 the tax year during which such construction is completed shall
11 also be levied against the growth valuation for assessment of
12 such county for collection the following year. Revenues
13 raised from taxes levied on such growth valuation for
14 assessment shall be credited to the county's capital growth
15 fund, which each board of county commissioners shall
16 establish, for use and distribution pursuant to subsection (4)
17 of this section. The actual value and valuation for
18 assessment of such newly constructed taxable building for
19 subsequent years shall be the actual value and valuation for
20 assessment as determined by the provisions of law other than
21 this section and tax revenues attributable thereto shall be
22 distributed as provided by law without regard to this section.

23 (b) The provisions of this section shall not apply to
24 that portion of the valuation for assessment of a newly
25 constructed taxable building and the land underlying such
26 building which is contained in the abstract of assessment on

1 the assessment date.

2 (3) By September 15 of each year, the assessor shall
3 notify the board of county commissioners of the amount of the
4 growth valuation for assessment of the county for that tax
5 year, the percentage that such growth valuation for assessment
6 bears to the total valuation for assessment of the county for
7 such tax year, the portion of such growth valuation for
8 assessment which is attributable to newly constructed taxable
9 buildings within the boundaries of each taxing authority in
10 the county, and the percentage that such portion bears to the
11 total valuation for assessment of each taxing authority in
12 which such newly constructed taxable buildings are located.

13 (4) The board of county commissioners, after reimbursing
14 the county general fund for the budgeted costs of
15 administering this section, shall distribute the moneys in the
16 county's capital growth fund to the taxing authorities where
17 the newly constructed taxable building is actually located in
18 the same manner as all other property tax revenues collected
19 on similar taxable buildings are distributed; except that such
20 moneys shall be used by the taxing authority for capital
21 expenditures only and not for operating expenses.

22 (5) Moneys received by a school district pursuant to
23 this section shall be deposited in the district's capital
24 reserve fund, and shall not be included in calculating the
25 amount of revenue which a district is entitled to receive from
26 the property tax levy for the general fund of the district

1 under the "Public School Finance Act of 1973", article 50 of
2 title 22, C.R.S.

3 SECTION 2. 39-1-105, Colorado Revised Statutes, 1982
4 Repl. Vol., is amended to read:

5 39-1-105. Assessment date. All taxable property, real
6 and personal, within the state at twelve noon on the first day
7 of January of each year, designated as the official assessment
8 date, shall be listed, appraised, and valued for assessment in
9 the county wherein it is located on the assessment date.
10 Personal property shall be listed and valued separately from
11 real property. WHENEVER CONSTRUCTION OF ANY TAXABLE BUILDING
12 WITHIN THE BOUNDARIES OF A COUNTY IS COMPLETED SUBSEQUENT TO
13 THE ASSESSMENT DATE BUT BEFORE AUGUST 1, AND SUCH COUNTY HAS
14 RESOLVED TO IMPLEMENT THE PROCEDURES SET OUT IN SECTION
15 39-5-132, SUCH BUILDING SHALL BE LISTED, APPRAISED, AND VALUED
16 PURSUANT TO SECTION 39-5-132.

17 SECTION 3. The introductory portion to 22-45-103 (1) (c)
18 (I), Colorado Revised Statutes, as amended, is amended to
19 read:

20 22-45-103. Funds. (1) (c) (I) Capital reserve fund.
21 The revenues from a tax levy for capital outlay expenditures
22 AND THE REVENUES RECEIVED PURSUANT TO SECTION 39-5-132,
23 C.R.S., shall be recorded in the capital reserve fund. Such
24 revenues may be supplemented by gifts, donations, and tuition
25 receipts. Expenditures from the fund shall be limited to
26 long-range capital outlay expenditures and shall be made only

1 for the following purposes:

2 SECTION 4. Effective date - applicability. This act
3 shall take effect January 1, 1986, and shall apply to
4 buildings the construction of which is completed on or after
5 said date.

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

BILL 12

A BILL FOR AN ACT

1 CONCERNING A STUDY OF ELEMENTARY, SECONDARY, AND TEACHER
2 EDUCATION PROGRAMS.

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 state board of education to make a four-year, in-depth study of kindergarten through twelfth grade programs and teacher education programs within the state. Empowers the state board to identify problems and weaknesses and to address problems through change and initiation of new programs. Requires the state board to report annually on its findings to the general assembly.

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

4 SECTION 1. Article 50 of title 22, Colorado Revised
5 Statutes, as amended, is amended BY THE ADDITION OF A NEW
6 SECTION to read:

7 22-50-119. Elementary and secondary education and
8 teacher education program study. (1) In order to further the
9 general mandate to the state board to supervise and appraise
10 public school districts and the specific mandates to accredit

1 the public school districts in this state pursuant to section
2 22-2-106 and to implement the "Educational Accountability Act
3 of 1971" pursuant to article 7 of title 22, the state board
4 shall make additional in-depth evaluations and assessments of
5 kindergarten through twelfth grade programs to determine the
6 efficiency of the programs and the effectiveness of state
7 expenditures on the programs. The state board shall also
8 study the quality and effectiveness of teacher education
9 programs. Once problems or weaknesses are identified in these
10 educational programs, the state board shall initiate changes
11 to address identified problems, including the initiation of
12 new approaches and pilot programs.

13 (2) Beginning in fiscal year 1985, and subsequently in
14 fiscal years 1986, 1987, and 1988, one-eighth of one percent
15 of the total equalization program of all the districts, shall
16 be retained by the department of education, out of the state's
17 share, to fund the appraisals, evaluations, and reports
18 authorized pursuant to this section, and the remainder of the
19 state's share shall be distributed pro rata to each eligible
20 district pursuant to section 22-50-105.

21 (3) The department of education is empowered to receive
22 and expend all grants, gifts, and bequests, including federal
23 and local funds, which are available for the purposes of this
24 section.

25 (4) Beginning in January of 1986, the state board shall
26 annually report to the general assembly no later than January

1 25 on the data obtained through the continuing appraisals and
2 evaluations conducted pursuant to this section. On or before
3 January 25, 1989, the state board shall present a final
4 summary report to the general assembly detailing the
5 effectiveness of the appropriations authorized pursuant to
6 this section in the appraisal of programs and correction of
7 identified problems in the elementary, secondary, and teacher
8 education programs within the state.

9 (5) This section is repealed, effective July 1, 1989.

10 SECTION 2. 22-50-105 (2), Colorado Revised Statutes, as
11 amended, is amended to read:

12 22-50-105. State equalization program - district support
13 level - state's share - limit on state appropriations.

14 (2) The state of Colorado shall provide during each budget
15 year to each district eligible under this article the state's
16 share of the equalization program of the district which shall
17 be the equalization program support level of the district for
18 the number of pupils of attendance entitlement for the
19 district and for the number of mills levied for the general
20 fund of the district, less the total amount of revenue which
21 the district is entitled to receive from the property tax levy
22 for the general fund of the district during the budget year,
23 assuming one hundred percent collection of the amount of such
24 levy; however, for the 1985 budget year and each budget year
25 thereafter, in no event shall the state's share be less than
26 ten dollars for each pupil of attendance entitlement,

1 multiplied by the number of mills levied for the general fund
2 of the district for collection during such budget year. In
3 computing the state's share, the mills levied and revenues
4 raised for local revenue bases established pursuant to
5 sections 22-50-107 and 22-50-108 shall not be considered. THE
6 AMOUNT OF THE STATE'S SHARE, DETERMINED UNDER THIS SUBSECTION
7 (2), SHALL BE ADJUSTED AS PROVIDED IN SECTION 22-50-119 (2)
8 FOR THE BUDGET YEARS 1985, 1986, 1987, AND 1988.

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

BILL 13

A BILL FOR AN ACT

1 CONCERNING A SYSTEM OF UNIFORM STATEWIDE STANDARDIZED
2 PROFICIENCY TESTING.

Bill Summary

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

Establishes as one of the duties of the state board of education the adoption of rules and regulations which set forth guidelines to determine whether a student enrolled in one of the state's public schools in a regular secondary education program shall receive a certificate of attendance or a diploma upon the completion of his secondary education. States that the method used to make such determination shall be a uniform statewide standardized proficiency test. Further states that local boards of education have a corresponding duty to cause to be enforced the standardized proficiency testing requirements specified by statute and the rules and regulations promulgated by the state board of education.

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

4 SECTION 1. 22-2-109 (1), Colorado Revised Statutes, as
5 amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to
6 read:

7 22-2-109. State board of education - additional duties.

1 (1) (m) (I) Adopt rules and regulations which set forth
2 guidelines to determine whether a student enrolled in one of
3 the state's public schools, as defined by section 22-1-101,
4 shall receive a certificate of attendance or a diploma upon
5 completion of his secondary education.

6 (II) Rules and regulations established pursuant to this
7 paragraph (m) shall include, but not be limited to, provisions
8 for a uniform statewide standardized proficiency test, which
9 shall be administered to all students enrolled in regular
10 school programs throughout the state prior to the completion
11 of their secondary education and which shall be used as a
12 basis for determining whether a student shall receive a
13 certificate of attendance or a diploma upon the completion of
14 his secondary education. The standardized test shall measure
15 the student's basic knowledge, including, but not limited to,
16 the areas of English language and grammar, mathematics, and
17 reading.

18 SECTION 2. 22-32-109.5, Colorado Revised Statutes, as
19 amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

20 22-32-109.5. Board of education - specific duties -
21 testing requirements. In carrying out its duties under
22 section 22-32-109 (1) (t) in determining educational programs,
23 a board of education shall cause to be enforced standardized
24 proficiency testing requirements as provided by section
25 22-2-109 (1) (m) and rules and regulations promulgated by the
26 state board of education pursuant thereto.

1 SECTION 3. Applicability. This act shall apply to every
2 student enrolled in a secondary school supported, in whole or
3 in part, by state funds who is scheduled to complete his
4 secondary education in the year 1989 or in any year
5 thereafter.

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

BILL 14

A BILL FOR AN ACT

1 CONCERNING A SYSTEM OF STATEWIDE STANDARDIZED ACHIEVEMENT
2 TESTING, AND PROVIDING FOR AN EVALUATION OF RESULTS
3 THEREFROM.

Bill Summary

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

Requires each school district to administer annual standardized achievement tests, selected by the state board of education, to all students enrolled in regular third-grade, sixth-grade, and ninth-grade school programs and to submit reports of the results of such testing to the department of education. Provides that the commissioner of education shall collect the results and analyze them.

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

5 SECTION 1. 22-2-109 (1), Colorado Revised Statutes, as
6 amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to
7 read:

8 22-2-109. State board of education - additional duties.

9 (1) (m) Adopt rules and regulations for annual selection by
10 the state board of standardized achievement tests to be

1 administered to all students enrolled in regular third-grade,
2 sixth-grade, and ninth-grade school programs throughout the
3 state, administration of such tests by school districts,
4 reporting of results, and evaluation of test results by the
5 commissioner. Selection of such tests shall be accomplished
6 in such a manner as to minimize the possibility of teaching
7 courses based on a particular test.

8 SECTION 2. 22-2-112 (1), Colorado Revised Statutes, as
9 amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to
10 read:

11 22-2-112. Commissioner - duties. (1) (n) To notify
12 school districts annually regarding which standardized
13 achievement tests have been selected for statewide
14 administration pursuant to section 22-2-109 (1) (m).

15 SECTION 3. Part 1 of article 2 of title 22, Colorado
16 Revised Statutes, as amended, is amended BY THE ADDITION OF A
17 NEW SECTION to read:

18 22-2-114. Duty to evaluate results of statewide
19 standardized achievement tests - report to general assembly.

20 (1) The standardized achievement tests selected by the state
21 board pursuant to section 22-2-109 (1) (m) shall be
22 administered to pupils in third grade, sixth grade, and ninth
23 grade during the 1986-87 school year and to pupils in such
24 grades in each school year thereafter.

25 (2) The commissioner shall collect and evaluate the
26 results of the standardized achievement tests and shall use

1 such data to study student performance within each school
2 district and on a statewide basis.

3 SECTION 4. 22-32-109 (1) (t), Colorado Revised Statutes,
4 is amended to read:

5 22-32-109. Board of education - specific duties.
6 (1) (t) To determine the educational programs to be carried
7 on in the schools of the district, and to prescribe the
8 textbooks for any course of instruction or study in such
9 programs, AND TO ADMINISTER ANNUALLY THE STANDARDIZED
10 ACHIEVEMENT TESTS SELECTED PURSUANT TO SECTION 22-2-109 (1)
11 (m);

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

COMMITTEE ON SCHOOL FINANCE RESOLUTION NO. 1

1 WHEREAS, The 1984 Legislative Council Committee on School
2 Finance was appointed and convened pursuant to the mandate in
3 1984 House Joint Resolution No. 1027; and

4 WHEREAS, The Committee was directed to make a
5 comprehensive study of school finance and to consider, among
6 other topics: The capacity of local school districts to
7 finance basic educational programs and the state's role in
8 supplementing these programs; the impact of declining and
9 increasing school enrollments; the relationship between
10 educational excellence in school districts and the financial
11 resources of such districts; the impact of the cost of school
12 finance on the total state budget; and funding for categorical
13 programs; and

14 WHEREAS, The Committee listened to witnesses, took
15 written and oral testimony, studied reports and background
16 information, and formulated bill proposals which were
17 considered by the Committee members; and

18 WHEREAS, From such proposals the Committee developed
19 recommendations for the General Assembly and a range of
20 priorities for the funding of public school finance; now,
21 therefore,

22 Be It Resolved by the Committee on School Finance:

23 (1) That the General Assembly make a thorough
24 examination and adjustment of the state tax structure, and
25 modify the seven percent spending limitation, if necessary, in
26 order to provide sufficient funds for public school education
27 and to prevent increases in local property taxes.

28 (2) That from the funds available for public school
29 finance the General Assembly address the following priorities:

30 (a) Stabilize local property taxes by increasing the
31 state's percentage share of the total equalization program of
32 all districts;

1 (b) Expend one-eighth of one percent of the total
2 equalization program to the department of education to
3 implement its current accountability and accreditation
4 responsibilities and to systematically sample and evaluate
5 student performance as well as the performance of teachers and
6 administrators, to provide technical assistance to local
7 boards of education and staff members and to assist the local
8 school districts in preparing and implementing any necessary
9 remediation programs, and to propose and support pilot
10 programs that have the potential to improve the public school
11 system;

12 (c) Phase in full funding of the state's share of the
13 "Exceptional Children's Educational Act";

14 (d) Provide state support for capital construction in a
15 school district by equalizing one mill of the district's levy
16 for the capital reserve fund;

17 (e) Provide that the annual increase in a school
18 district's authorized revenue base per pupil of attendance
19 entitlement shall be seven percent of the statewide average
20 revenue base per pupil for the prior budget year rather than
21 five and one-half percent;

22 (f) Implement an early intervention program for pupils
23 who have attained the age of three years who are handicapped
24 or whose dominant language is not English;

25 (g) Foster excellence in public-supported elementary
26 schools by making monetary grants to schools which have been
27 designated by the state board of education as "Schools of
28 Excellence";

29 (h) Increase reimbursement for designated school
30 district transportation expenses;

31 (i) Fully fund the state's portion of the English
32 language proficiency program.

33 (3) That, in order to enhance the funds available for
34 public school education and to more fairly allocate available
35 funds among the school districts, the General Assembly reduce
36 the minimum guarantee from ten dollars to five dollars and
37 phase out the funding of full-day kindergarten programs.

APPENDIX A

Staff Memoranda to the Interim Committee on School Finance

Memorandum No. 1

Outline of the History of School Finance in Colorado. Surveys Colorado school finance history from the direct grant program in 1877 to the current power equalization program adopted in 1973.

Memorandum No. 2

Explanation of the "Public School Finance Act." Explains provisions of the modified power equalization formula, gives example calculations, and summarizes special provisions of the act.

Memorandum No. 3

Comparison of Findings in Lujan v. State Board of Education. Compares findings of the district court with those of State Supreme Court.

Memorandum No. 4

Recent Developments in the Finance Act. Summarizes legislative action during 1984 Session, specifically House Bill 1430, includes a glossary of school finance terms, and contains a computer simulation of the act for budget years 1984 and 1985 for all districts.

Memorandum No. 5

Issues in Public School Finance. Describes historical and contemporary issues in public school finance.

Memorandum No. 6

Issues of Excellence in Education. Surveys three major national and three Colorado reports on the issue of improving the quality of public education. Includes legislative proposals offered during the 1984 Session.

Memorandum No. 7

Public School Finance in the Fifty States. Provides an overview of the different approaches to school finance practiced by other states. Also offers comparisons of state funding for public education.

Memorandum No. 8

School District Operating Revenues. Discusses the variety of sources of revenues for the state's 181 school districts, including the ARB, other state, other local, and miscellaneous. Also gives a comparison of district size with district revenue.

Memorandum No. 9

School District Operating Expenditures. Reviews and compares district expenditures by object and function. Includes all aspects of district spending except capital reserve, bond redemption, and building funds.

Memorandum No. 10

Analysis of Data on Teacher Salaries and Pupil/Teacher Ratios for the 1983-84 School Year. Compares average teacher salaries as well as salary ranges among the state's school districts. Also, compares the number of pupils per teacher for each district.

Memorandum No. 11

Goals of a Model Public School Finance Act. Presents the committee's outline of the goals and objectives of a model public school finance act.

APPENDIX B

Roster of Proposed Bills

- Concerning Public Schools, and Making an Appropriation Therefor.
- Concerning Academic Standards for Education in Colorado, and Making an Appropriation Relating Thereto.
- Concerning Income Derived from the Sale or Lease of Land or Buildings Owned by a School District.
- Concerning Remedial Instruction for Students in Institutions of Higher Education.
- Concerning Public School Finance.
- Concerning An Increase in the Sales and Use Tax.
- Concerning the Fiscal Year of School Districts, and Changing the Date for Payment of Property Taxes in Connection Therewith.
- Concerning the Taxation of Newly Constructed Buildings, and Providing for the Distribution of Revenue Therefrom to School Districts.
- Concerning the Scheduled Days of Operation of a School District, and Making the Days of Compulsory Attendance Coincide with the Days of Operation Required for State Equalized Support.
- Concerning the Creation of the State Public School Capital Reserve Fund, and Making an Appropriation Therefor.
- Concerning Counting Pupils Enrolled in Kindergarten Classes as Full-time for the Purpose of Arriving at the Aggregate of Daily Attendance.
- Concerning Counting Pupils Enrolled in Kindergarten Classes for the Purpose of Arriving at the Aggregate of Daily Attendance.
- Concerning Counting Pupils with Special Needs for the Purpose of Arriving at the Aggregate of Daily Attendance.
- Concerning Public Education, and Providing an Equalized System of State Financing Thereof and a Revenue Source Therefor.
- Concerning Preschool Programs for Handicapped Children, and Making an Appropriation Therefor.
- Concerning Valuation for Assessment of Property Within a School District.

Concerning a Study of Elementary, Secondary, and Teacher Education Programs, and Making an Appropriation Therefor.

Concerning a System of Uniform Statewide Standardized Proficiency Testing.

Concerning a Program for Adult High School Education.

Concerning a System of Statewide Standardized Achievement Testing, and Providing for an Evaluation of Results Therefrom and Aid to School Districts Resulting from Such Evaluation.

Concerning Prevention of Dropouts from Public Schools.

CAPITOL COMPLEX COMMITTEE

Members of the Committee

Mr. Shelby Harper,
Chairman
Mr. Palmer Burch
Mr. Don Eberle
Mr. Leo Hill

Mr. David Miller
Mr. Joseph Pahl, Sr.
Representative Paul Schauer
Senator Claire Traylor

Council Staff

Lyle C. Kyle
Director

Tina A. Walls
Senior Analyst

Department of
Administration Staff

Robert Turner
Executive Director

A. Y. Levine
Deputy Director

CAPITOL COMPLEX COMMITTEE

SUMMARY OF COMMITTEE ACTIVITIES AND RECOMMENDATIONS

The committee was created by the Executive Committee of the Legislative Council on November 22, 1983, to: 1) provide recommendations by March, 1984, for the repair of the State Office Building; and 2) prepare a master plan by October, 1984, for the State Capitol Complex.

An eight-member committee was appointed by the legislative leadership in conjunction with the governor. The committee met ten times.

State Office Building

Based on the committee's first charge, the committee recommended the complete renovation of the State Office Building and the expenditure of \$4,763,925 to accomplish this project. The General Assembly appropriated \$3,550,348 for the repair of the building. An additional \$500,000 is available from the Department of Administration's 1983-84 budget pursuant to legislative authorization in House Joint Resolution 1041 (1983). As of June, 1984, the architectural firm, Urban Design Group, was selected for the project. Project plans have been prepared and are available from the department. The anticipated project completion date is November, 1985.

Capitol Complex

When preparing a plan for the complex, the committee was directed to:

- 1) identify the buildings needing life safety and/or other rehabilitation in order to make them functional and efficient;
- 2) determine whether new structures are needed;
- 3) set forth options to implement and accomplish the plan;
- 4) prioritize the rehabilitation and construction of these facilities; and
- 5) provide recommendations concerning the efficient and effective placement of executive branch agencies in the capitol complex.

Committee Findings

The committee researched a number of concerns relating to the facilities in the capitol complex, exclusive of the State Capitol Building. The committee's general findings are outlined below. Specific findings are presented in the full report.

- 1) The major office facilities in the capitol complex have serious life safety deficiencies. These facilities are the Social Services Building, the Capitol Annex Building, the State Services Building and the Centennial Building. In addition to safety problems, these buildings need to be remodeled to make them functional and efficient. The State Museum Building and the Old State Archives Building have been vacant since 1976 and will require extensive remodeling.
- 2) Independent of the existing lease with First Western Plaza, more state-owned office space is needed as evidenced by the amount of facilities leased by the state near the capitol complex area for agencies such as the Public Utilities Commission and the Oil and Gas Conservation Commission.
- 3) The State Capitol Annex Building does not allow the Department of Revenue to operate at maximum efficiency. A new, more efficient facility is required for the department.
- 4) Additional leased office space will be necessary since construction costs increase when renovation is undertaken while buildings are occupied.
- 5) A long-term financing program should be implemented because major renovations are necessary and will require ongoing sources of revenue.
- 6) Consideration should be given to the parking needs of citizens conducting business in the complex as well as for tourists and employees.
- 7) Continual attention should be given by the legislative and executive branches to the capitol complex for the completion of the proposed renovation plan and for maintenance of the facilities.

Committee Recommendations

The committee recognizes that the plan for the complex will not be accomplished immediately. Based on the committee's general findings and specific findings in the full report, the committee recommends that the state undertake the following plan:

- 1) In recognition of life safety and habitability problems in the capitol complex buildings, the Department of Administration

should immediately locate facilities for temporary storage of files and documents enabling tenants to clean their offices, thereby reducing many life safety problems (the project cost has not been determined);

- 2) Immediately acquire, through negotiation or by eminent domain, private lands on the block bounded by 13th and 14th avenues and Lincoln and Sherman streets (\$3 million);
- 3) Vacate and remodel the Social Services Building (\$6.5 million);
- 4) Renovate and occupy the State Museum Building by June 30, 1986 (\$2.8 million);
- 5) Build a new facility for the Department of Revenue (\$11 million);
- 6) When vacated by the Department of Revenue, remodel the Capitol Annex Building and utilize this remodeled facility to house some of the agencies currently in leased office space (\$5 million);
- 7) Renovate the State Services Building (\$2.7 million);
- 8) Renovate the Centennial Building (\$2.8 million); and
- 9) Acquire as necessary lands east, north, and south which front, face, or are adjacent to the State Capitol Building.

Costs reflect 1983-84 rough estimates.

The total estimated costs of the above projects are \$33.8 million. This amount does not include any funds for parking structures. To finance these projects the committee recommends that the General Assembly establish a Capitol Complex Construction Fund during the 1985 session. Beginning in fiscal year 1985-86 an amount equivalent to one percent of the general fund revenue should be transferred to the construction fund. The estimated annual revenue accruing to said fund would be between \$15 and \$20 million. Appropriations would be made out of such fund for land acquisition, renovation of existing buildings, and new construction projects. If the recommendation is adopted by the General Assembly, the plan may be funded within three years as follows:

Appropriations during FY 1985-86:

Acquisition of property in 1300 block of Lincoln and Sherman Streets	\$ 3,000,000
Renovation of State Museum	2,800,000
Renovation of Social Services Building	6,500,000
New Dept. of Revenue Building -- foundation, basement, etc.	<u>3,000,000</u>
Estimated Appropriation	\$15,300,000

Appropriations during FY 1986-87:

Completion of new Dept. of Revenue Bldg.	\$ 8,000,000
Renovation of State Services Bldg.	2,700,000
Renovation of Centennial Building	<u>2,800,000</u>

Estimated Appropriation \$13,500,000

Appropriations during FY 1987-88:

Renovation of Capital Annex	\$ 5,000,000
Two parking structures (Estimates are not available)	<u> --</u>

Estimated Appropriation \$ 5,000,000

TOTAL ESTIMATED APPROPRIATION \$33,800,000

OTHER RECOMMENDATIONS

The committee recommends that the General Assembly and/or the executive branch consider several ancillary concerns.

1) Because the capitol complex is the center and hub of state government, state-owned land in the complex should not be sold.

2) With regards to the Old State Archives Building, the executive branch should identify cash-funded state agencies which have the capacity to acquire funds through private sources or cash funding to remodel and occupy the building. If no such agency can remodel and occupy the building, the General Assembly should consider other alternatives.

3) The General Assembly should appropriate funds to determine the present and long-range supply and demand for office and parking space in the complex.

4) In preparation for building a new Department of Revenue facility, the General Assembly should appropriate funds in 1985 to identify the department's physical needs and, if necessary, design a new building.

5) After the executive branch studies the need for parking structures in the complex, the General Assembly should review these needs and determine whether additional facilities are necessary.

6) To assist in the implementation of the plan to renovate facilities in the the complex and ensure ongoing review, the committee

endorses the appointment of one person, possibly an architect, to oversee the capitol complex. A permanent committee should be established to provide ongoing review of the condition of the complex. The committee should be comprised of legislative members, representatives of the executive branch, and representatives of the private sector.

7) The State Capitol Building should be open to the public on weekends and holidays.

COMMITTEE RESEARCH

All reports and documents presented in this report are available in the office of the Legislative Council and the office of the executive director of the Department of Administration.

BACKGROUND

The Capitol Complex Committee was established by the Executive Committee of the Legislative Council with the cooperation of the governor in December, 1983. The events leading to the formation of the committee included the release of reports concerning the condition of state facilities in the State Capitol Complex and the September, 1983, evacuation of employees from the State Office Building located at 201 East Colfax Avenue. Employees were moved to office space leased by the executive branch at the First Western Plaza Building located at 303 West Colfax Avenue.

In October, 1983, the General Assembly adopted House Joint Resolution 1041. The resolution urged the Department of Administration (the department) to make necessary life safety repairs in the State Office Building, using no more than \$500,000 of fiscal year 1983-84 capital construction fund moneys. Upon repairing the building, state employees were to be returned immediately, and the lease with First Western Plaza Corporation was to be terminated without penalty. The General Assembly agreed to pay reasonable rental fees for the period the office space was occupied by evacuated agencies.

The Capitol Complex Committee was formed as an independent body to: 1) determine what life safety repairs were necessary to reoccupy the State Office Building; 2) review the technical studies and reports concerning the facilities in the complex prepared by the Department of Administration and consultants; 3) determine the repairs necessary; 4) prioritize the needed repairs; 5) develop a five-year remodeling plan; and 6) determine if additional office space is necessary. The committee was directed to review the buildings listed below. The directive specifically excepted the State Capitol Building.

- Centennial Building
- Power Plant
- 2 East 14th Avenue (Old Strike Force Building)
- 1550 Lincoln Street Building
- Old State Archives Building
- Social Services Building
- State Capitol Annex
- State Library Building
- State Museum Building
- State Office Building
- State Services Building
- Parking structures and grounds adjacent
to the aforementioned buildings

An eight-member committee was appointed -- four citizens, one legislator from each house, and two from the executive branch.

The committee toured the facilities and reviewed the department's and consultants' 1983 reports. Though the department reviewed each

structure in the complex, the consultants reviewed only the major office facilities. Together, their findings indicated deficiencies in fire and safety systems, electrical systems, and general habitability of the buildings.

After extensive investigation of the condition of the State Office Building, the committee determined the necessary life safety repairs. These recommended improvements included: 1) a new electrical system; 2) a new exit and mechanical core; 3) a fire detection, alarm, and protection system; and 4) the replacement of corridor walls and doors with fire resistant materials. Because of the soundness of the exterior structure, its high replacement cost and historical value, the committee also recommended the renovation of the building for long-term occupancy.

The committee met with the legislative leadership on January 20, 1984, to discuss its preliminary conclusions. The committee was concerned about its conclusions because they conflicted with the directive to the department to make only necessary life safety repairs pursuant to H.J.R. 1041. The amount authorized by the General Assembly for life safety repairs was \$500,000, and the department's and the consultants' preliminary estimates were between \$1.2 and \$1.3 million.

At the January 20, 1984, meeting, the committee and the leadership clarified and ranked the committee's directives. The first priority was to provide recommendations by March, 1984, for the repair of the State Office Building. The repair cost could exceed the \$500,000 authorized in H.J.R. 1041. In conjunction with this priority, the committee was discharged from addressing or resolving the differences between the legislative and executive branches concerning the executive branch's lease with First Western Plaza Corporation. The leadership and the committee recognized that office space may need to be leased to house state employees temporarily during construction phases associated with the renovation of other state facilities in the complex.

The second priority of the committee was to prepare a plan by October, 1984, for the complex, exclusive of the State Capitol Building which:

- 1) identifies the buildings needing life safety and/or other rehabilitation in order to make them functional and efficient;
- 2) determines whether new structures are needed;
- 3) sets forth options to implement and accomplish the plan;
- 4) ranks the rehabilitation and construction of these facilities; and
- 5) provides recommendations concerning the efficient and effective placement of executive branch agencies in the capitol complex.

On February 17, 1984 the committee recommended that the General Assembly appropriate \$4,763,925 to remodel and refurbish the State Office Building for long-term use. Based on these recommendations,

the General Assembly appropriated \$3,550,348 for the repair of the State Office Building (House Bill 1425, 1984). An additional \$500,000 is available in the department's budget to renovate the building. The department set aside such funds when H.J.R. 1041 was adopted in 1983. The total amount of funds available for the renovation project in fiscal year 1984-85 is \$4,050,348. The additional \$713,577 will be requested by the department only if needed.

COMMITTEE FINDINGS AND RECOMMENDATIONS

Preservation of the Capitol Complex

In addressing the five basic directives, the committee first identified the area known as the State Capitol Complex which is the location of many state government agencies, quasi-public institutions, businesses, and private residences. The general boundaries of the area are state-owned properties between Grant and Lincoln streets and 13th and 16th avenues. (See Appendix A.) The committee concluded that the capitol complex is the hub of state government activities and should be preserved because of the location and distinctive character of the public and quasi-public facilities in the area.

RECOMMENDATIONS

- The state should immediately control, through negotiation or by eminent domain, the entire block bordered by 13th and 14th avenues and Sherman and Lincoln streets.
- State-owned land in the complex should not be sold.
- The state's long-term objective should be to acquire or control all real estate fronting, facing, or adjacent to the State Capitol Building between Lincoln Street, the west half of Grant Street, and 13th and 16th avenues. The possible exception may be any quasi-public buildings in the area. In addition, all state structures on Colfax Avenue, 14th Avenue, and Grant Street should complement and in no way compete with the State Capitol Building.

State Facilities in the Complex

Occupied

The committee identified the buildings which need life safety and/or other rehabilitation in order to make them functional and efficient. The facilities which currently are occupied and require life safety and other rehabilitation are the Social Services Building, the State Capitol Annex Building, the State Services Building, and the Centennial Building. The 1983 estimated costs to rehabilitate these facilities are depicted below.

TABLE 1
COST TO REPAIR/RENOVATE

<u>Building</u>	<u>Cost for Fire/Safety Items</u>	<u>Cost for Electrical Items</u>	<u>Cost for Fire/Safety and Electrical Items</u>	<u>Total Costs</u>
Social Services	\$1,681,344	\$1,209,600	\$2,890,944	\$ 6,539,820
Annex	925,344	806,400	1,731,744	4,968,690
State Services	917,952	403,200	1,321,152	2,653,700
Centennial	<u>286,944</u>	<u>604,800</u>	<u>891,744</u>	<u>2,733,780</u>
TOTAL	\$3,811,584	\$3,024,000	\$6,835,584	\$16,895,990

RECOMMENDATION

-- These facilities should be renovated.

Unoccupied

The committee identified two buildings which have been vacant since 1976 -- the Old State Archives Building and the State Museum Building. Both will require extensive renovations. Because of the public desire to preserve historic buildings, it probably is simpler and more efficient to renovate the buildings.

RECOMMENDATION

-- The archives and museum buildings should be renovated. The executive branch should identify cash-funded state agencies which have the capacity to acquire funds through private sources or cash funding to remodel and occupy the Old State Archives Building. If no such agency can remodel and occupy the building, the General Assembly should consider other alternatives. The State Museum Building should be remodeled and occupied by June 30, 1986.

New Structures

Department of Revenue

While considering the condition of the Capitol Annex Building, the committee reviewed the 1980 study entitled Development Plan for the Colorado Department of Revenue Physical Facilities by MCB Architects. The committee determined that the Capitol Annex Building is not designed to allow the Department of Revenue to perform its primary function, processing tax forms, at maximum efficiency. The

department needs a facility that accommodates the tax processing procedure on one floor and houses other department functions. Because of the tax processing responsibilities, the department needs to be located near the main post office and the banks used by the state. In addition, the department requires a location that is accessible for the public.

RECOMMENDATIONS

- The General Assembly should appropriate funds to determine the present and long-term supply and demand for office space in the complex.

- The General Assembly should appropriate funds in 1985 to identify the physical needs of the Department of Revenue and, if necessary, design a new building.

Parking

For individuals conducting business at state agencies, visitors, and employees, 555 state parking spaces are available in the complex. These parking spaces are assigned as follows:

Carpools	150
State-owned cars	66
Legislative Branch	148
Governor's Office	26
Meters	33 ^{1/}
All others	132

In addition to the state-owned parking facilities, many private facilities are located around the complex. (See Appendix A.) These surface parking facilities tend to be temporary because they may be developed in the near future. The rates among the lots vary and the cost to park fluctuates depending on the time of the year. The department observed rate increases for lots near the capitol building when the General Assembly is in session.

RECOMMENDATION

- Consideration should be given to providing more short-term parking for persons conducting business in the complex as well as adequate parking for visitors and employees. The executive branch should study the parking needs of the public and employees. The study should include the amount of parking facilities available in and around the complex, the number of employees who carpool and park in state or private parking facilities, and the number of employees who utilize public transportation. This information along with recommendations for and

^{1/} An additional 40 metered spaces are available around the State Capitol Building after the General Assembly adjourns each year.

alternatives to providing public and employee parking, such as carpooling and mass transit services, should be forwarded to the General Assembly for their review and action.

Financing the Recommendations

Traditional Sources

The committee investigated several traditional methods for financing a renovation plan. Traditional sources reviewed were the amount of general fund moneys appropriated in the past ten years for capital construction projects and the most common forms of taxation.

Pursuant to section 24-75-303 (1), Colorado Revised Statutes, the General Assembly may appropriate funds for capital construction projects as it deems necessary. Capital construction funds are expended for new construction projects and controlled maintenance. Because funds may be expended over several years, the chart below does not reflect actual spending patterns but merely the amount and percentage of general fund moneys appropriated by the General Assembly for capital construction projects. Also, on several occasions, capital construction funds appropriated by the General Assembly have been restricted due to fiscal emergencies.

TABLE 2

General Fund Moneys
Appropriated for Capital Construction ^{2/}
(in millions of dollars)

	<u>General Fund</u>	<u>Capital Construction</u>	<u>% of General Fund</u>
1984-85	\$1,567.3	\$ 1.2	--%
1983-84	1,500.2	19.5	1.3%
1982-83	1,401.6	8.8	--%
1981-82	1,308.9	21.6	1.7%
1980-81	1,188.9	25.8	2.2%
1979-80	1,092.9	22.4	2.0%
1978-79	1,010.7	25.0	2.5%
1977-78	935.0	25.7	2.7%
1976-77	886.5	23.9	2.7%
1975-76	833.3	9.5	1.1%

^{2/} When the percentage of general fund moneys is less than 1 percent, dashes are used.

In addition to general fund moneys, the state may raise revenues for capital construction projects from property taxes, sales taxes, individual income taxes, individual tax indexing, and the lottery.

Nontraditional sources

The committee discussed financing options available through the Public Employees' Retirement Association (PERA). The committee met with representatives of PERA to discuss the possibility of financing the plan for the complex.

The management of the PERA fund is vested in the board. The board is comprised of fifteen members: the state auditor, the state treasurer, two municipal employees, four state employees, five school employees, and two retired members of the association. Pursuant to section 24-51-107, Colorado Revised Statutes, the board is the trustee of the retirement fund and has full, unrestricted, discretionary power and authority to invest and reinvest the retirement fund. In exercising its discretionary authority, the board is governed by standards for investments prescribed in section 15-1-304, Colorado Revised Statutes, and federal law.

Although the association is willing to assist the state to meet its needs, as fiduciaries of the retirement fund it must maximize the yield on investments. In addition, the IRS requires arms-length investment of retirement funds. Because of these limitations, the committee makes no recommendation but suggests further discussion with the PERA board.

Alternative Financing

Several investment firms provided information on alternative ways to finance the renovation plan. The committee asked former house majority leader Carl Gustafson to summarize these proposals. Three basic methods were identified:

- 1) annual renewable leases;
- 2) pay-as-you-go financing; and
- 3) issuance of bonds -- this option requires a constitutional amendment.

Any alternative financing method will cost more money than traditional methods available to the state.

RECOMMENDATION

-- The General Assembly should establish a permanent capital construction fund for necessary capital improvements, and the capitol complex should be given a high priority for annual appropriation from this fund. Traditional and nontraditional sources of funding should be considered.

Placement of Executive Branch Agencies

The committee researched various questions pertaining to the location of agencies, the number of visitors to agencies, and the need for current agencies to be located in the complex. Most agencies expressed a need and desire to be located in the complex. The committee also identified seventeen agencies which could be returned to or moved to the complex if facilities were available. These agencies lease over 122,000 square feet of office space in the Denver area and employ over 600 people.

RECOMMENDATION

- If a new building is constructed for the Department of Revenue, some agencies currently leasing office space may be moved to the annex building.

Maintenance and Ongoing Review of the Complex

The committee discussed the housekeeping practices in the complex and the possibility of assigning an architect to oversee any renovation and planned maintenance for the state facilities. The Division of Management Services' report concerning the number of maintenance personnel and the number needed in 1978 was reviewed. This study was compared to present staffing levels which revealed that the number of maintenance employees in 1978 was 142.5 FTE compared to 115 FTE in 1984.

In addition to the maintenance staffing levels, the committee reviewed the general housekeeping practices in the complex. After considerable discussion, the committee identified several problems associated with housekeeping: 1) department heads must ensure that agencies clean and organize their offices; 2) the state has an excessive amount of files, records, documents, and equipment which need to be discarded or properly stored; and 3) storage facilities are limited within the complex. For example, the Division of State Archives needs additional storage space for records which must be retained. The complex does not have adequate vacant facilities to store such documents.

The committee considered the need to assign an architect to oversee the renovation plan and subsequent duties relating to maintaining the facilities in the complex. Several options were explored separately by the department and by committee member Joe Pahl, Sr. The department's recommended alternatives are:

- 1) permanent assignment of an architect reporting to the deputy director of the department;
- 2) creation of a planning subunit in the Division of State Buildings
-- the subunit would have exclusive planning and management

responsibilities;

- 3) creation of a similar unit in the Capitol Complex Division with similar responsibilities; or
- 4) creation of a new position to oversee the complex -- this position would report to the deputy director of the department.

Mr. Pahl recommended the appointment of an architect by a committee established by the General Assembly. The committee would be comprised of a member from each house, a representative of the governor's office, an experienced architect from the private sector, and an experienced person from the real estate profession. The committee would advise the General Assembly on planning projects, construction projects and land acquisitions. Both the committee and the architect would serve at the pleasure of the General Assembly. Additional materials concerning this option are available in Appendix B.

RECOMMENDATIONS

- By 1985, the Department of Administration should address the storage needs of state offices in the capitol complex by assisting state agencies in cleaning and organizing their offices and reviewing current record retention statutes.
- The committee endorses the appointment of one person, possibly an architect, to oversee the State Capitol Complex. A permanent committee should be established to provide ongoing review of the condition of the complex. The committee should be comprised of legislative members, representatives of the executive branch, and representatives of the private sector. A permanent source of sufficient funds is necessary.

Access to the State Capitol Building

Though the committee's directive specifically excluded the State Capitol Building, the committee could not ignore the building because it is the showpiece in the complex. The committee believes that the building should be accessible to the citizens of Colorado as well as out-of-state visitors. Currently, the building is open to the public Monday through Friday from 7:00 a.m. until 5:30 p.m. The building is not accessible to the public on weekends or holidays.

RECOMMENDATION

- The State Capitol Building should be open to the public on weekends and holidays.

OTHER FINDINGS

Condition of State Facilities Statewide

The state of Colorado owns approximately 4,500 buildings. Current estimated value is \$2.3 billion. Many of these facilities require extensive repair or renovation. Over the years, the maintenance and upkeep of these facilities have been allowed to deteriorate steadily because funds were required for programs or projects deemed to be of a higher priority or more urgent. The following table depicts the amount of controlled maintenance funds requested by agencies of state government and the amount actually available (i.e., available after legislative or gubernatorial changes to appropriated funds).

TABLE 3

Controlled Maintenance Funding

<u>Fiscal Year</u>	<u>Requested (Millions) 3/</u>	<u>Actual Available Funds (Millions)</u>
1984/85	\$60.347	\$3.342
1983/84	61.600	9.844
1982/83	41.390	2.029
1981/82	31.957	5.612
1980/81	29.257	9.529

A commonly accepted standard is that 1 percent of the facilities' value should be spent annually on required refurbishing. This would indicate that the state should spend \$23 million annually for controlled maintenance.

National and State Historic Registers

The committee researched how the national and state historic registers may affect the plans to renovate the facilities in the complex. The facilities in the capitol complex are a part of the Civic Center District. This district is listed on the national and state registers pursuant to 16 USCS 470, et. seq. and article 80.1 of Title 24, Colorado Revised Statutes. The Civic Center District was added to the national register on February 27, 1974. The approximate

3/ Includes only those projects reported; many agencies do not submit low-priority projects. Unfunded requests may be submitted in subsequent years.

boundaries of the district are Grant Street, 16th Avenue, Delaware Street, and 13th Avenue. A map of the district is available in Appendix A.

Because the committee questioned which buildings should be razed or renovated, the procedures for removing a building from both registers were reviewed. Federal rules and regulations, 36 CFR 60.15 (a) (1) and (b), allow properties designated prior to December 13, 1980, to be removed if:

...The property has ceased to meet the criteria for listing in the National Register because the qualities which caused it to be originally listed have been lost or destroyed, or such qualities were lost subsequent to nomination and prior to listing,...

All properties listed on the national register are automatically listed on the state register. Any proposal to change the quality of the historical, archaeological, or architectural character of a listed property by a state agency must be reported to the State Historical Society. The society has thirty days to review and comment on the proposed action and related information. The society may prohibit or alter the agency's proposed action. If the society's comments are rejected by the agency, the agency has thirty days to negotiate an agreement with the society. An appeal may be forwarded to the governor if no agreement is reached. The governor has thirty days to make a final determination on the appeal.

Zoning and Special Districts

The committee identified the local zoning restrictions and building height limitations for the area bordering the complex. Maps depicting zoning restrictions and height limitations are available in Appendix A.

With regards to establishing a State Capitol Complex special district, current state law, 32-1-101, et seq., Colorado Revised Statutes, allows the formation of a special district only for ambulance; fire protection; hospital; park and recreation; sanitation; water and sanitation; water; and metropolitan (two or more services which may include fire protection, mosquito control, parks and recreation, safety protection, sanitation, street improvement, television relay and translation, transportation, and water).

Acquisition of Private Property

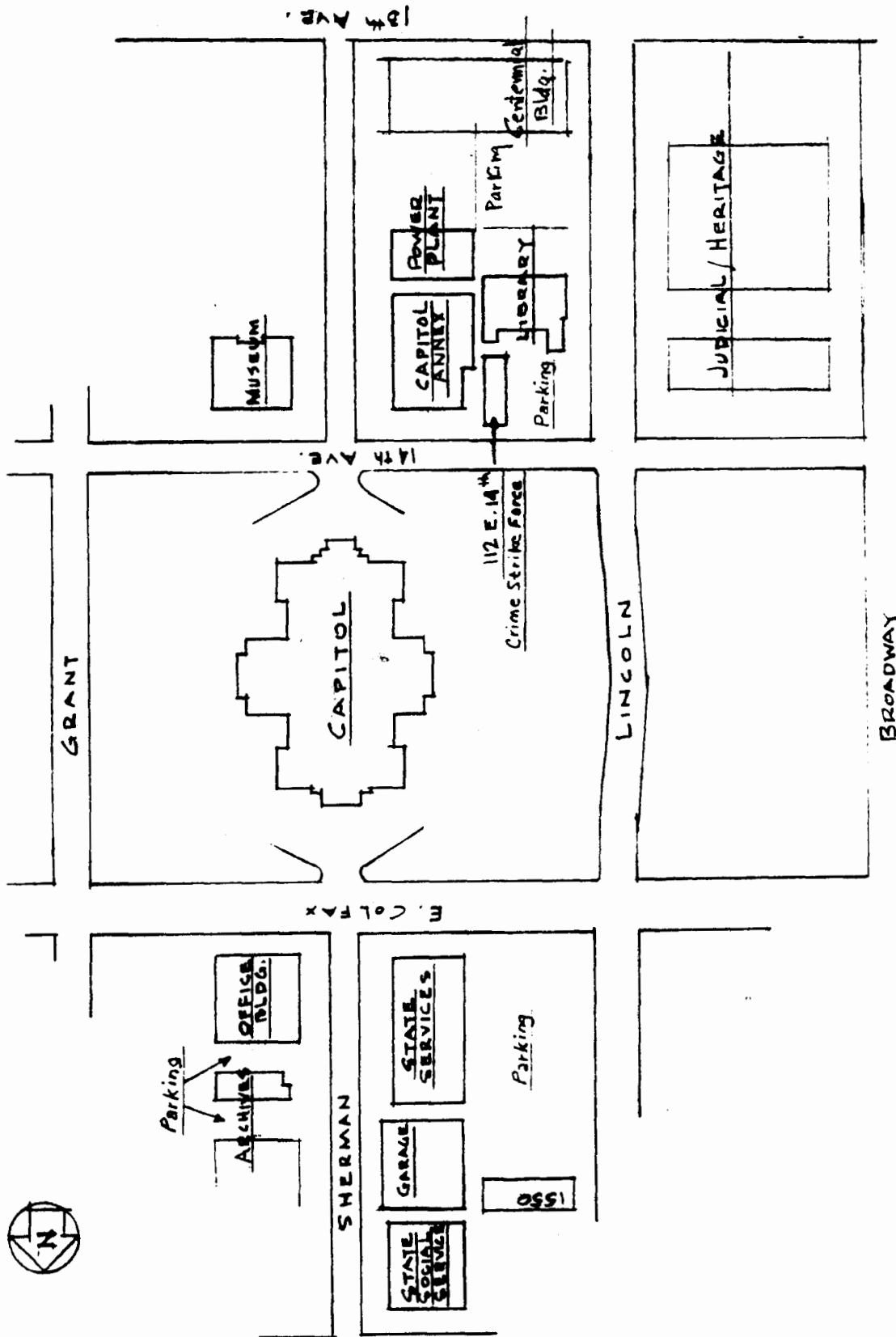
Because the committee is recommending the immediate acquisition of private lands in the block bounded by Lincoln and Sherman streets and 13th and 14th avenues, and as a long-term objective, the

acquisition of other private property in the complex, the committee notes that land may be acquired by the state pursuant to section 24-82-102, Colorado Revised Statutes. This section allows the executive director of the Department of Administration with the approval of the governor to acquire title to property by purchase, donation, or lease-purchase agreements or by the exercise of the power of eminent domain. With regards to exercising the power of eminent domain, article II of section 15 of the state constitution prohibits the taking of private property for public use without just compensation. The constitution requires that just compensation be ascertained by a board of commissioners of not less than three freeholders or by a jury when required by the owner of the property. The procedure for establishing the commission is set forth in article 1 of title 38, Colorado Revised Statutes.

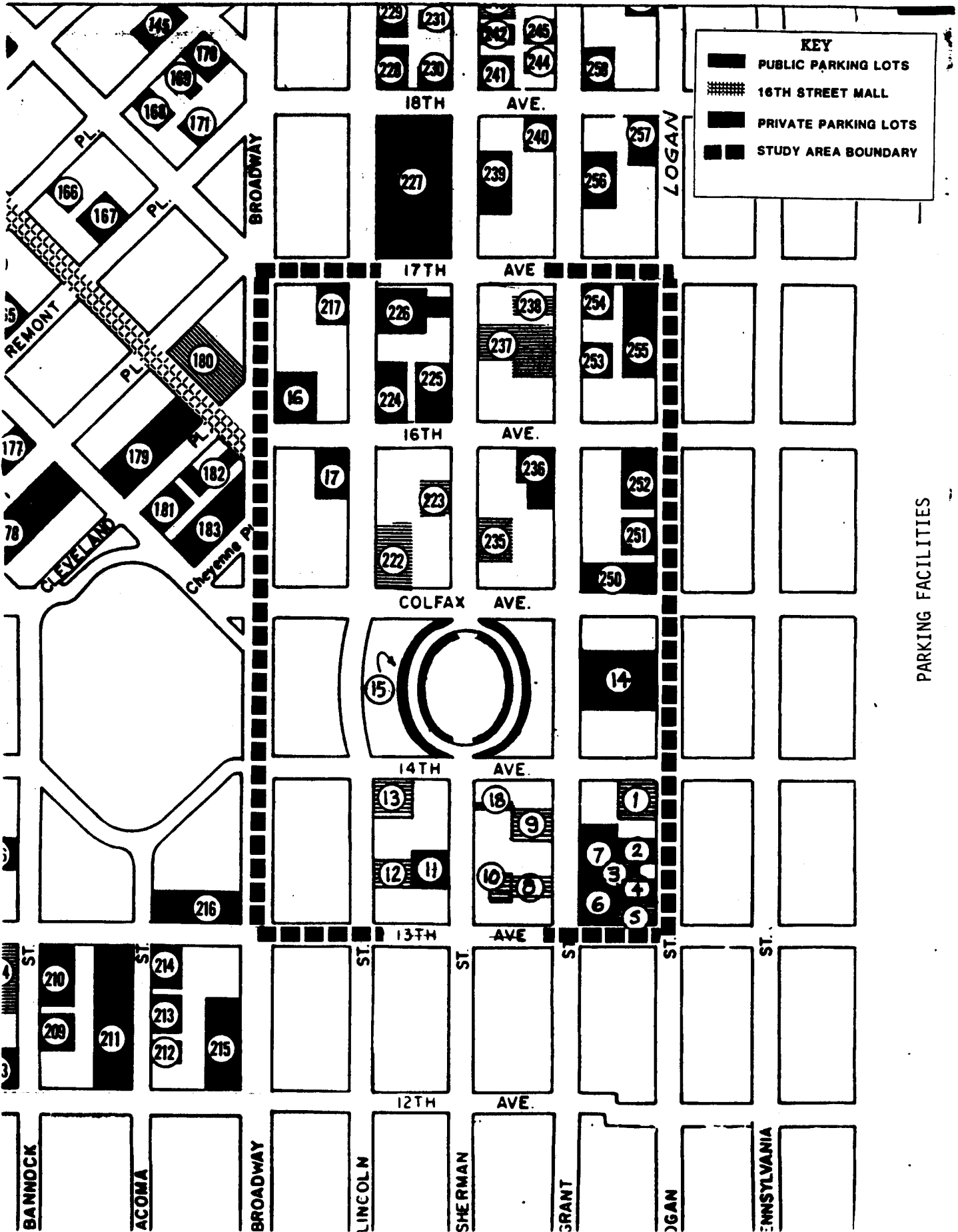
Other Downtown Denver Planning Committees

In recent months, two planning committees for the downtown Denver area have been established. The Downtown Area Plan Steering Committee, comprised of local leaders, has been directed to develop, by January, 1986, a long-term plan for the physical and economic development of downtown Denver. The Denver Civic Center Task Force is a short-term, joint planning project of the city and county of Denver and the state of Colorado to study and coordinate current public and private projects and establish a workable plan for the long-range development of the civic center.

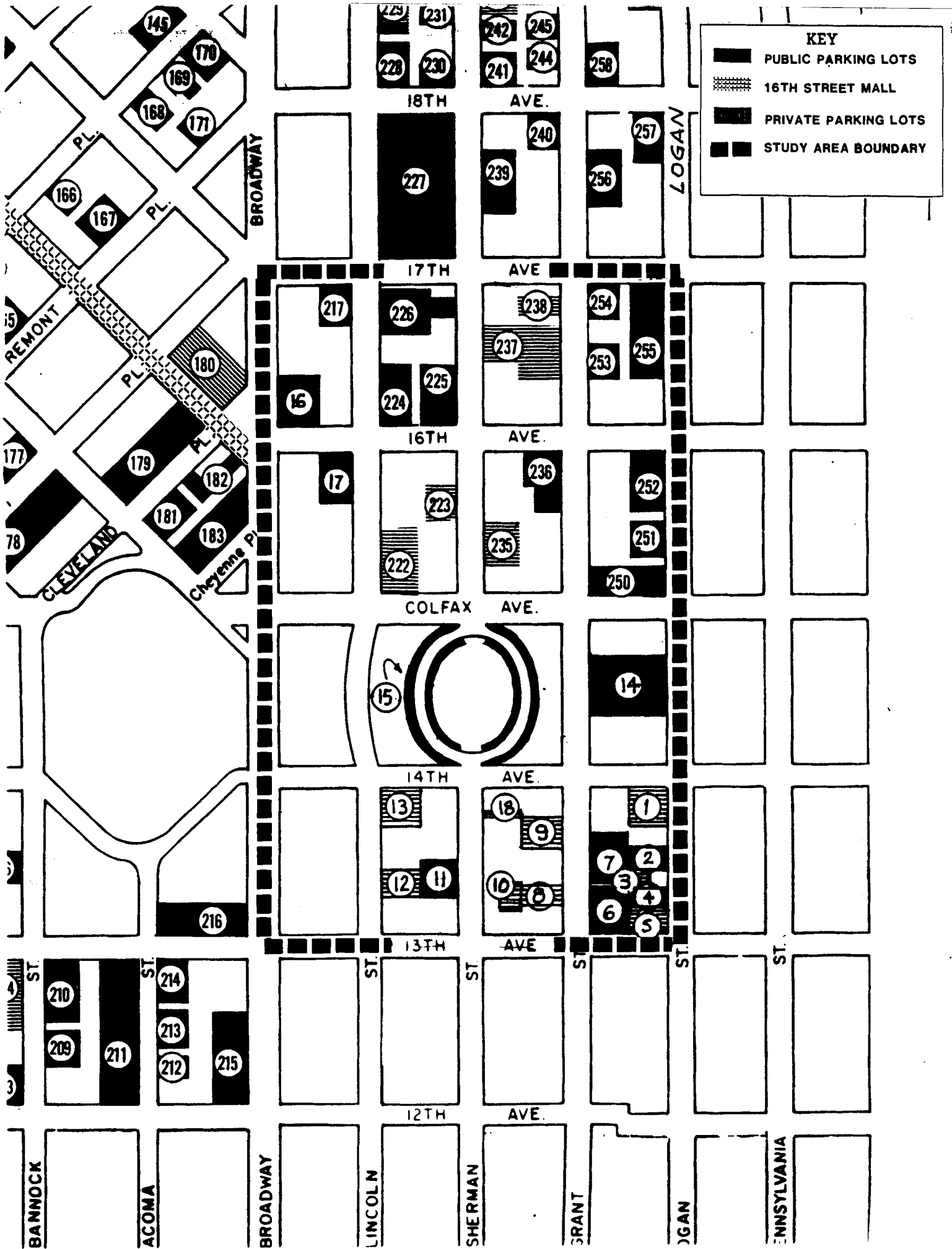
CAPITOL COMPLEX



1" = 200'

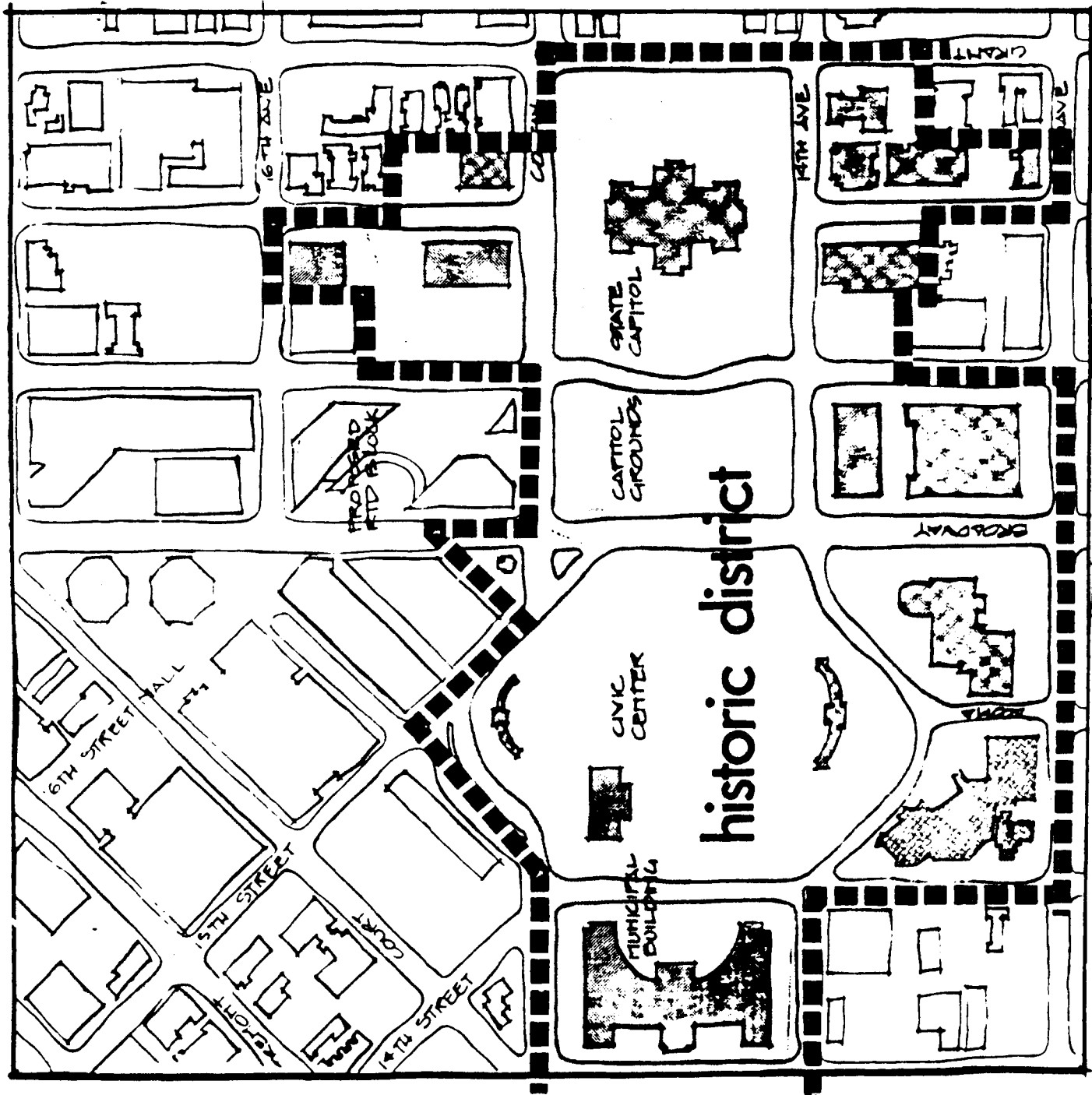


PARKING FACILITIES



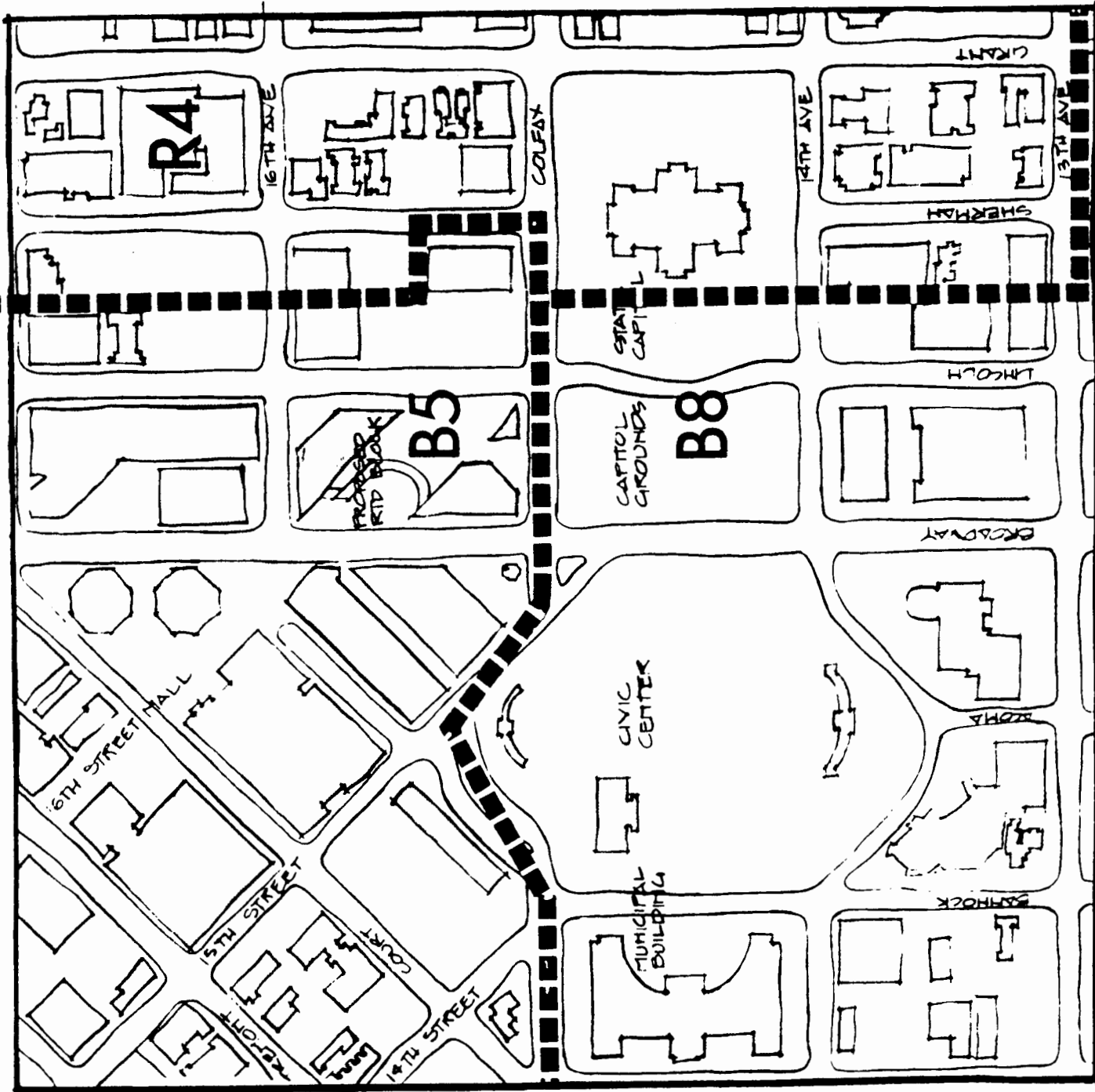
KEY

- PUBLIC PARKING LOTS
- PRIVATE PARKING LOTS
- STUDY AREA BOUNDARY

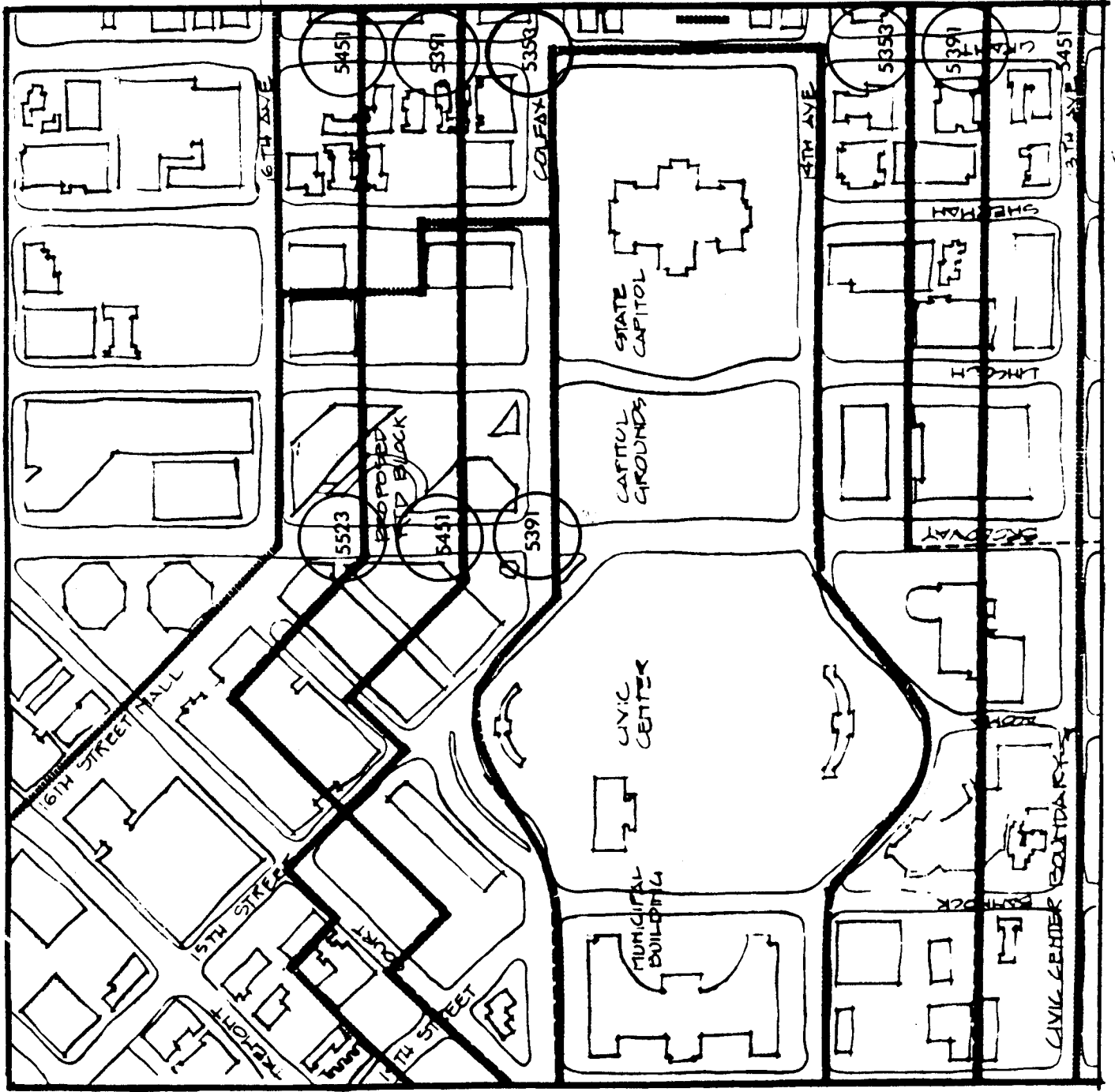


CIVIC CENTER HISTORIC DISTRICT

ZONING RESTRICTIONS



BUILDING HEIGHT LIMITATIONS



Circled numbers represent elevation above sea level in feet.

BUILDING HEIGHT LIMITS (ZONING)

1200 Lincoln Street
Suite 420
Denver, Colorado 80203
303-861-7147

Pahl-Pahl-Pahl pc
Architects/Planners

August 3, 1984

We are reaching the finalizations of our efforts and I would like to make a few comments and also "catch-up" for the two meetings I missed.

I have stated, several times, that we have a Golden Opportunity at hand to provide a fine service for the People of the State. This opportunity is further enhanced with the current program of the City and County of Denver for a "Greater Denver". Hopefully, a mutual cooperation toward a successful 10-15-20 year plan will be in evidence.

I am disappointed - however - in the City's omission of professionals; architects, engineers, landscape architects, etc.; on their Committee.

* * *

In regard to your June 29th meeting:

Old State Archives Building:
(also formerly Game and Fish Office)
Just because it is old, is no reason for its salvation. It is not a complimentary type. This structure should be demolished. The land should be retained by the State.

Parking:
Adequate parking should be provided for the public and the State. Such provisions should be planned and instituted as all future construction is accomplished.

Present Status of Buildings: The Museum:

Attached is an article from Continental Air Lines Flight Magazine. It will not be the least bit surprising if some very negative publicity hits the street relative to the extended vacancy of this structure.

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August 3, 1984

Life Safety Conditions:

Immediate attention should be given to the temporary resolution of life safety problems. Some conditions are worse than those of the State Office Building. Occupancies should be specifically designated and strictly enforced. The Department of Administration and State Buildings Division should be charged with making these structures as safe as possible - as soon as possible - with a minimum of expenditure. In most cases, Capitol Maintenance personnel can be used.

With the definition of occupancy areas, the complete clean-up of all areas, and the prompt response of the Fire Department (2 min.); hopefully all will be well until full **FUNDS** are appropriated for complete renovations.

Department heads should be held fully responsible for the cleanliness, the unobstructed passageways and the occupancy conditions of their departments.

Our Committee was quite generous in their recommendation of funds for the State Office Building. All structures should also receive such consideration in their renovations AND be totally and properly restored.

If our recommendations are to be successful, the State cannot afford renovations and related monies twice.

Department of Revenue:

This facility should remain a part of the Capitol Complex, and assist in the Master Plan. It should be a new structure, about one or two blocks away from the Capitol, and in full cooperation with the 10-15-20 year plan.

Brainstorming Session:

I fully agree with Rep. Shauer's suggestion. Our Committee was obviously appointed by the Leadership with confidence. Our Committee - I am sure - will perform its charge with a forward, progressive and farsighted report. Additional participations will only lead to compromise and confusion.

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Capitol Complex Committee Recommendations:
In regard to the following motions by the Committee, I say-

Long Term Objective	Yes
Privately Owned Land	Yes, by purchase
Capitol Construction Fund	Yes
Capitol Annex Building	Yes
State Owned Land	Yes, not sold
Parking	Yes, see previous note
Department of Revenue	No
Renovate Buildings	Yes
Committee Recommendations	Yes

* * *

Suggested Outline:

I. Background

A, B, C, D

No comment

II. Committee Findings

A. It has always seemed very inconsiderate - to me - that the Capitol has not been opened on Saturdays, Sundays and Holidays. It has denied natives and visitors the convenient privilege of visiting the Capitol.

B. Suggestions

1. Revenues from present and future parking facilities should be reserved for the 10-15-20 year plan.
2. Contact should be made with-

Mr. Joe Natale
Executive Secretary
Public Employees Retirement Association

in regard to the financing of the plan and structures. This association is extensively involved in the financing of State and private endeavors. I am confident they would be most beneficial to our plan and would have a more sincere position than some developers.

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Capitol Architect: (continued)

tion equipment, most of the wiring was installed exposed. The result, a "hodgepodge" of wires that visually destroys the historic quality of the Capitol Building. The need, in the past for signs, the replacement of worn out plumbing and the installation of additional rooms and mechanical equipment has also contributed significantly to the deterioration of the building. It appears that each building trade, carpenter, plumber, electrician and heating serviceman has been allowed to solve problems in their own personal way. This procedure must be immediately changed."

I totally agree with Mr. Brownson's statement. There has been a lack of planning, guidance and/or regulation in this regard. The Capitol has been treated somewhat better than the other buildings.

Most of the current code violations - in all of the Complex buildings - have resulted from this practice.

The care, maintenance and upkeep of the Capitol Complex structures has not been complimentary.

During the past twenty five years, not a single registered professional - in any discipline - has been in charge of this responsibility.

I would like to - again - quote from Mr. Brownson's Capitol report and strongly recommend it for all Capitol Complex buildings.

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Capitol Architect: (continued)

"Select the highest qualified architect, experienced in historical restoration work, to review and as necessary design all projects affecting the visual appearance and the mechanical functioning of all systems within the Capitol Building. One architect responsible for the above work would give a continuity and assurance that the work is done using the best methods to preserve the building's historic importance. Further, building standards should be agreed upon, particularly by the telephone company, the worst offender of haphazard wiring installations."

It is very important that this person be an architect-
not an engineer
not an administrator
not a building manager
and not a building contractor

This person should be selected to oversee the start and continuation of the rejuvenation of all Capitol Complex Buildings and be in complete charge of all buildings and their grounds.

To further assure the success of the total plan, I recommend that a standing committee be selected by and for the convenience of the General Assembly to continually research, advise and guide the Assembly in the appropriation of funds for all land purchasing, planning and construction of State projects. The committee would serve as an advisory in such projects as those sponsored by CU, CSU, etc.

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Capitol Architect: (continued)

This committee should be composed of ---

an experienced architect from the private sector
an experienced person from the realestate sector
a representative from the Governor's office
a representative from the Senate
a representative from the House

This committee of five would select the architect for the Capitol Complex.

The selected architect and the Committee would serve at the pleasure of the General Assembly and be responsible only to the General Assembly.

* * *

The State Office Building:

After some thirty six years as a licensed architect, and - currently as a member of the Capitol Complex Committee - I feel that I have - finally - a means and a platform to express a long held and sensitive opinion.

Most of the short-listed firms for the Office Building have been established as a part of the Colorado community for many, many years and are more than qualified for the accomplishment of that project.

It is - indeed - a "slap in the face" to local, well established and qualified firms to have an "outsider" selected over them. It negates their qualifications, their accomplishments in the State, their professional and personal efforts -- over a period of many years -- toward the successes of our State, their services to many local and State agencies, their sincere dedication to the betterment of our profession and its many public contributions, their sponsorship and support of public officials and their personal involvement to such interests in the future.

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The State Office Building: (continued)

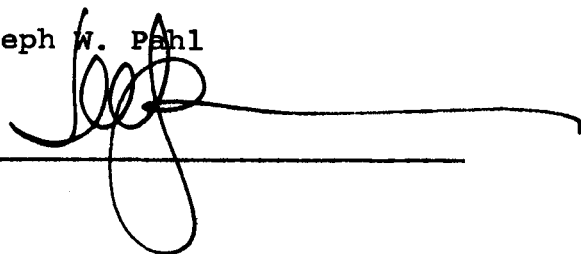
How many of the "large", foreign or "Johnny come lately" firms have come here to pick some of the "plums" and after the "harvest" have departed with no interest, dedication, service or loyalty to our State?

This is just another example of this somewhat common selection process of "out of town experts" and surely is not complimentary to the many loyal architects who have and will continue to serve the best interests of the State of Colorado.

It is time that someone made a specific and strong comment in this regard. I am very pleased to use this respected platform to do so. I would hope that our final report will include this personal opinion.

Thank you for your time and reception.

Joseph W. Pahl

A handwritten signature in black ink, appearing to read 'Joseph W. Pahl', is written over a horizontal line. The signature is stylized and includes a long horizontal stroke extending to the right.

DENVER

A Dead Horse in the Bathtub

We didn't know what to make of it, for a while. That cold, rainy morning in April, when a half-dozen janitors, with brooms and mops at the ready, stood on the steps of the old Colorado State Museum waiting for God knows what, probably for a supervisor to unlock the massive door.

Their presence caused a good deal of curiosity up and down 14th Street and along Sherman Street, where other state employees traveled on their way to work. The museum building hadn't been open in seven years. People were almost excited. Alas, disappointment followed curiosity.

It was tax time, and the museum's empty rooms were to be used by the Central Services Division as a temporary mailroom to handle the annual deluge of state returns. A pity and disgrace.

The Colorado State Museum, the most elegant building on 14th Street, was being used as a storage bin. Again. In a few weeks, after the crush of processing tax returns had ended, the white marble structure with its four distinctive columns on the north and west sides was closed again. Except for routine maintenance and infrequent inspections, it would not be reopened.

Across the street, at the State Capitol Building, bureaucrats in the Legislature and the governor's office might pause now and then to think about pumping \$1 million or so into the building, overhauling wiring and water lines and heating ducts, and possibly using the structure for permanent office space. But thinking about it was about as far as it has gone.

And that's the way it has been since 1977 when the State Historical Society determined that the museum's collection had outgrown its home; they moved all the pewter, pottery and pictures down the street a block and a half to their new building on Broadway. Ever since, the building, with Colorado State MUSEUM carved above its front doors, has been like a dead horse in a bathtub. Everybody is aware it is there, but nobody knows quite what to do with it.

With the exception of the Post Office building in downtown Denver, the museum is the last remaining example of what was called, in 1911, the "modified Roman classical design," according to its architect, Frank E. Edbrooke.

If it hadn't been for a temperamental coal-fired boiler in the State Capitol Building, the museum might not have been built at all. In 1909, Governor John F. Shafroth was worried about the boiler's thirty-inch stack that belched smoke and fumes into the southeast corner of the Capitol's roof. That caused the dome—the *gold* dome—to darken, shocking sightseers and annoying legislators. The governor worried about the state's precious objects and documents, then housed in the Capitol.

The Legislature authorized a new boiler and a new building, and the State Museum Building came to be. At the time, it was a cause célèbre. Exterior granite came from

—Continued on page 23

—Denver continued from page 18

Cotopaxi, Colorado, and the marble came from the Colorado Yule quarries, near Marble, Colorado, that had been developed for capitol building floors and basement wainscoting.

While work was started on the structure in 1911, it wasn't finished until September of 1915. The building was completed at the then-extravagant cost of \$550,000, and it remained a busy, popular place until the museum officials found themselves hip-deep in artifacts sixty years later.

Throughout the building's history there have been persistent rumors that the structure was originally built to house the State Supreme Court. Nobody knows for sure how that rumor was started.

When the society moved into its new
—Continued on page 24

—Denver continued from page 23

Heritage Center, just down the street in 1977, it was ironic that the State Supreme Court justices moved into an adjoining building at the same time.

The two new structures have uncomplimentary nicknames. The Heritage Center, because of its flat roof and inclined and terraced northern walls, is known as "The Typewriter." The Judicial Building, because of its rectangular shape, is known as "The File Cabinet." A block to the east, the old Museum Building, in all its Roman classic marble elegance, is, simply, ignored.

It was supposed to be an office building for legislators—but they didn't like the idea of being out of the main, gold-domed State Capitol Building. Majority Republicans in both houses of the Legislature planned to unceremoniously remove the governor's office from the Capitol and put it in the old museum. They lacked the authority.

Governor Richard Lamm had an idea. Denver had no Western art museum, and there were collectors all over the nation (mainly in Texas and Oklahoma) who might be willing to share a portion of their galleries with Colorado, possibly for a tax break.

But there were no takers. A Western art museum was established elsewhere in Denver and funded privately.

Once inside, the museum's original elegance is intact. A broad, white marble staircase links three floors and a basement. Brass banisters, darkened by tarnish, flank the stairs. There are heavy oak moldings that contrast with ornate plasterwork on twenty-foot walls and the beamed ceilings. Empty display cases gather dust on the third floor, and the huge doors of a walk-in safe stand open. Brass grillwork has been painted over, covering radiators that have nothing to heat. Bathroom walls are marble, like the floors. Some tall oak doors in storage are missing their ornate brass and copper door-knobs, that, because they carry the Colorado State Seal, are valuable and irreplaceable.

From time to time things disappear, maintenance workers say, apparently to grace the homes of modern condominiums and apartment houses, just up the street, in the more fashionable parts of Capitol Hill. ●

—C.R. Hilliard