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**0296 Committees on: Workmen's Compensation and Unemployment
Compensation, State Tax Policy**

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Report to the Colorado General Assembly:

**RECOMMENDATIONS FOR 1986
COMMITTEES ON:**

**Workmen's Compensation and
Unemployment Compensation
State Tax Policy**



COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 296

December, 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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RECOMMENDATIONS FOR 1986

*Colorado. General Assembly. Legislative Council. Committee
" " on Workmen's Compensation and Unemployment
Compensation.*

COMMITTEES ON:

Workmen's Compensation and
Unemployment Compensation

State Tax Policy

Legislative Council
Report to the
Colorado General Assembly

Research Publication No. 296
December, 1985

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REP. LARRY TRUJILLO

To Members of the Fifty-fifth Colorado General Assembly:

Submitted herewith are the final reports of the Committees on Workmen's Compensation and Unemployment Compensation and the Committee on State Tax Policy. The two committees were appointed by the Legislative Council pursuant to House Joint Resolution No. 1025, 1985 session.

At its meeting of October 15, the Legislative Council reviewed these reports. A motion to forward the report and recommendations of the Committee on State Tax Policy to the Fifty-fifth General Assembly was approved. A motion to forward the report and recommendations of the Committee on Workmen's Compensation and Unemployment Compensation to the Fifty-fifth General Assembly was also approved. However, the Acting Chairman of the Legislative Council ruled that a proposed bill barring compensability for workmen's compensation cases due to stress could not be considered by the Legislative Council since the interim committee had adopted the bill in concept only and did not have an actual bill draft before it when the recommendation was approved. Therefore, the Legislative Council makes no recommendation concerning this bill. In addition, the Legislative Council did not recommend a proposed bill creating a state compensation insurance authority to replace the state compensation insurance fund. These two bills are not included in this report but are on file in the Legislative Council office or the Legislative Drafting office for review by any interested persons.

Respectfully submitted,

/s/ Representative Carl B "Bev" Bledsoe
Chairman
Colorado Legislative Council

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LEGISLATIVE COUNCIL
COMMITTEE ON WORKMEN'S COMPENSATION
AND UNEMPLOYMENT COMPENSATION

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SUMMARY OF RECOMMENDATIONS

House Joint Resolution No. 1025 (1985 Session) directed the Legislative Council to appoint an interim committee to conduct a study of workmen's compensation and unemployment insurance in Colorado, including, but not limited to, the following:

- a) replacing partial disability payments with wage differential benefits;
- b) controlling rate increases;
- c) establishing a schedule of lump-sum payments for permanent physical impairments;
- d) coordinating benefits with other benefits such as social security, sickness and accident insurance, pensions, auto reparations and unemployment compensation;
- e) establishing self-insurance pools by trade, professional, or other associations;
- f) abolishing the subsequent injury fund and developing alternatives thereto; and
- g) death benefits.

In addition to the above directives, other important topics in the workmen's compensation system were considered. Hearings with claimants, employers, and other parties brought forth issues of vocational rehabilitation, the appeal procedures, unjustified delays and termination of benefit payments by insurance companies, health cost containment measures, and the liability of prime contractors for sole proprietors who subcontract for them. The committee also considered changes in the taxable wage base for unemployment insurance.

Three agencies of the Department of Labor and Employment are responsible for the workmen's compensation system: The Division of Labor, the Colorado Industrial Commission, and the State Compensation Insurance Fund. The committee appreciates the effort of officials in these agencies in providing information and other assistance. The committee also recognizes the contribution of the many citizens who told of their experiences and who provided resource information in the course of the hearings. Ten meetings were held, including a public hearing in Colorado Springs.

The Legislative Council submits the following 15 bills recommended by the committee for consideration in the 1986 General Assembly:

I. Administration of the System

- Bill 1 -- Procedures for Hearings.
- Bill 2 -- The Supervision of Vocational Rehabilitation Providers.
- Bill 3 -- Abolishing the Industrial Commission and Eliminating or Transferring Its Duties and Functions.
- Bill 4 -- Suits Against State Officials Arising Out of Occupational Injuries.
- Bill 5 -- Enforcement of Orders Issued Under the Workmen's Compensation Act.

II. Benefits to Claimants

- Bill 6 -- Reducing the Offset for Death Benefits.
- Bill 7 -- Increasing the Burial Fee Under the Workmen's Compensation Act.
- Bill 8 -- A Cost of Living Adjustment to Awards for Permanent Total Disability.
- Bill 9 -- The Continuation of the Payment of Medical Benefits Throughout the Period of Disability.
- Bill 10 -- Concerning the Mortality Table as Evidence.
- Bill 11 -- Limitations on Payments of Workmen's Compensation Benefits to Incarcerated Individuals.

III. Penalties

- Bill 12 -- An Increase in Compensation Paid Under the Workmen's Compensation Act as a Result of Employer Conduct.
- Bill 13 -- The Imposition of Penalties in Connection with the Payment of Lawful Compensation Benefits Under the Workmen's Compensation Act.

IV. Self-insured Pools

- Bill 14 -- Inclusion of a School District's Annual Tax Levy for Workmen's Compensation Self-Insurance Within the Mill Levy Limit Set for Liability and Property Damage Self-Insurance.

V. Unemployment Insurance

- Bill 15 -- Concerning the "Colorado Employment Security Act."

OVERVIEW OF THE WORKMEN'S COMPENSATION SYSTEM

The interim committee was concerned with finding where the present workmen's compensation system is not serving the citizens of the state in a satisfactory manner. To find the weaknesses of the system, it was necessary to develop an understanding of the current system. Some basic features of the present laws are provided below as an introduction to the system.

Background

In 1911, the first workmen's compensation law was enacted in the United States and the Colorado Workmen's Compensation Act became law in 1915. Workmen's compensation legislation provides a method of intervention in the labor market on behalf of injured workers without use of the tort system. The workmen's compensation law calls for mandatory no-fault insurance to cover injured employees, with the cost paid for by the employer. The law prohibits employers from passing their insurance costs on to their employees.

Administration of the Workmen's Compensation System

There are three principal agencies involved in the administration of the workmen's compensation system at the state level.

- The Division of Labor, within the Department of Labor and Employment, administers the workmen's compensation statutes and regulations, manages the claim system including determination of a claimant's eligibility for vocational rehabilitation and provides the first level of hearing for disputes arising between workers and insurers. If the claimant is not satisfied with the decision concerning benefits of the insurance company, the case is heard by one of the hearing officers assigned to the division by the Department of Administration.
- The State Compensation Insurance Fund (State Fund), a division of the Department of Labor and Employment, was established by the Colorado General Assembly in 1915 to assure businesses and industry a source of workmen's compensation insurance. The fund writes workmen's compensation insurance for Colorado employers who choose to insure with the fund, for employers who cannot obtain insurance with private carriers, and for those unable to obtain self-insurance permits. Insurance coverage for 65 percent of the employers in the state is provided through the State Fund.
- The Colorado Industrial Commission promulgates rules and regulations, administers the self-insurance program for individual entities, adopts premium rate charges and filings for

the State Fund, sets the medical fee schedule of payments to medical practitioners for the care of workmen's compensation injury cases, and is the second level of appeal responsible for hearing cases appealed from decisions of hearing officers.

Workmen's Compensation Benefits

Benefits provided under workmen's compensation cover medical benefits, wage loss, temporary and total disability, vocational rehabilitation, and death benefits.

- A claimant is entitled to unlimited medical benefits to improve his condition. Prior to July, 1981, there was a \$20,000 limit on medical expenses. Since then, the major medical fund was created to cover additional costs. Medical expenses are paid until a claimant has reached maximum medical improvement or is in a stable condition.
- A claimant may receive temporary benefits for wage loss while he is off the job and receiving medical treatment. Wage loss benefits include: (a) temporary total benefit, which is two-thirds of a claimant's weekly wage; or (b) temporary partial benefit, which is a two-thirds differential between his former salary and current part-time or light duty salary.
- A claimant may be entitled to vocational rehabilitation benefits based on an evaluation conducted 120 days after the filing of a claim. Once entitlement for vocational rehabilitation is determined, a plan is developed to retrain the claimant for a different job with the same employer, for employment in a related occupation, or for a job in a new occupation.
- Permanent partial and permanent total disability payments are based on an anatomical injury schedule contained in the statutes (8-51-104, C.R.S.). Benefits are paid for a certain number of weeks for loss of a particular part of the body (e.g., loss of arm at the shoulder -- 208 weeks). Permanent partial disability payments are paid at \$84.00 per week as a wage loss benefit. Permanent total disability benefits are paid as a percentage of previous salary as indicated in the table below.
- Death benefits include a maximum of \$1000 to defray costs of the funeral, and additional payments of a percentage of the weekly wage to the spouse and children.

A summary of workmen's compensation benefits authorized by the Colorado Workmen's Compensation Act follows:

<u>Kinds of Disability</u>	<u>Definition</u>	<u>Benefit Amounts</u>
Temporary Total Disability Benefits (8-51-102, C.R.S.)	Total disability of more than three days.	Not less than 66-2/3 percent of one's weekly wages, so long as disability is total and not to exceed 80 percent of the state's average weekly wage. <u>1/</u>
Temporary Partial Disability (8-51-108, C.R.S.)	Partially disabled, but able to resume work in a different capacity or on a part-time basis at a reduced rate.	66-2/3 percent of the impairment of one's earning capacity during the continuance thereof, not to exceed a maximum of 80 percent of the state's average weekly wage.
Permanent Partial Disability (8-51-108, C.R.S.)	Where full recovery is not possible, i.e., loss of arm, or loss of the use of the arm.	Scheduled group of awards, ranging from 4 weeks to 208 weeks, depending on severity of loss. Payable at \$84 per week. Nonscheduled awards, percentage based on the body as a working unit, taking into consideration education, training, ability, former employment and life expectancy, payable at \$84 per week, not to exceed \$26,292 total.
Permanent Total Disability (8-51-107, C.R.S.)	Loss of both hands or both legs, or both eyes, or any two thereof, or any total loss of earning capacity.	66-2/3 percent of average weekly wage not to exceed 80 percent of the state's average weekly wage. Permanent total benefits may continue until the death of such person.

<u>Kinds of Disability</u>	<u>Definition</u>	<u>Benefit Amounts</u>
Facial or Bodily Disfigurement (8-51-105, C.R.S.)	Serious permanent disfigurement about the head, face, or parts of the body normally exposed to public view.	Disfigurement benefits are in addition to other compensation. Benefits not to exceed \$2,000.
Burial Expenses (8-50-107, C.R.S.)	When as a proximate result of injury, death occurs to an employee.	Not to exceed \$1,000.
Death Benefits (8-50-103, C.R.S.)		Dependents receive 66-2/3 percent of deceased employee's average weekly wage not to exceed 80 percent of the state's average weekly wage.

SOURCE: Department of Labor and Employment.

1/ The state average weekly wage is annually established by the director of the Division of Labor and is determined from statistics furnished by the Division of Employment. It must be based upon the average of the average weekly earnings in selected industries in Colorado, weighted by the volume of employment according to the records of the Division of Employment in each of the selected industries, as computed in June of each year, on the basis of the most recent available figures.

Employee and Employer Liability

Colorado statutes provide for a reduction of benefits under certain conditions. Compensation for temporary and permanent disability can be reduced by 50 percent under any one of the following conditions:

- (a) Where injury is caused by the willful failure of the employee to use safety devices provided by the employer;
- (b) Where injury results from the employee's willful failure to obey any reasonable rule adopted by the employer for the safety of the employees; and
- (c) Where injury results from the intoxication of the employee.

Employers are required to carry workmen's compensation insurance either through the State Fund or through a private insurance firm (8-44-101, C.R.S.). The full cost of insurance is paid by the employer. In situations where the employer has not complied with the requirements of the Colorado Workmen's Compensation Act, or has allowed his policy to lapse, an injured employee may claim the compensation benefits as provided under the law, plus an additional 50 percent of the benefits. Dependents of an employee who is killed would also be entitled to this additional benefit if the employer had not complied with this law.

Reporting of Accidents

When a worker is injured on the job he first must report the injury to his employer to initiate a claim for compensation. The employer, in turn, reports the accident to the insurer. After this report of the accident, the insurance company is required to admit or deny liability within 25 days. If the injury occurred on the job and was job-related, the insurer must pay any benefits due, regardless of what caused the accident to occur. In this sense, workmen's compensation is a no-fault type of coverage.

Appeals Process

If the insurer concludes that the injury is not covered by workmen's compensation, it can deny liability for the claim. In such a case, the worker must decide whether to accept the denial and forego benefits, or to appeal the denial. Appeals are submitted to the Division of Labor. A hearing office assigned by the Division of Hearing Officers, Department of Administration, decides the appeal. That decision, in turn, may be appealed to the Colorado Industrial Commission, then to the Colorado Court of Appeals, and finally to the Colorado Supreme Court, for decisions on matters of law. A chart detailing the appeals process is included as Appendix A.

Persons Covered By and Exempt From Workmen's Compensation

The requirements of the Colorado Workmen's Compensation Act are applicable to private and public employers. Thus, workmen's compensation coverage is required of the state, and every county, city, town, and irrigation, drainage, school district, other taxing districts, and all public administrative boards. Further, the number of employees working for a public employer has no effect on the requirements of the act.

As for the private sector, section 8-41-105 (1) (b), C.R.S., provides that the Colorado Workmen's Compensation Act is applicable to:

Every person, association of persons, firm, and private corporation, including any public service

corporation, personal representative, assignee, trustee, or receiver, who has one or more persons engaged in the same business or employment, except as otherwise expressly provided in articles 40 to 54 of this title, in service under any contract of hire, express or implied.

Colorado statutes (8-41-105, C.R.S.) provide that specific persons are exempt from provisions of the Workmen's Compensation Act. The law exempts employees who are elected or appointed to serve in an advisory capacity for certain types of organizations (charitable, fraternal, religious, or social) and who receive an annual salary not in excess of \$750. Also exempt are employers of casual farm and ranch labor or employers of persons who do casual maintenance or yard work for \$2,000 or less per year, on or near the place of business of the employer, if such employers have no other employees. This exemption now includes property owners who contract out the work done on their property to contractors or subcontractors where the work is not related to the property owner's business. Real estate agents who are independent contractors are also exempted.

Self-insurance

Self-insurance is allowed for a single employer or employers grouped together in a self-insurance pool. Employers may act as their own insurance carriers with permission from the Industrial Commission. Also, public entities, including counties, municipalities, school districts, and other public authorities, may cooperate with one another to form a self-insurance pool to provide workmen's compensation insurance. According to section 8-44-101, C.R.S., these self-insurance pools are regulated by the state Insurance Commissioner.

COMMITTEE RECOMMENDATIONS

Many problems in the present workmen's compensation system were brought to the attention of the committee. These problems related to administrative procedures, benefit levels, lack of penalties, and the difficulty of enforcement of penalties for violations of the laws. The committee has attempted to address these concerns through the bills outlined below.

I. Administration of the System

Procedures for Hearings Held Pursuant to the "Workmen's Compensation Act of Colorado" -- Bill 1

~~_____~~ This bill permits the Director of the Division of Labor to experiment with recording workmen's compensation hearings

electronically and to provide for the preparation and certification of a transcript from such recordings. The intent of this bill is to determine whether this method of transcription could be used to speed the process and reduce costs associated with the employment of several full-time court reporters.

Any interested party may order a transcript of a recorded hearing from the division. A transcribed copy of the evidence and proceedings shall be certified by the division if the hearing was recorded and may be received as evidence by the director, the Industrial Commission, or any court, i.e., the Court of Appeals or the Supreme Court. Section 8-53-109 (1) (a), C.R.S., requiring that all parties be notified of the issues to be determined by the hearing, is repealed. This provision is redundant because of another paragraph in the same section (8-53-109 (2) (b), C.R.S.).

Concerning the Supervision of Vocational Rehabilitation Providers Under the "Workmen's Compensation Act of Colorado" -- Bill 2

After considerable testimony from claimants concerning abuses in vocational rehabilitation, the committee recommended reforms in the system. At present, an employee is entitled to vocational rehabilitation when, as a result of the injury or occupational disease, he is unable to perform work for which he has previous training or experience (section 8-49-101 (4), C.R.S.). Entitlement to rehabilitation is based on an evaluation conducted 120 days after the filing of a claim and may be granted for a period of time not exceeding 26 weeks. With the consent of the Director of the Division of Labor, rehabilitation may be extended for another 26 weeks, but the maximum period of time is 52 weeks. The purpose of vocational rehabilitation is to restore the employee to suitable employment.

A claimant is assigned a vocational rehabilitation vendor by the insurance carrier. Some claimants said that they thought there was collusion between the rehabilitation vendor and the insurance carrier. The committee was told that some rehabilitation vendors harassed claimants through invasion of privacy and the threat of termination of workmen's compensation benefits if claimants did not cooperate. Often the claimants feel that they have no recourse other than to tolerate the harassment rather than to lose their vocational rehabilitation benefits.

On the other side, vocational rehabilitation counselors agree that the legal-adversary process has begun to affect rehabilitation, with a result of distrust and lack of cooperation by claimants in working to accomplish rehabilitation goals. Disincentives to actual rehabilitation exist where the claimant and his attorney use rehabilitation as leverage, a bargaining chip, to increase the value of a cash settlement instead of receiving services.

The committee recommends Bill 2 which will provide for a mediation process. This process requires that the Director of the

Division of Labor resolve disputes relating to vocational rehabilitation services, plans, or the selection of a vocational rehabilitation provider. If a resolution of the dispute cannot be obtained during this process, the parties may then apply for a formal hearing. The director of the division shall monitor vocational rehabilitation services and have final authority over vendor designation. To aid with further reform, the bill requires that the director collect statistics concerning vocational rehabilitation.

Concerning the Duties of the Department of Labor and Employment, and in Connection Therewith Abolishing the Industrial Commission of Colorado and Eliminating or Transferring its Duties and Functions -- Bill 3

Bill 3 abolishes the Industrial Commission of Colorado and transfers existing administrative and adjudicative functions of the commission to other state agencies and to the Court of Appeals. The Industrial Commission now has a myriad of responsibilities including quasi-judicial, administrative, and regulatory functions and these functions would be transferred to other offices as outlined below:

Current Industrial Commission Powers

Transferred to:

Rule-making authority for the Division of Labor, and Division of Employment and Training (for both workmen's compensation and unemployment insurance)

Directors of Division of Labor, and Division of Employment and Training respectively, both under the supervisory authority of the Executive Director of the Department of Labor and Employment

Responsibility for hearing appeals from hearing officers' decisions in workmen's compensation and unemployment benefit cases

The Court of Appeals

Review of administrative decisions of the Director of the Division of Employment and Training with respect to labor disputes and unemployment insurance tax determinations

Review by the Division of Hearing Officers, Department of Administration, as provided in the "State Administrative Procedures Act"

Authority over single entities which are self-insured (the Insurance Commissioner has authority over self-insured pools)

Executive Director of the Department of Labor and Employment

Current Industrial
Commission Powers

Transferred to:

Authority to fix and determine rates for insurance charged by the State Compensation Insurance Fund

Executive Director of the Department of Labor and Employment

Supervisory, enforcement and rule-making functions regarding conditions in certain workplaces

Director of Division of Labor, and the State Board of Pharmacy for persons who work with drugs

Setting of medical fee schedule of payment to health care providers for workmen's compensation injury cases

Director of the Division of Labor

Claimants consistently stated that the workmen's compensation appeals process is too lengthy and too complicated. Attorneys said that appeals to the commission had become overly common, almost expected behavior, and that this procedure was costly to the system. Some testimony indicated there exists a lack of consistency in the decisions of the Industrial Commission. Under this bill, appeals of decisions of hearing officers will be taken directly to the Court of Appeals where the case will be decided on its legal merits. The bill streamlines the administrative process by redistributing functions to more appropriate departments.

Suits Against State Officials Arising Out Of Occupational Injuries --
Bill 4

Suits brought against state officials arising out of occupational injuries are limited to the jurisdiction of Colorado courts by Bill 4. Enactment of the bill will reduce the number of injury suits brought against state officials by limiting such legal actions to Colorado courts, not to the courts of another state or to the United States.

Bill 4 resulted from a memorandum from the office of the Colorado Attorney General concerning a case in which the State Compensation Insurance Fund was sued by a claimant in a federal district court in Texas. The Attorney General protested that the suit was unlawful under the 11th Amendment of the United States Constitution. The 11th Amendment prevents a state from being sued in federal district court unless the plaintiff receives permission from the state to be sued.

The plaintiff argued that, under section 8-51-106, C.R.S., the term "be sued" gave him permission to sue the state in federal district court in Texas. Bill 4 strikes the words "be sued" from the statute to prevent law suits against the state or state officials from being brought in federal courts.

Enforcement of Orders Issued Under the "Workmen's Compensation Act of Colorado" -- Bill 5

In order to provide for the enforcement of proper orders, a mechanism is created in Bill 5 for registering an order of the Director of the Division of Labor, the Industrial Commission, or a hearing officer with a district court. The bill provides for vacating of such order, and any execution thereon, if the director or division certifies that the order has been set aside, modified, reversed, or vacated or if a bond has been filed to guarantee payment.

This bill will assist in preventing delays in payments of benefits by increasing the authority of orders of the Director of the Division of Labor, the Industrial Commission, or a hearing officer. A civil action may be brought in the name of and by the director, and all penalties collected shall be paid to the division and transferred through the state treasurer for credit to the subsequent injury fund. Permitting these orders to be entered in a district court will have the same effect as a judgment of the district court.

Bill 5 is a result of testimony by the Director of the Division of Labor in response to claimants' complaints that a minority of insurance companies or employers fail to pay claims, even when ordered to do so by the division. There are penalties in law concerning lack of payment, but the problem is they are difficult to enforce. Even when the Department of Labor and Employment wins a judgment in district court, local law enforcement agencies often fail to carry out the judgment of the court.

II. Benefits to Claimants

Reducing the Offset for Periodic Death Benefits Granted Under Federal Law or the Law of Another State Pursuant to the "Workmen's Compensation Act of Colorado" -- Bill 6

Under the current Colorado statute, when a worker is killed in an industrial accident, the spouse is entitled to receive workmen's compensation benefits equivalent to two-thirds of the worker's average weekly wage. However, these benefits are subject to being reduced by an amount up to 100 percent, if there are social security benefits payable to the spouse or the child. This "offset" of up to 100 percent serves to decrease dramatically or eliminate the death benefits payable to a spouse or the children. In contrast, a worker who has a disabling injury resulting from an industrial accident and who receives social security disability benefits has an offset of workmen's compensation benefits of 50 percent of benefits payable under social security.

The committee recommends that the offset against death benefits be reduced to 50 percent to bring that benefit in line with the social security offset in case of disability. It should be remembered that

the employee has been contributing 50 percent to social security through F.I.C.A. taxes. Bill 6 reduces the workmen's compensation offset from 100 percent to 50 percent. The reduced offset will apply to awards under social security (the federal Old Age, Survivors, and Disability Insurance Act); for benefits from a workmen's compensation act of another state; or other benefits of the federal government.

This recommendation is submitted despite concerns that any change in the state's offset provisions might negate the offset provisions for disability now allowed under federal law. A federal regulation indicates that any substantial change in state law concerning offsets could adversely effect social security benefits. Opinion at the committee meeting was divided as to whether enactment of Bill 6 might cause offsets to be eliminated and the committee recommended that the issue be given further consideration.

Increasing the Burial Fee Under the "Workmen's Compensation Act of Colorado" -- Bill 7

Bill 7 increases the maximum funeral and burial expense fee to employees payable under the Workmen's Compensation Act from \$1,000 to \$2,000. Testimony indicated that funeral expenses are rarely less than \$2,000 and either the mortuary would incur the loss or the family would have to pay the difference between the burial fee and the actual cost of the funeral. Statistics for Colorado show that from 175 to 200 people a year die due to injuries stemming from a workmen's compensation related case. Therefore, the bill will increase total costs for insurance by about \$175,000 to \$200,000 per year.

A Cost of Living Adjustment to Awards for Permanent Total Disability Under the "Workmen's Compensation Act of Colorado" -- Bill 8

At present, there is no provision for cost-of-living increases for payments to workers who are permanently and totally disabled in industrial accidents. By definition, these workers are unable to secure any type of employment. Their benefits under the Workmen's Compensation Act are frozen as of the date of their accident so any subsequent increases in the permanent total disability rate do not effect them. Without providing for cost-of-living increases to permanently and totally disabled workers, they may be subject to a life of poverty and may become wards of the general public in the welfare system.

Bill 8 amends section 8-51-107 (1), C.R.S., to provide for a cost-of-living increase for an injured employee ruled to be permanently and totally disabled. Commencing on July 1, 1986, and continuing every other year thereafter, the weekly benefit received by the injured employee shall be increased by three percent for the following 24-month period.

The Continuation of the Payment of Medical Benefits Throughout the Period of Disability Under the "Workmen's Compensation Act of Colorado" -- Bill 9

This bill provides that the medical benefits payable as a result of workmen's compensation claims shall be payable throughout the entire period of disability and claims do not need to be reopened. Claimants, however, shall not receive both temporary total disability benefits and income maintenance benefits while engaged in a vocational rehabilitation program. The Workmen's Compensation Act will be clarified in regard to a decision of the Colorado Court of Appeals in Pinkard Construction v. Industrial Commission issued July 19, 1984, which concerned a claimant's right to ongoing medical benefits. The court ruled that a claimant could not be awarded additional medical benefits after the expiration of the period for reopening a case.

Concerning the Mortality Table as Evidence -- Bill 10

This bill updates the Colorado mortality tables, section 13-25-103, C.R.S., to reflect the most recent information available. These tables are used in workmen's compensation claims to make a determination of permanent partial disability benefits payable to a claimant. The bill increases the life expectancy rate of each age within the table. The mortality tables have not been updated since 1977 and average life expectancies have increased since that time.

Limitations on Payments of Workmen's Compensation Benefits to Incarcerated Individuals -- Bill 11

Bill 11 resulted from testimony concerning the payment of workmen's compensation benefits to a person in prison in Colorado. The bill makes individuals ineligible to receive workmen's compensation benefits for any week following conviction during which such individual is confined as a state prisoner in a jail or state prison. If the conviction is overturned upon appeal, the benefit payments would be reinstated.

III. Penalties

An Increase in Compensation Paid Under the "Workmen's Compensation Act of Colorado" as a Result of Employer Conduct -- Bill 12

The current Workmen's Compensation Act provides that an injured employee's benefits can be reduced by 50 percent if the accident was caused by the employee's willful failure to utilize a safety device, willful failure to observe a safety rule, or for intoxication. On the other hand, there are no penalties imposed against an employer, even if the employer's willful and wanton conduct caused the accident. If an employee is penalized for willful conduct which contributes to his

injury, it is suggested that the employer should also face penalties for conduct that leads to injuries. Wanton and willful conduct could include neglect of safety precautions or placing an employee in a work situation in which a known hazard could be eliminated.

Also, the workmen's compensation system precludes an employee from suing the employer for damages due to negligence. Fines imposed by the federal Occupational Safety and Health Administration for safety violations are often minimal, so there may be little incentive, at least as far as penalties are concerned, for an employer to improve safety at the workplace.

Bill 12 provides for a 50 percent increase in all compensation payable to the claimant if the injury was caused by the wanton, willful, or reckless conduct of the employer. Besides resolving the question of fairness, the bill will also serve to reduce accidents, since employers are subject to being penalized for willfully exposing an employee to a known dangerous condition.

The Imposition of Penalties in Connection with the Payment of Lawful Compensation Benefits Under the "Workmen's Compensation Act of Colorado" -- Bill 13

A common complaint heard in public testimony concerned the unreasonable actions of some insurance companies in refusing to pay benefits or in delaying payment of benefits to injured workers. While most insurance companies do pay benefits on time, claimants and claimants' attorneys say that a significant minority of companies have a continuing history or pattern of unreasonable actions. Specific problems mentioned included failure to investigate a claim until the injured employee takes the claim to a hearing, delay in issuing benefit checks, delay in payment of medical bills, and making unreasonable appeals in the workmen's compensation system.

Bill 13 imposes a penalty, payable to a claimant, equal to 50 percent of all compensation and benefits due to a claimant if the employer or insurance company: (a) fails to investigate a claim in an adequate or timely manner; (b) unreasonably denies a compensable claim; or (c) fails to pay medical bills and vocational rehabilitation expenses within 30 days after presentation of the bill or statement and within 15 days after receiving an overdue notice on bills and statements for which they are liable. Penalties are also imposed if a compensation check is more than five days late or if benefits are improperly terminated or suspended.

A mechanism is also included whereby an employer may deny admission of liability on reasonable grounds throughout the entire process of the case. The current law makes it impossible for an employer to ever withdraw an admission of liability, even if that admission was based on inaccurate information.

IV. Self-insured Pools

Inclusion of a School District's Annual Tax Levy for Workmen's Compensation Self-Insurance Within the Mill Levy Limit -- Bill 14

Bill 14 clarifies what was believed to be previous legislative intent that school districts may include an annual tax levy for liability and property damage self-insurance, including workmen's compensation, pursuant to section 8-44-110 (2), C.R.S. Under present law the levy is not to exceed one and one-half mills, or a lesser amount adequate for such reserve fund. The Commissioner of Insurance is to determine the need for continuation of the mill levy for the insurance reserve fund.

The bill was brought to the attention of the committee by the Adams County Board of Cooperative Educational Services (BOCES) after the Insurance Commissioner advised the BOCES that, after July 1, 1986, it could no longer use the mill levy for its workmen's compensation self-insurance program unless the current statute was clarified to specifically allow this use. The bill provides appropriate cross-references to the Workmen's Compensation Act and to the Governmental Immunity Act.

V. Unemployment Insurance

In 1935, the federal Social Security Act became law which required all 50 states to enact their own unemployment compensation legislation. Colorado's unemployment insurance program was established in 1936, and the first payment was issued in January, 1939. The purpose of unemployment insurance is to:

- take care of economic hardship of individuals who are unemployed due to no fault of their own; and
- maintain economic stability in communities by preventing drastic changes in cash flow.

To receive these benefits an unemployed individual must meet specific criteria and must be able to work, be actively seeking work, and be willing to accept suitable work. Currently \$213 per week is the maximum payment, and \$142 per week is the average payment. The benefit payments are based on the employee's earned wages. The average claimant stays on unemployment insurance for 11.5 weeks. It should be noted that, of the 50 states, Colorado ranks third in number of disqualifications and denials and ranks 35th in tax rate based on taxable wages. This taxable wage base is the basis for the funding of the unemployment insurance program and is derived from a tax on employers.

The employer contribution rate is expressed in terms of a percentage of wages paid by an employer. The rate is applied to the first \$8,000 of gross annual earnings of each employee. The contributions are paid quarterly by the employer into the unemployment compensation fund. A separate account is maintained for each employer and his contributions are credited to his account. Unemployment benefits paid on behalf of the employer are debited to this account.

The contribution rate for an individual employer is based on two variables: the individual employer's employment experience over the previous year, over which he has a degree of control; and the balance in the unemployment compensation trust fund, over which he has little control.

During the recession of the early 1980's, the trust fund became insolvent. The Department of Labor and Employment was forced to borrow money from the federal government at an interest rate of ten percent in order to continue making unemployment insurance payments. The borrowed funds paid back to the federal government totaled over \$220 million in principal and \$15 million in interest.

Concerning the "Colorado Employment Security Act", and in Connection Therewith, Changing Definitions, Tax Rates to Employers, and Eligibility Requirements -- Bill 15

A broadly representative task force was formed by the Department of Labor and Employment to deal with the question of solvency of the Unemployment Insurance Trust Fund. The task force began its meetings in August and reported to the committee in October. Participation in the task force included members of the General Assembly, representatives of large and small industries and businesses, and organized labor. Bill 15 contains a method of reaching the major goal of the task force, which is to assure that the unemployment compensation fund remains solvent. The purpose of the task force was to find a way to increase the reserves in the fund from the present amount of approximately \$76 million to nearly \$400 million in 1988.

This target for 1988 is necessary to carry a reserve large enough to avoid borrowing during the projected economic downturn in 1989 and 1990, because, by 1990, it is anticipated that the fund would be back down to \$125 million in reserve. One of the items that adds credibility to the need for increased taxes for unemployment insurance is that the forecasts from the Department of Labor and Employment as to the status of reserves in the fund have been extremely accurate. The projections now provide reason to believe that the fund reserves will not be adequate unless the revenues are increased in the 1986 session.

The proposal received from the task force was modified by committee action to provide a different method of determining the tax on employers. At present the tax liability of employers is determined by their experience rating for earnings up to \$8,000 per year, per

employee. The task force recommended that the taxable base be raised first to \$9,000 and then to \$10,000 per employee. The committee recommends, however, that the entire payroll ought to be subject to this tax, up to \$22,000. Bill 15 provides for increments over a five year period, 20 percent per year, to reach this figure.

The reason for using \$22,000 as the maximum tax rate is that it is the salary an employee needs to earn to draw the maximum weekly benefits under the unemployment compensation system. As the system is now established, the tax burden is proportionally heavier on employers whose employees are earning near the \$8,000 level (e.g., fast food or retail sales employees) than those who have a greater percentage of employees earning up to \$22,000 per year. Further analysis of the impact of this proposal will be completed prior to the 1986 session.

VI. Other Topics Considered

Wage Differential Benefits

In hearings concerning workmen's compensation, testimony was provided by proponents of a wage differential or wage loss benefit plan for permanent partially disabled claimants. Under this income replacement system, benefits are payable when the injured worker has reached maximum medical improvement after injury, and the worker is able to earn some wages, although the amount earned is less than the level earned prior to injury. The wage differential benefit would compensate for any difference between an employee's salary before the injury and present salary.

Statistics derived from other states show that 80 percent of those claimants receiving permanent partial disability benefits had returned to the same job, at the same salary, with no income loss. Therefore, some claimants were being compensated at about 400 times the amount of money they needed. Yet, the other 20 percent of the workers suffered significant income loss because they could not return to work at the same income. Only those employees that lose a significant amount of wages would qualify for the program.

A wage differential benefit program does not necessarily cut costs. In fact, statistics from other states indicate that administrative costs may increase because cases are kept open for a longer period of time. However, the purpose of the plan is that the money is directed to the people who need it the most, but away from those employees who have sufficient income.

Experts on the wage differential concept, testifying before the committee, emphasized that the state should not enact legislation creating this type of benefit payment system without first performing an in-depth study. There needs to be a significant collection of data to determine if the state has problems with its permanent partial disability payments, the causes of the problems, and whether it would

be beneficial to establish the program in Colorado. The committee did not take any action to implement a wage differential program at this time.

Oliver Court Decision

An issue brought to the attention of the committee by several subcontractors concerned a May, 1984, Colorado Court of Appeals decision in the case of Oliver Construction Company v. the Industrial Commission (680 P. 2d 1308).

A summary of this case follows. The sole proprietor of a company subcontracted to do work for a prime contractor. The sole proprietor had obtained workmen's compensation insurance for his employees but did not have coverage for himself. When the sole proprietor was injured on this job, he applied for workmen's compensation insurance benefits from the prime contractor. The court ruled that, because the injured sole proprietor was not covered by his own insurance policy, he had the right to receive benefits as an employee of the prime contractor.

The Colorado Workmen's Compensation Act does not specifically require the sole proprietor or working partners of a business to be covered by a workmen's compensation insurance policy and apparently many persons have assumed that the prime contractor would not be liable. However, in light of the Oliver decision, the State Compensation Insurance Fund, with whom the prime contractor had been insured, has advised prime contractors that they will be liable for injuries of sole proprietors under subcontract if the sole proprietors are uninsured. Therefore, prime contractors will require that subcontractors who are sole proprietors have proof of workmen's compensation insurance coverage.

Representatives from businesses who appeared before the committee had received a notice from the state fund informing them of the Oliver decision, and requiring that sole proprietors working as subcontractors have workmen's compensation insurance that includes coverage for themselves. The committee was told that the costs incurred by this requirement would present a substantial financial hardship on their businesses and would result in higher costs, for example, construction costs, passed on to the consumer. Some persons noted that they had their own health insurance to cover injuries which they might incur on the job, and that they were being penalized for the actions of one sole proprietor who had failed to insure himself.

To remedy this situation, the committee asked interested parties to prepare legislation addressing the problem. Mr. James Henderson of the National Federation of Independent Business distributed two versions of proposed legislation, both which excluded a self-employed person or working partner from the definition of "employee" in the workmen's compensation statute.

Committee members pointed out problems with language in the bills because there was still no method for prime contractors to determine whether a subcontractor has purchased workmen's compensation insurance. Further, the bills did not define who is liable if the subcontractor is injured and without insurance. Under these proposals the question of liability still might need to be resolved through the tort system, potentially resulting in greater costs than the workmen's compensation system by presenting unlimited liability for the prime contractor. The committee decided not to recommend the legislation but the issue may be considered again in the regular legislative session.

Proposed Legislation Not Accepted by the Legislative Council

The committee recommended two additional bills that were not approved by the Legislative Council for submission during the 1986 session. These two bills are briefly summarized below and a copy of each bill is on file in the Legislative Council and Legislative Drafting Office for review by any interested person.

Creating a State Compensation Insurance Authority to Replace the State Compensation Insurance Fund. The committee recommended a bill which would abolish the Division of the State Compensation Insurance Fund and create a State Compensation Insurance Authority as a quasi-public board. The authority would continue to offer workmen's compensation insurance and provide all the services previously provided by the division, but with greater autonomy than now exists.

This bill was submitted because management of the state fund is often restricted in their method of operation under the current administrative system. The Department of Labor and Employment suggested that the state fund be run more like a private business with a quasi-public board to be able to operate more efficiently by responding to cycles in business.

The Legislative Council raised several questions regarding the constitutionality of such a measure and voted not to submit the bill to the 1986 session.

Baring Compensability for Workmen's Compensation Cases Due to Stress. The committee requested that the Legislative Drafting Office formulate legislation in response to the Colorado Supreme Court opinion of September 30, 1985, in the case of Streeb v. City of Boulder (671 P.2d 436), which ruled that a worker may be entitled to workmen's compensation benefits for stress-related illnesses. The committee voted to recommend that Colorado law specifically disallow recovery of workmen's compensation benefits due to stress on the job. The Legislative Council did not consider this bill for submission to the 1986 session since the interim committee voted on the concept of the bill only and did not formally vote on the final bill draft.

BILL 1

A BILL FOR AN ACT

1 CONCERNING PROCEDURES FOR HEARINGS HELD PURSUANT TO THE
2 "WORKMEN'S COMPENSATION ACT OF COLORADO".

Bill Summary

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

Permits the director of the division of labor to electronically record hearings under the "Workmen's Compensation Act of Colorado" and to provide for the preparation and certification of a transcript from such recording. Repeals a provision that required the notice sent by the division to include a statement of the issues.

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

4 SECTION 1. 8-53-106 (1), Colorado Revised Statutes, as
5 amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6 8-53-106. Transcripts. (1) All testimony and argument
7 of all hearings held pursuant to section 8-53-103 concerning
8 any issue arising under articles 40 to 54 of this title shall
9 either be taken verbatim by a hearing reporter or shall be
10 electronically recorded by the division.

1 SECTION 2. 8-53-106 (2) and (3), Colorado Revised
2 Statutes, as amended, are amended to read:

3 8-53-106. Transcripts. (2) Any party in interest may
4 order a transcript AT ANY TIME from a hearing reporter ~~at any~~
5 ~~time~~ OR, IF THE HEARING IS RECORDED, FROM THE DIVISION. For
6 purposes of a petition to review, a transcript shall be all
7 testimony taken which is relevant to the issue being appealed.
8 In the preparation of transcripts, hearing reporters shall
9 give preference to transcripts as part of the record in a
10 petition to review. Hearing reporters shall be paid for
11 transcripts and copies at the rate set by the supreme court
12 for reporters in courts of record.

13 (3) Upon a satisfactory showing to the director in
14 writing that a party petitioning to review is indigent and
15 unable to pay for the preparation of the transcript, the
16 director may order a transcript to be prepared at the
17 division's expense, and, IF THE TRANSCRIPT WAS PREPARED BY A
18 HEARING REPORTER, the division shall pay the hearing reporter
19 the fee therefor.

20 SECTION 3. 8-53-107, Colorado Revised Statutes, as
21 amended, is amended to read:

22 8-53-107. Transcript certified - evidence. A
23 transcribed copy of the evidence and proceedings, or any
24 specific part thereof, of any investigation or hearing ~~taken~~
25 ~~by a hearing reporter appointed by~~ WHICH WAS PREPARED AT THE
26 DIRECTION OF the director ~~or commission; being certified by~~
27 ~~such reporter~~ SHALL BE CERTIFIED BY THE HEARING REPORTER OR

1 THE DIVISION IF THE HEARING WAS RECORDED, to be a true and
2 correct transcript of the testimony on the investigation or
3 hearing of a particular witness, or a specific part thereof,
4 carefully compared to original notes OR TO THE ORIGINAL
5 RECORDING, and to be a correct statement of the evidence and
6 proceedings had on such investigation or hearing. ~~so~~
7 ~~purporting--to--be--taken--and--subscribed;~~ A TRANSCRIBED COPY
8 WHICH IS SO CERTIFIED may be received as evidence by the
9 director, the commission, and any court with the same effect
10 as if ~~such-reporter~~ THE PERSON WHO PREPARED THE TRANSCRIPT
11 were present and testified to the facts so certified.

12 SECTION 4. Repeal. 8-53-109 (1) (a), Colorado Revised
13 Statutes, as amended, is repealed.

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

BILL 2

A BILL FOR AN ACT

1 CONCERNING THE SUPERVISION OF VOCATIONAL REHABILITATION
2 PROVIDERS UNDER THE "WORKMEN'S COMPENSATION ACT OF
3 COLORADO".

Bill Summary

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

Requires the director of the division of labor to resolve disputes relating to any vocational rehabilitation services or plans or the selection of a vocational rehabilitation provider. Requires the director of the division of labor to supervise vocational rehabilitation services. Allows for the collection of statistics from vocational rehabilitation providers and for the publication of such information, subject to the open records law.

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

5 SECTION 1. 8-49-101, Colorado Revised Statutes, as
6 amended, is amended BY THE ADDITION OF A NEW SUBSECTION to
7 read:

8 8-49-101. Employer must furnish medical and vocational
9 aid - approval of plan. (4.5) The director shall attempt to

1 resolve disputes or differences resulting from the interaction
2 of employees, vocational rehabilitation providers, insurance
3 carriers, and employers regarding any vocational
4 rehabilitation plans or services or the selection of a
5 vocational rehabilitation provider. Such dispute resolution
6 efforts may be sought by any of the parties at any time. If
7 resolution of the differences cannot be obtained, the parties
8 may apply for a hearing pursuant to article 53 of this title.

9 SECTION 2. Article 49 of title 8, Colorado Revised
10 Statutes, as amended, is amended BY THE ADDITION OF A NEW
11 SECTION to read:

12 8-49-102. Vocational rehabilitation services. (1) The
13 director shall monitor and supervise vocational rehabilitation
14 services, including, but not limited to, making determinations
15 regarding the delivery of vocational rehabilitation services.

16 (2) The director of the division may require the
17 collection of statistics from any vocational rehabilitation
18 provider and may publish such information, subject to the
19 requirements of part 2 of article 72 of title 24, C.R.S.

20 SECTION 3. Effective date. This act shall take effect
21 July 1, 1986.

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

BILL 3

A BILL FOR AN ACT

1 CONCERNING THE DUTIES OF THE DEPARTMENT OF LABOR AND
2 EMPLOYMENT, AND IN CONNECTION THEREWITH ABOLISHING THE
3 INDUSTRIAL COMMISSION OF COLORADO AND ELIMINATING OR
4 TRANSFERRING ITS DUTIES AND FUNCTIONS.

Bill Summary

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

Abolishes the industrial commission of Colorado and, in connection therewith, transfers existing administrative functions of the commission to other state agencies.

Transfers the industrial commission's rule-making authority for the division of labor and the division of employment and training to the directors of each division respectively, under the supervisory authority of the executive director of the department of labor and employment.

Provides that appeals from decisions of hearing officers in workmen's compensation and unemployment compensation cases shall be to the court of appeals.

Allows parties aggrieved by administrative decisions of the director of the division of labor and of the director of the division of employment and training with respect to labor disputes and unemployment insurance tax determinations to seek judicial review as provided in the "State Administrative Procedure Act".

Transfers the industrial commission's supervisory authority over entities which self-insure to the executive director of the department of labor and employment. Transfers

the industrial commission's authority to fix and determine rates for insurance charged by the state compensation insurance fund to the executive director of the department of labor and employment.

Transfers the industrial commission's supervisory, enforcement, and rule-making functions regarding working conditions to the director of the division of labor and the state pharmacy board.

Makes conforming amendments.

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

2 SECTION 1. 24-1-121 (2), Colorado Revised Statutes, 1982
3 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
4 read:

5 24-1-121. Department of labor and employment - creation.
6 (2) The industrial commission of Colorado, created by article
7 1 of title 8, C.R.S., and its powers, duties, and functions,
8 except those powers, duties, and functions transferred to the
9 state board of pharmacy, are transferred by a type 3 transfer
10 to the department of labor and employment, and the industrial
11 commission of Colorado is abolished.

12 SECTION 2. 8-1-101 (1) and (11), Colorado Revised
13 Statutes, are amended, and the said 8-1-101 is further amended
14 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

15 8-1-101. Definitions. (1) "Commission" means the
16 industrial commission of Colorado, AS SAID COMMISSION EXISTED
17 PRIOR TO JULY 1, 1986.

18 (2.5) "Department" means the department of labor and
19 employment.

20 (8.5) "Executive director" means the executive director
21 of the department of labor and employment.

1 (11) "Order" means any decision, ~~on--review;~~ rule,
2 regulation, requirement, or standard promulgated by the
3 ~~commission;-or-any-determination-arrived-at-or--decision--made~~
4 by the director.

5 SECTION 3. 8-1-104 (3), Colorado Revised Statutes, is
6 amended to read:

7 8-1-104. Director - seals. (3) All courts of the state
8 shall take judicial notice of said ~~seals~~ SEAL. Any copy of an
9 order, award, or record of ~~the--commission--or~~ the director
10 under ~~their-respective-seals~~ HIS SEAL shall be received in all
11 courts as evidence as if such copy were the original thereof.

12 SECTION 4. 8-1-105, Colorado Revised Statutes, as
13 amended, is amended to read:

14 8-1-105. Offices and supplies. The ~~commission-and-the~~
15 division shall have offices in the city and county of Denver
16 and at such other places in the state as the executive
17 director of the department may direct. Each THE DIVISION
18 shall be provided with suitable office space by the office of
19 state planning and budgeting. The ~~commission-and-the~~ division
20 ~~are~~ IS authorized to procure all necessary office furniture,
21 stationery, books, periodicals, maps, instruments, apparatus,
22 appliances, and other supplies and incur such other expenses
23 as necessary, and the same shall be paid for in the same
24 manner as other expenses authorized by law. The ~~commission;~~
25 director or any deputy or referee of the division may hold
26 sessions at any place other than the city and county of Denver
27 when the convenience of the ~~commission;~~ director, deputy,

1 referee, or parties interested requires.

2 SECTION 5. 8-1-106 (3), Colorado Revised Statutes, is
3 amended to read:

4 8-1-106. Records - sessions. (3) The sessions of the
5 ~~commission~~; director or any deputy or referee of the division
6 shall be open to the public and shall stand and be adjourned
7 without further notice thereof on the record. All proceedings
8 of the ~~commission--or~~ division shall be shown on ~~their~~
9 ~~respective~~ ITS records, which shall be public records.

10 SECTION 6. 8-1-107 (2) (a), (2) (d), (2) (i), and (2)
11 (k), Colorado Revised Statutes, as amended, are amended, and
12 the said 8-1-107 (2) is further amended BY THE ADDITION OF THE
13 FOLLOWING NEW PARAGRAPHS, to read:

14 8-1-107. Powers and duties of director.

15 (2) (a) Appoint advisors who, without compensation, shall
16 advise the director relative to the duties imposed upon the
17 director by articles 1 to 18 of this title ~~article-2-of-title~~
18 9; and part 3 of article 34 of title 24, C.R.S.;

19 (d) Enforce the provisions of ~~paragraph---(g)--of~~
20 ~~subsection--(1)--of--this--section--and~~ sections ~~9-2-101--to~~
21 ~~9-2-103--and~~ 22-32-124 ~~C.R.S.;~~ AND 23-71-122, C.R.S.;

22 (i) Accept, use, disburse, and administer all federal
23 aid or other property, services, and moneys allotted to the
24 division as part of any grant-in-aid safety program
25 authorized by an act of congress and to make such agreements,
26 not inconsistent with any act of congress and the laws of this
27 state, as may be required as a condition precedent to

1 receiving such funds or other assistance. Such acceptance,
2 conditions, and agreement shall not be effective unless and
3 until the director has recommended to and received the written
4 approval of the governor AND the executive director of the
5 department. ~~and--the--commission:~~ The state treasurer is
6 designated custodian of all funds received pursuant to this
7 paragraph (i) from the federal government, and he shall hold
8 such funds separate and distinct from state funds and is
9 authorized to make disbursements from such funds for the
10 designated purpose or administrative costs which may be
11 provided in such grants-in-aid, upon warrants issued by the
12 controller and upon the voucher of the director.

13 (k) Collect and collate statistical and other
14 information relating to the work under his jurisdiction. All
15 materials of the division circulated in quantity outside the
16 executive branch shall be issued in accordance with the
17 provisions of section 24-1-136, C.R.S. The director shall
18 cause to be printed and, upon application, furnished free of
19 charge to any employer or employee such blank forms as he
20 shall deem required for the proper and efficient
21 administration of articles 1 to 18 of this title ~~article-2-of~~
22 ~~title--9;~~ and part 3 of article 34 of title 24, C.R.S., all
23 such records to be kept in the offices of the division.
24 Copies of orders, regulations, and rules of procedure shall be
25 made for distribution in a manner to constitute sufficient
26 publication as required by law.

27 (o) Ascertain, fix, and order such reasonable standards,

1 rules, or regulations for the construction, repair, and
2 maintenance of carnivals and amusement parks and provide for
3 annual registration fees not to exceed one hundred dollars and
4 for the financial responsibilities of operators;

5 (p) Adopt reasonable and proper rules and regulations
6 relative to the exercise of his powers and proper rules and
7 regulations to govern the proceedings of the division and to
8 regulate the manner of investigations and hearings and to
9 amend said rules and regulations from time to time in his
10 discretion. Such rules and regulations, and amendments
11 thereto, shall be made in accordance with section 24-4-103,
12 C.R.S.

13 SECTION 7. 8-1-108 (4), Colorado Revised Statutes, is
14 amended to read:

15 8-1-108. Orders effective, when - validity presumed.
16 (4) Substantial compliance with the requirements of this
17 article shall be sufficient to give effect to the orders or
18 awards of the director or commission; and they shall not be
19 declared inoperative, illegal, or void for any omission of a
20 technical nature with respect thereto.

21 SECTION 8. 8-1-115 (2), Colorado Revised Statutes, is
22 amended to read:

23 8-1-115. Information not public - penalty for divulging.
24 (2) Any person in the employ of the division who divulges any
25 confidential information to any person other than the director
26 ~~or-the-commission~~ shall be punished by a fine of not more than
27 one thousand dollars and shall thereafter be disqualified from

1 holding any appointment or employment with any department
2 under the state.

3 SECTION 9. 8-1-118, Colorado Revised Statutes, is
4 amended to read:

5 8-1-118. Rules of evidence - procedure. The director,
6 or persons designated by him, shall not be bound by the usual
7 common law or statutory rules of evidence or by any technical
8 or formal rules of procedure, other than as provided in this
9 article or by the rules of the ~~commission~~ DIVISION, but he may
10 make such investigations in such manner as in his judgment are
11 best calculated to ascertain the substantial rights of the
12 parties and to carry out justly the spirit of this article.

13 SECTION 10. 8-1-119 (2), Colorado Revised Statutes, as
14 amended, is amended to read:

15 8-1-119. Record of proceedings. (2) A transcribed copy
16 of the evidence and proceedings, or any specific part thereof,
17 of any investigation or hearing taken by a shorthand reporter
18 appointed by the director, being certified by such shorthand
19 reporter to be a true and correct transcript of the testimony,
20 or a specific part thereof, on the investigation or hearing of
21 a particular witness, carefully compared by him with his
22 original notes, and to be a correct statement of the evidence
23 and proceedings had on such investigation or hearing so
24 purporting to be taken and subscribed, may be received as
25 evidence by ~~the commission~~; the director or any agent of the
26 division and by any court with the same effect as if such
27 shorthand reporter were present and testified to the facts so

1 certified. A copy of such transcript shall be furnished on
2 demand to any party upon the payment of fifty cents per folio.

3 SECTION 11. 8-1-125 (7), Colorado Revised Statutes, as
4 amended, is amended to read:

5 8-1-125. Disputes - jurisdiction - notice of changes in
6 wages or hours of labor - penalty. (7) If either party uses
7 this or any other provision of articles 1 to 18 of this title
8 ~~article-2-of-title-9~~; and part 3 of article 34 of title 24,
9 C.R.S., for the purpose of unjustly maintaining a given
10 condition of affairs through delay, such party is guilty of a
11 misdemeanor and, upon conviction thereof, shall be punished by
12 a fine of not more than one hundred dollars.

13 SECTION 12. 8-1-130, Colorado Revised Statutes, is
14 amended to read:

15 8-1-130. Judicial review. The director has full power
16 to hear and determine all questions within his jurisdiction,
17 and his findings, award, and order issued thereon shall be
18 final ~~except--as-provided-in-this-article~~ AGENCY ACTION. Any
19 person affected by any finding, order, or award of the
20 director may SEEK JUDICIAL REVIEW AS PROVIDED IN SECTION
21 24-4-106, C.R.S. ~~petition-the-commission-for-a-review--of--the~~
22 ~~reasonableness--of--such--finding;--order;--or-award:--Any-such~~
23 ~~petition-shall-be-verified-and--shall--specify--the--findings;~~
24 ~~order;--or--award--upon--which--a--review-is-desired-and-every~~
25 ~~reason-why--such--findings;--order;--or--award--is--considered~~
26 ~~unreasonable:--The-petitioner-is-deemed-to-have-finally-waived~~
27 ~~all--objections--to-any-irregularities-in-the-findings;--order;~~

1 or-award-upon-which-a-review-is-sought-other--than--those--set
2 forth-in-the-petition:

3 SECTION 13. 8-1-139, Colorado Revised Statutes, is
4 amended to read:

5 8-1-139. Failure of witness to appear or testify -
6 penalty. (1) Any person who fails, refuses, or neglects to
7 appear and testify, or to produce books, papers, and records
8 as required by the subpoena duly served upon him, or as
9 ordered by the director, ~~or-the-commission~~ is guilty of a
10 misdemeanor and, upon conviction thereof, shall be punished by
11 a fine of not more than one hundred dollars or by imprisonment
12 in the county jail for not more than thirty days for each day
13 or part of day that the person is in default.

14 (2) The district court of the county wherein such person
15 resides or of the city and county of Denver, or of the county
16 wherein said person has been ordered to appear and testify or
17 to produce such books, papers, and records, upon application
18 of the director or his agent, ~~or-the-commission~~; may issue an
19 order compelling the attendance and testimony of witnesses and
20 the production of books, papers, and records before such
21 director or his agent. ~~or-the-commission~~:

22 SECTION 14. 8-1-140 (2), Colorado Revised Statutes, is
23 amended to read:

24 8-1-140. Violation - penalty. (2) If any employer,
25 employee, or any other person fails, refuses, or neglects to
26 perform any duty lawfully enjoined within the time prescribed
27 by the director ~~or-the-commission~~ or fails, neglects, or

1 refuses to obey any lawful order made by the director ~~or--the~~
2 ~~commission~~ or any judgment or decree made by any court as
3 provided in this article, for each such violation, such
4 employer, employee, or any other person shall pay a penalty of
5 not less than one hundred dollars for each day such violation,
6 failure, neglect, or refusal continues.

7 SECTION 15. 8-1-141, Colorado Revised Statutes, is
8 amended to read:

9 8-1-141. Each day separate offense. Every day during
10 which any employer or officer or agent thereof or any employee
11 fails to comply with any lawful order of the director ~~or--the~~
12 ~~commission~~ or to perform any duty imposed by this article
13 constitutes a separate and distinct violation thereof.

14 SECTION 16. 8-1-143, Colorado Revised Statutes, is
15 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

16 8-1-143. Costs - counsel for director - attorney general
17 and district attorney to enforce. (1) In proceedings to
18 review any finding, order, or award, costs as between the
19 parties shall be allowed in the discretion of the court, but
20 no costs may be taxed against the director or the division.

21 (2) In any action for the review of any finding, order,
22 or award and upon appellate review thereof, it is the duty of
23 the district attorney of the county wherein said action is
24 pending, or the attorney general if requested by the director
25 to appear on his behalf, whether any other party defendants
26 should have appeared or been represented in the action or not.
27 Upon request of the director, the attorney general or the

1 district attorney of any district or county shall institute
2 and prosecute the necessary proceedings for the enforcement of
3 any of the provisions of this article, or for the recovery of
4 any money due the division, or any penalty provided for in
5 this article, and shall defend in like manner all suits,
6 actions, or proceedings brought against the director. No
7 district attorney or any assistant or deputy district
8 attorney, nor the attorney general or deputy or assistant
9 attorney general within this state, shall appear in any
10 proceedings, hearing, investigation, arbitration, award, or
11 compensation matter, except as attorney for and on behalf of
12 said director and employees of the division.

13 SECTION 17. 8-1-146, Colorado Revised Statutes, is
14 amended to read:

15 8-1-146. Effect of transfer of powers, duties, and
16 functions. (1) The division of labor and the division of the
17 state compensation insurance fund to which powers, duties, and
18 functions of the commission are transferred shall be the
19 successors in every way, with respect to such powers, duties,
20 and functions, except as otherwise provided in this article.
21 Every act performed in the exercise of such powers, duties,
22 and functions by the division of labor or the division of the
23 state compensation insurance fund shall be deemed to have the
24 same force and effect as if performed by the commission prior
25 to July 1, 1969. Whenever the commission is referred to or
26 designated by any law, contract, insurance policy, bond, or
27 other document, such reference or designation shall be deemed

1 to apply to the division of labor or the division of the state
2 compensation insurance fund, as the case may be, in which the
3 powers, duties, and functions of the commission are vested by
4 this article.

5 (2) THE DIVISION OF LABOR, THE DIVISION OF EMPLOYMENT
6 AND TRAINING, AND THE STATE BOARD OF PHARMACY WHICH PERFORM
7 ANY OF THE POWERS, DUTIES, AND FUNCTIONS PERFORMED BY THE
8 INDUSTRIAL COMMISSION PRIOR TO ITS ABOLISHMENT ON JULY 1,
9 1986, SHALL BE THE SUCCESSORS IN EVERY WAY WITH RESPECT TO
10 SUCH POWERS, DUTIES, AND FUNCTIONS, EXCEPT AS OTHERWISE
11 PROVIDED IN THIS ARTICLE. EVERY ACT PERFORMED IN THE EXERCISE
12 OF SUCH POWERS, DUTIES, AND FUNCTIONS SHALL BE DEEMED TO HAVE
13 THE SAME FORCE AND EFFECT AS IF PERFORMED BY THE COMMISSION
14 PRIOR TO JULY 1, 1986. WHENEVER THE COMMISSION IS REFERRED TO
15 OR DESIGNATED BY ANY LAW, CONTRACT, INSURANCE POLICY, BOND, OR
16 OTHER DOCUMENT, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED
17 TO APPLY TO THE DIVISION OF LABOR, THE DIVISION OF EMPLOYMENT
18 AND TRAINING, OR THE STATE BOARD OF PHARMACY, AS THE CASE MAY
19 BE.

20 SECTION 18. 8-1-147, Colorado Revised Statutes, is
21 amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
22 read:

23 8-1-147. Actions, suits, or proceedings not to abate by
24 reorganization - maintenance by or against successors.

25 (3) No suit, action, or other proceeding, judicial or
26 administrative, lawfully commenced by or against the
27 commission or by or against any officer or member of the

1 commission in his official capacity or in relation to the
2 discharge of his official duties prior to July 1, 1986, shall
3 abate because of the abolishment of the commission effective
4 July 1, 1986. The court may allow the suit, action, or other
5 proceeding to be maintained by or against the division of
6 labor, the division of employment and training, or the state
7 board of pharmacy, as the case may be, or any officer
8 affected.

9 (4) No criminal action commenced or which would have
10 been commenced by the state shall abate because of the
11 abolishment of the commission effective July 1, 1986.

12 SECTION 19. 8-1-148, Colorado Revised Statutes, is
13 amended to read:

14 8-1-148. Rules, regulations, rates, and orders adopted
15 prior to article - abolishment of commission - continued.

16 (1) All rules, regulations, rates, orders, and awards of the
17 commission lawfully adopted prior to July 1, 1969, shall
18 continue to be effective until revised, amended, repealed, or
19 nullified pursuant to law.

20 (2) ALL RULES, REGULATIONS, RATES, ORDERS, AND AWARDS OF
21 THE COMMISSION LAWFULLY ADOPTED PRIOR TO JULY 1, 1986, SHALL
22 CONTINUE TO BE EFFECTIVE UNTIL REVISED, AMENDED, REPEALED, OR
23 NULLIFIED PURSUANT TO LAW.

24 SECTION 20. 8-1-149, Colorado Revised Statutes, is
25 amended to read:

26 8-1-149. Transfer of officers, employees, and property.

27 (1) On July 1, 1969, such officers and employees who were

1 engaged prior to said date in the performance of powers,
2 duties, and functions of the commission and who, in the
3 opinion of the executive director of the department of labor
4 and employment and the governor, shall be necessary to perform
5 the powers, duties, and functions of the division of labor or
6 the division of the state compensation insurance fund shall
7 become officers and employees of the division of labor or the
8 division of the state compensation insurance fund, as the case
9 may be, and shall retain all rights to the state personnel
10 system and retirement benefits under the laws of the state,
11 and their services shall be deemed to have been continuous.
12 All transfers and any abolishment of positions of personnel in
13 the state personnel system shall be made and processed in
14 accordance with state personnel system laws and rules and
15 regulations.

16 (2) ON JULY 1, 1986, ALL EMPLOYEES OF THE COMMISSION
17 WHOSE PRINCIPAL DUTIES ARE CONCERNED WITH THE DUTIES AND
18 FUNCTIONS TRANSFERRED TO THE DEPARTMENT OF LABOR AND
19 EMPLOYMENT WHOSE EMPLOYMENT IN THE DEPARTMENT IS DEEMED
20 NECESSARY BY THE EXECUTIVE DIRECTOR TO CARRY OUT THE PURPOSES
21 OF THIS ARTICLE SHALL BE TRANSFERRED TO THE DEPARTMENT AND
22 SHALL BECOME EMPLOYEES THEREOF. SUCH EMPLOYEES SHALL RETAIN
23 ALL RIGHTS TO STATE PERSONNEL SYSTEM AND RETIREMENT BENEFITS
24 UNDER THE LAWS OF THIS STATE, AND THEIR SERVICES SHALL BE
25 DEEMED TO HAVE BEEN CONTINUOUS. ALL TRANSFERS AND ANY
26 ABOLISHMENT OF POSITIONS IN THE STATE PERSONNEL SYSTEM SHALL
27 BE MADE AND PROCESSED IN ACCORDANCE WITH STATE PERSONNEL

1 SYSTEM LAWS AND RULES AND REGULATIONS.

2 (3) ON JULY 1, 1986, ALL ITEMS OF PROPERTY, REAL AND
3 PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS,
4 DOCUMENTS, AND RECORDS OF THE COMMISSION PERTAINING TO THE
5 DUTIES AND FUNCTIONS TRANSFERRED TO THE DEPARTMENT OF LABOR
6 AND EMPLOYMENT, DIVISION OF LABOR, DIVISION OF EMPLOYMENT AND
7 TRAINING, AND THE STATE BOARD OF PHARMACY, PURSUANT TO SECTION
8 24-1-121 (2), C.R.S., ARE TRANSFERRED TO THOSE DIVISIONS AND
9 THAT BOARD, RESPECTIVELY, AND BECOME THE PROPERTY THEREOF.

10 SECTION 21. 8-1-151, Colorado Revised Statutes, as
11 amended, is amended to read:

12 8-1-151. Public safety inspection fund created. There
13 is hereby created in the state treasury a fund to be known as
14 the public safety inspection fund, which shall consist of
15 moneys credited thereto pursuant to ~~section-8-1-107-(1)-(g)~~
16 and sections 9-7-108.5 AND 22-32-124 (2) and ~~--23-71-122--(1)~~
17 ~~(v)~~; C.R.S. All moneys in the public safety inspection fund
18 shall be subject to annual appropriation by the general
19 assembly for the public safety inspection activities of the
20 division of labor. The moneys in the public safety inspection
21 fund shall not be credited or transferred to the general fund
22 or any other fund of the state.

23 SECTION 22. 8-3-105, Colorado Revised Statutes, is
24 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

25 8-3-105. Director to administer and make rules and
26 regulations therefor. The director shall enforce and
27 administer the provisions of this article and may adopt

1 reasonable rules and regulations relative to its
2 administration and to the conduct of all elections and
3 hearings pertaining to mass transportation as defined in
4 section 8-3-104 (15). Such rules and regulations shall not be
5 effective until ten days after the date thereof.

6 SECTION 23. 8-3-107 (3), Colorado Revised Statutes, is
7 amended to read:

8 8-3-107. Representatives and elections. (3) When a
9 question arises concerning the selection of a collective
10 bargaining unit, the director shall determine the question
11 thereof by taking a secret ballot of employees and certifying
12 in writing the results thereof to the bargaining units
13 involved and to their employer. There shall be included on
14 any ballot for the selection of a bargaining unit the names or
15 suitable description of each bargaining unit submitted to the
16 director and claimed to be the appropriate unit by an employee
17 or group of employees participating in the election; except
18 that the director, in his discretion, may exclude from the
19 ballot any bargaining unit which, at the time of the election,
20 stands deprived of its rights under this article by reason of
21 a prior adjudication of its having engaged in an unfair labor
22 practice. The ballot shall be so prepared as to permit a vote
23 against representation by any unit named on the ballot. The
24 director's certification of the results of any election shall
25 be conclusive as to the findings included therein, unless
26 reviewed in the manner provided by section 8-3-110 (8), and
27 ~~(11)~~; for review of orders of the director.

1 SECTION 24. 8-3-110 (6), (8), and (15), Colorado Revised
2 Statutes, as amended, are amended to read:

3 8-3-110. Prevention of unfair labor practices. (6) A
4 complete record shall be kept of all proceedings had before
5 the director, and all testimony and proceedings shall be taken
6 down by the reporter appointed by the director. Such
7 proceedings shall not be governed by the technical rules of
8 evidence, but by such rules as are prescribed by the
9 ~~commission~~ DIRECTOR for administrative hearings.

10 (8) The director may authorize a deputy, referee, or
11 hearing officer appointed pursuant to part 10 of article 30 of
12 title 24, C.R.S., to take evidence and to make findings and
13 report them to the director. Any party in interest who is
14 dissatisfied with the findings or order of the director may
15 ~~file--a--written--petition--with--the--commission--to--review--such~~
16 ~~findings--or--order;--and--the--filing--of--such--petition--for--review~~
17 ~~shall--stay--any--such--order--of--the--director~~ SEEK JUDICIAL REVIEW
18 PURSUANT TO 24-4-106, C.R.S.

19 (15) Substantial compliance with the procedures of this
20 article is sufficient to give effect to the orders of the
21 ~~commission~~ DIRECTOR, and they shall not be declared
22 inoperative, illegal, or void for any omission of a technical
23 nature in respect thereto.

24 SECTION 25. 8-3-113 (3) and (4), Colorado Revised
25 Statutes, are amended to read:

26 8-3-113. Mediation. (3) Where the exercise of the
27 right to strike is desired by the employees of any authority,

1 the employees or their representatives shall file with the
2 division written notice of intent to strike not less than
3 forty calendar days prior to the date contemplated for such
4 strike. Within twenty days of the filing of the notice, the
5 director shall enter an order allowing or denying the strike
6 based on the grounds of whether or not such strike would
7 interfere with the preservation of the public peace, health,
8 and safety in accordance with rules and regulations of the
9 **commission DIVISION**. Any order denying a strike under this
10 section shall include an order to arbitrate in accordance with
11 section 8-3-112. Such arbitration shall be entered into not
12 later than one hundred days from the filing of the notice of
13 intent to strike. Immediately upon receipt of a notice of
14 intent to strike, the director shall take steps to effect
15 mediation, if possible. In the event of failure to mediate,
16 the director shall endeavor to induce the parties to arbitrate
17 the controversy. Any strike before the expiration of forty
18 days from the giving of notice of intent to strike or in
19 violation of an order of the director, unless such order is
20 changed on appeal or otherwise, shall constitute an unfair
21 labor practice.

22 (4) The **commission DIVISION** shall prescribe reasonable
23 rules of procedure for mediation under this section.

24 SECTION 26. 8-3-114, Colorado Revised Statutes, is
25 amended to read:

26 8-3-114. Duties of the attorney general and district
27 attorneys. Upon the request of the director, ~~or---the~~

1 commission; the attorney general or the district attorney of
2 the county in which a proceeding is brought before the
3 district court for the purpose of enforcing or reviewing an
4 order of the director ~~or-the-commission~~ shall appear and act
5 as counsel for the director ~~or--the--commission~~ in such
6 proceeding and in any proceeding to review the action of the
7 district court affirming, modifying, or reversing such order.

8 SECTION 27. 8-3-116, Colorado Revised Statutes, is
9 amended to read:

10 8-3-116. Interference with director - officer of
11 division. Any person who willfully assaults, resists,
12 prevents, impedes, or interferes with ~~any--member--of-the~~
13 ~~commission~~; the director or any officer, deputy, agent, or
14 employee of the division or any of its agencies in the
15 performance of duties pursuant to this article is guilty of a
16 misdemeanor and, upon conviction thereof, shall be punished by
17 a fine of not more than five hundred dollars, or by
18 imprisonment in the county jail for not more than one year, or
19 by both such fine and imprisonment.

20 SECTION 28. 8-4-113, Colorado Revised Statutes, is
21 amended to read:

22 8-4-113. Enforcement of subpoenas. All courts shall
23 take judicial notice of the seal of the ~~commission--and--the~~
24 ~~seat--of--the~~ director. Obedience to subpoenas issued by the
25 ~~commission-or--the~~ director or ~~their~~ HIS duly authorized
26 ~~representatives~~ REPRESENTATIVE shall be enforced by the courts
27 in any county or city and county, as provided in section

1 24-4-105 (5), C.R.S., 1973; if said subpoenas do not call for
2 any appearance at a distance greater than one hundred miles.

3 SECTION 29. 8-5-103, Colorado Revised Statutes, is
4 amended to read:

5 8-5-103. Enforcement - rules and regulations -
6 complaints. (1) The director has the power to administer,
7 carry out, and enforce all of the provisions of this article
8 and ~~and~~ MAY PROMULGATE rules and regulations ~~of-the-commission~~
9 for that purpose. Copies of the rules and regulations shall
10 be furnished by the division to all employees and employers
11 upon written request.

12 (2) Upon written complaint, duly executed and verified,
13 by any employee that any employer has, within one year from
14 the date of such complaint, violated the provisions of section
15 8-5-102, the director or any referee of the division may
16 proceed to hear and determine such complaint, and the director
17 may make any AN award upon said complaint. ~~in-the-manner~~
18 ~~provided--for--hearing--of--disputes--under---the---"Workmen's~~
19 ~~Compensation---Act--of--Colorado";--so--far--as--the--same--is~~
20 ~~applicable:~~ JUDICIAL review may be had of any award of the
21 director under this article ~~in-the-manner-provided-for-review~~
22 ~~of--awards--of--the--director--made---under---the---"Workmen's~~
23 ~~Compensation--Act--of--Colorado"~~ PURSUANT TO SECTION 24-4-106,
24 C.R.S.

25 SECTION 30. 8-6-108 (2), Colorado Revised Statutes, is
26 amended to read:

27 8-6-108. Public hearings - witness fees - contempt -

1 director to make rules. (2) The commission DIRECTOR has
2 power to make reasonable and proper rules and procedure and
3 ~~the-director-has-power~~ to enforce said rules and procedure.

4 SECTION 31. 8-6-111 (4), Colorado Revised Statutes, as
5 amended, is amended to read:

6 8-6-111. Director to review report. (4) Overtime, at
7 a rate of one and one-half times the regular rate of pay, may
8 be permitted by the director under conditions and rules and
9 for increased minimum wages which the commission DIRECTOR,
10 after investigation, determines and prescribes by order and
11 which shall apply equally to all employers in such industry or
12 occupation.

13 SECTION 32. 8-12-110 (2) (f) and (3), Colorado Revised
14 Statutes, are amended to read:

15 8-12-110. Hazardous occupations prohibited for minors.
16 (2) (f) Operation of the following power-driven machinery:
17 Woodworking machines, metal-forming machines, punching or
18 shearing machines, bakery machines, paper products machines,
19 shears, and automatic pin-setting machines and any other
20 power-driven machinery which the commission DIRECTOR
21 determines to be hazardous;

22 (3) The commission DIRECTOR shall promulgate
23 regulations, in accordance with section 24-4-103, C.R.S.,
24 1973; to define the occupations prohibited under this section
25 and to prescribe what types of equipment shall be required to
26 make an occupation nonhazardous for minors.

27 SECTION 33. 8-12-115 (5) and (7), Colorado Revised

1 Statutes, are amended to read:

2 8-12-115. Director of the division of labor - powers and
3 duties - rules and regulations. (5) The findings, orders,
4 and penalties made by the director shall be subject to review
5 ~~by the commission;--Such findings;--orders;--and--penalties--of~~
6 ~~the commission shall be subject to~~ judicial review pursuant to
7 section 24-4-106, C.R.S. 1973:

8 (7) The ~~commission~~ DIRECTOR, in accordance with section
9 24-4-103, C.R.S., 1973; shall promulgate rules and regulations
10 more specifically defining the occupations and types of
11 equipment permitted or prohibited by this article.

12 SECTION 34. 8-41-101, Colorado Revised Statutes, is
13 amended BY THE ADDITION OF A NEW SUBSECTION to read:

14 8-41-101. Definitions. (3.5) "Executive director"
15 means the executive director of the department of labor and
16 employment.

17 SECTION 35. 8-41-102, Colorado Revised Statutes, is
18 amended to read:

19 8-41-102. "Order" defined. Except as otherwise
20 expressly provided in articles 40 to 54 of this title, "order"
21 means and includes any decision, finding and award, direction,
22 RULE, REGULATION, or other determination arrived at by the
23 director or a referee of the division. ~~and any decision;~~
24 ~~classification;--rate;--rule;--regulation;--requirement;--or~~
25 ~~standard of the commission;~~

26 SECTION 36. 8-44-101 (1) (c), Colorado Revised Statutes,
27 as amended, is amended to read:

1 8-44-101. Insurance requirements. (1) (c) By procuring
2 a self-insurance permit from the ~~commission~~ EXECUTIVE DIRECTOR
3 as provided in section 8-44-109, except for public entity
4 pools as described in section 8-44-110 (3), which shall
5 procure self-insurance certificates of authority from the
6 commissioner of insurance as provided in section 8-44-110.

7 SECTION 37. 8-44-107 (3), Colorado Revised Statutes, is
8 amended to read:

9 8-44-107. Default of employer - additional liability.
10 (3) A certified copy of any award of the director or
11 ~~commission~~ or any order of the ~~referee~~ HEARING OFFICER
12 ordering the payment of compensation entered in such case may
13 be filed with the clerk of the district court of any county in
14 this state at any time after the order of the referee awarding
15 compensation, and the same shall be recorded by him in the
16 judgment book of said court and entry thereof made in the
17 judgment docket, and it shall thenceforth have all the effect
18 of a judgment of the district court, and execution may issue
19 thereon out of said court as in other cases. Upon the
20 reversal, setting aside, modification, or vacation of said
21 order or award and upon payment to the trustee or furnishing
22 of bond in accordance with the terms of this section, then,
23 upon certification thereof by the director or ~~commission~~
24 HEARING OFFICER, said record in the judgment book and the
25 entry in the judgment docket shall be vacated, and any
26 execution thereon shall be recalled.

27 SECTION 38. 8-44-109 (1) (a), (1) (b) (I), (2) (a), and

1 (2) (b), Colorado Revised Statutes, as amended, are amended to
2 read:

3 8-44-109. Employer as own insurance carrier - revocation
4 of permission. (1) (a) The commission EXECUTIVE DIRECTOR in
5 its HIS discretion may grant to any employer who has accepted
6 the provisions of articles 40 to 54 of this title permission
7 to be its own insurance carrier for the payment of the
8 compensation and benefits provided by said articles. Such
9 permission may be granted by the commission EXECUTIVE DIRECTOR
10 after the filing by an employer of such statement and the
11 giving of such information as may be required by the
12 commission EXECUTIVE DIRECTOR. The commission EXECUTIVE
13 DIRECTOR has the sole power to prescribe the rules,
14 regulations, orders, terms, and conditions upon which said
15 permit shall be granted or continued. Permission for
16 self-insurance may be revoked at any time by the commission
17 EXECUTIVE DIRECTOR, and the employer, upon notice of
18 revocation, shall immediately insure otherwise his liability.

19 (b) (I) Notwithstanding the provisions of paragraph (a)
20 of this subsection (1), the commission EXECUTIVE DIRECTOR
21 shall not prescribe or apply security requirements in granting
22 or continuing permission for the self-insurance program of the
23 department of institutions established pursuant to subsection
24 (3) of this section but shall provide instead for alternatives
25 to such security requirements.

26 (2) (a) The commission EXECUTIVE DIRECTOR shall
27 establish and collect such fees as it HE determines are

1 necessary to administer this section, which fees shall not
2 supplant funding for any other function of the commission
3 DEPARTMENT OF LABOR AND EMPLOYMENT. The fees established
4 pursuant to this subsection (2) shall not exceed one thousand
5 two hundred fifty dollars for an initial application or one
6 thousand dollars for an annual review of any employer acting
7 as a self-insurer under this section.

8 (b) The commission EXECUTIVE DIRECTOR shall transmit any
9 moneys received pursuant to this subsection (2) to the state
10 treasurer, who shall place such moneys in the workmen's
11 compensation self-insurance fund, which fund is hereby
12 created. The general assembly shall make appropriations from
13 such fund for the purposes of administering this section.

14 SECTION 39. 8-46-101, Colorado Revised Statutes, is
15 amended to read:

16 8-46-101. Collection of statistics. The director or any
17 agents of the division may enter into any place of employment
18 for the purpose of collecting facts and statistics, examining
19 the provisions made for the health, protection, and safety of
20 the employees, and bringing to the attention of every employer
21 any rule, order, or requirement of the commission DIVISION, or
22 any law, or any failure on the part of any employer to comply
23 therewith.

24 SECTION 40. 8-46-105, Colorado Revised Statutes, is
25 amended to read:

26 8-46-105. Orders of director - validity. All orders of
27 the director or--commission shall be valid and in force and

1 prima facie reasonable and lawful until found otherwise in an
2 action brought for that purpose, pursuant to the provisions of
3 articles 40 to 54 of this title, or until altered or revoked
4 by the director or-commission, as the case may be.

5 SECTION 41. 8-46-106, Colorado Revised Statutes, is
6 amended to read:

7 8-46-106. Orders and awards - technical objections.
8 Substantial compliance with the requirements of articles 40 to
9 54 of this title shall be sufficient to give effect to the
10 orders or awards of the director or-commission, and they shall
11 not be declared inoperative, illegal, or void for any omission
12 of a technical nature in respect thereto.

13 SECTION 42. 8-46-108, Colorado Revised Statutes, as
14 amended, is amended to read:

15 8-46-108. Adoption of rules and regulations. The
16 commission DIRECTOR has the power to adopt reasonable and
17 proper rules and regulations relative to the administration of
18 articles 40 to 54 and 65 and 66 of this title and proper
19 rules and regulations to govern proceedings and hearings of
20 the division and to amend said rules and regulations from time
21 to time in its HIS discretion. Such rules and regulations
22 shall be promulgated in accordance with section 24-4-103,
23 C.R.S.

24 SECTION 43. 8-49-101 (3), Colorado Revised Statutes, as
25 amended, is amended to read:

26 8-49-101. Employer must furnish medical aid - approval
27 of plan. (3) The commission DIRECTOR has the power to

1 establish a schedule fixing the fees for which all medical,
2 surgical, hospital, dental, nursing, and vocational
3 rehabilitation treatment rendered to employees under this
4 section shall be compensated, and it is unlawful, void, and
5 unenforceable as a debt for any physician, chiropractor,
6 hospital, person, or institution to contract with, bill, or
7 charge any patient for services, rendered in connection with
8 injuries coming within the purview of this article or an
9 applicable fee schedule, which are or may be in excess of said
10 fee schedule unless such charges are approved by the
11 commission DIRECTOR. Fee schedules shall be reviewed on or
12 before July 1 of each year by the commission DIRECTOR, and
13 appropriate health care practitioners shall be given a
14 reasonable opportunity to be heard prior to fixing the fees.

15 SECTION 44. 8-51-110 (3) and (5) (a), Colorado Revised
16 Statutes, as amended, are amended to read:

17 8-51-110. Examination - refusal - personal
18 responsibility - physicians to testify and furnish reports.

19 (3) So long as the employee, after written request by the
20 employer or insurer, refuses to submit himself to medical
21 examination or in any way obstructs the same, his right to
22 collect, or to begin or maintain any proceeding for the
23 collection of, compensation shall be suspended. If he refuses
24 to submit to such examination after direction by the director
25 or any ~~examiner-of-the-division~~ AGENT, REFEREE, OR HEARING
26 OFFICER OF THE DIVISION APPOINTED PURSUANT TO SECTION 8-46-107
27 (1) or in any way obstructs the same, his right to weekly

1 indemnity which accrues and becomes payable during the period
2 of such refusal or obstruction shall be barred. If any
3 employee persists in any unsanitary or injurious practice
4 which tends to imperil or retard his recovery or refuses to
5 submit to such medical or surgical treatment or vocational
6 rehabilitation as is reasonably essential to promote his
7 recovery and rehabilitation, the director, in his discretion,
8 may reduce or suspend the compensation of any such injured
9 employee.

10 (5) (a) In all cases of injury, the employer or insurer
11 has the right in the first instance to select the physician
12 who attends said injured employee. If the services of a
13 physician are not tendered at the time of injury, the employee
14 shall have the right to select his own physician or
15 chiropractor. Upon written request to the employer or
16 insurance carrier, the employee may procure written permission
17 to have his own physician or chiropractor attend him. If such
18 permission is neither granted nor refused within fifteen days,
19 the employer or insurance carrier shall be deemed to have
20 waived any objection thereto. Upon the proper showing to the
21 division, the employee may procure its permission at any time
22 to have a physician of his own selection attend him, and in
23 any nonsurgical case the employee, with such permission, in
24 lieu of medical aid, may procure any nonmedical treatment
25 recognized by the laws of this state as legal, the
26 practitioner administering such treatment to receive such fees
27 therefor under the medical provisions of articles 40 to 54 of

1 this title as may be fixed by the commission DIVISION.

2 SECTION 45. 8-51-111 (1), Colorado Revised Statutes, as
3 amended, is amended to read:

4 8-51-111. State treasurer to invest funds. (1) The
5 state treasurer shall invest any portion of the subsequent
6 injury fund, including its surplus and reserves, which the
7 commission DIVISION determines is not needed for immediate
8 use. All interest earned upon such invested portion shall be
9 credited to the fund and used for the same purposes and in the
10 same manner as other moneys in the fund. Such moneys may be
11 invested in the types of investments authorized in sections
12 24-36-109, 24-36-112, and 24-36-113, C.R.S.

13 SECTION 46. 8-52-103 (1), Colorado Revised Statutes, is
14 amended to read:

15 8-52-103. Compensation in lump sum. (1) At any time
16 after six months have elapsed from the date of injury, the
17 commission DIRECTOR, in the exercise of its HIS discretion,
18 after five days' prior notice to the parties, may order
19 payment of all or any part of the compensation awarded in a
20 lump sum, or in such manner as it HE may determine to be for
21 the best interests of the parties concerned, and its HIS
22 discretion so exercised shall be final and not subject to
23 review. When payment in a lump sum is ordered, the commission
24 DIRECTOR shall fix the amount to be paid based on the present
25 worth of partial payments, considering interest at four
26 percent per annum, and less deductions for contingencies of
27 death and remarriage.

1 SECTION 47. 8-52-108 (1), Colorado Revised Statutes, is
2 amended to read:

3 8-52-108. Negligence of stranger - election of remedies
4 - subrogation - actions - compromise. (1) If any employee
5 entitled to compensation under articles 40 to 54 of this title
6 is injured or killed by the negligence or wrong of another not
7 in the same employ, such injured employee or, in case of
8 death, his dependents, before filing any claim under this
9 article, shall elect in writing whether to take compensation
10 under said articles or to pursue his remedy against the other
11 person. Such election shall be evidenced in such manner as
12 the commission DIRECTOR may by rule or regulation prescribe.
13 If such injured employee or, in case of death, his dependents
14 elect to take compensation under said articles, the payment of
15 compensation shall operate as and be an assignment of the
16 cause of action against such other person to the division of
17 the state compensation insurance fund, medical disaster
18 insurance fund, major medical insurance fund, or subsequent
19 injury fund, if compensation is payable from said funds, and
20 otherwise to the person, association, corporation, or
21 insurance carrier liable for the payment of such compensation.
22 Said insurance carrier shall not be entitled to recover any
23 sum in excess of the amount of compensation for which said
24 carrier is liable under said articles to the injured employee,
25 but to that extent said carrier shall be subrogated to the
26 rights of the injured employee against said third party
27 causing the injury. If the injured employee elects to proceed

1 against such other person, the state compensation insurance
2 fund, medical disaster insurance fund, major medical insurance
3 fund, subsequent injury fund, person, association,
4 corporation, or insurance carrier, as the case may be, shall
5 contribute only the deficiency, if any, between the amount of
6 the recovery against such other person actually collected and
7 the compensation provided by said articles in such case. The
8 right of subrogation provided by this section shall apply to
9 and include all compensation and all medical, hospital,
10 dental, funeral, and other benefits and expenses to which the
11 employee or his dependents are entitled under the provisions
12 of said articles, including articles 65 and 66, or for which
13 his employer or insurance carrier is liable or has assumed
14 liability. Nothing in this section shall be construed as
15 limiting in any way the right of the injured employee to elect
16 to take compensation under articles 40 to 54 of this title and
17 also proceed against the third party causing the injury to
18 recover any damages in excess of the subrogation rights
19 described in this section.

20 SECTION 48. 8-52-112, Colorado Revised Statutes, as
21 amended, is amended to read:

22 8-52-112. Deposit on unpaid compensation or benefits -
23 trust fund - surplus. (1) The ~~commission~~ DIRECTOR in ~~its~~ HIS
24 discretion at any time, any provisions in articles 40 to 54 of
25 this title to the contrary notwithstanding, ~~by--unanimous~~
26 ~~consent-of-all-of-the-members-thereof~~; may compute and require
27 to be paid to the division, to be held by it in trust, an

1 amount equal to the present value of all unpaid compensation
2 or other benefits in any case computed at the rate of four
3 percent per annum. Such action may be taken after a finding
4 by the commission DIRECTOR as to the insolvency, the
5 threatened insolvency, or any other condition or danger which
6 may cause the loss of, or which has delayed or may impede,
7 hinder, or delay prompt payment of, compensation or benefits
8 by any insurance carrier or employer. The action and finding
9 of the commission DIRECTOR shall not be subject to review, and
10 the commission DIRECTOR shall not be required to give any
11 notice of hearing or hold any hearing prior to taking such
12 action or making its finding.

13 (2) All moneys so paid in shall constitute a separate
14 trust fund in the office of the state treasurer, and, after
15 any such payment is so ordered, the employer or insurance
16 carrier shall thereupon be discharged from any further
17 liability under such award for which payment is made to the
18 extent of the payment made, and the payment of the award shall
19 then be assumed to the extent of payment made by the special
20 trust fund so created. If, for any reason, a beneficiary's
21 right to the compensation awarded and ordered paid into said
22 special trust fund ceases, lapses, or in any manner terminates
23 by virtue of the terms and provisions of articles 40 to 54 of
24 this title so that a surplus not surviving or accruing to any
25 other beneficiary remains in said trust fund of the amount
26 ordered paid into it on behalf of the beneficiary, the
27 insurance carrier or employer who has made said payment shall

1 be entitled to a refund of the present value of said surplus,
2 if any, computed at the rate of four percent per annum. The
3 state treasurer shall invest any portion of the special trust
4 fund, including its surplus and reserves, which the commission
5 DIRECTOR determines is not needed for immediate use.

6 SECTION 49. 8-53-107, Colorado Revised Statutes, as
7 amended, is amended to read:

8 8-53-107. Transcript certified - evidence. A
9 transcribed copy of the evidence and proceedings, or any
10 specific part thereof, of any investigation or hearing taken
11 by a hearing reporter appointed by the director or commission
12 HEARING OFFICER, being certified by such reporter to be a true
13 and correct transcript of the testimony on the investigation
14 or hearing of a particular witness, or a specific part
15 thereof, carefully compared to original notes, and to be a
16 correct statement of the evidence and proceedings had on such
17 investigation or hearing so purporting to be taken and
18 subscribed, may be received as evidence by the director the
19 commission; and any court with the same effect as if such
20 reporter were present and testified to the facts so certified.

21 SECTION 50. 8-53-111 (3) and (8), Colorado Revised
22 Statutes, as amended, are amended to read:

23 8-53-111. Petitions to review. (3) When the record
24 upon which a petition to review has been filed is complete,
25 the parties shall be notified in writing. The petitioner
26 shall have twenty days after the date of the certificate of
27 mailing of the notice to file a brief in support of the

1 petition. The opposing parties shall have twenty days after
2 the date of the certificate of mailing of the petitioner's
3 brief to file briefs in opposition thereto. After the briefs
4 are filed or the time for filing has run, the director or
5 hearing officer shall have thirty days to enter a supplemental
6 order. ~~or--transmit--the--file--to--the--commission--for--its~~
7 ~~decision:~~

8 (8) ~~The--commission's--order--shall--be--mailed--to--all~~
9 ~~parties--of--record:~~ Any party dissatisfied with the
10 commission's A SUPPLEMENTAL order shall have twenty days after
11 the date of the certificate of mailing of such order to file
12 an appeal with the court of appeals.

13 SECTION 51. The introductory portion to 8-53-112 (1),
14 Colorado Revised Statutes, as amended, is amended to read:

15 8-53-112. Corrected orders. (1) The director or
16 hearing officer, on his own motion, ~~or--the--commission;--on--its~~
17 ~~own-motion;~~ may issue a corrected order:

18 SECTION 52. 8-53-116, Colorado Revised Statutes, as
19 amended, is amended to read:

20 8-53-116. Violations - penalty. Any employer or
21 insurer, or any officer or agent of either, or any employee,
22 or any other person who violates any provision of articles 40
23 to 54 of this title, or does any act prohibited thereby, or
24 fails or refuses to perform any duty lawfully enjoined within
25 the time prescribed by the director, ~~or--commission~~ for which
26 no penalty has been specifically provided, or fails, neglects,
27 or refuses to obey any lawful order made by the director or

1 commission or any judgment or decree made by any court as
2 provided by said articles shall be punished by a fine of not
3 more than one hundred dollars for each such offense.

4 SECTION 53. 8-53-117, Colorado Revised Statutes, as
5 amended, is amended to read:

6 8-53-117. Each day separate offense. Every day during
7 which any employer or insurer, or officer or agent of either,
8 or any employee, or any other person who fails to comply with
9 any lawful order of the director ~~or-commission~~ or fails to
10 perform any duty imposed by articles 40 to 54 of this title
11 shall constitute a separate and distinct violation thereof.
12 In any action brought to enforce the same or to enforce any
13 penalty provided for in said articles, such violation shall be
14 considered cumulative and may be joined in such action.

15 SECTION 54. 8-53-119 (1) and (3), Colorado Revised
16 Statutes, as amended, are amended to read:

17 8-53-119. Appeals to the court of appeals. (1) Any
18 person in interest, including the division of the state
19 compensation insurance fund, being dissatisfied with any FINAL
20 order of the ~~commission~~ DIRECTOR, may commence an action in
21 the court of appeals against the ~~commission~~ DIVISION as
22 ~~defendants~~ DEFENDANT to modify or vacate any such order on the
23 grounds set forth in section 8-53-120.

24 (3) All such actions shall be commenced by service of a
25 copy of the petition upon the ~~commission~~ DIRECTOR and filing
26 the same with the court of appeals. The petition shall state
27 the grounds upon which the review is sought and shall also be

1 served upon all other parties. After the filing of a petition
2 for review in the court of appeals, such action shall be
3 conducted in the manner prescribed by the Colorado appellate
4 rules.

5 SECTION 55. 8-53-120, Colorado Revised Statutes, as
6 amended, is amended to read:

7 8-53-120. Causes for setting aside award. Upon hearing
8 the action, the court of appeals may affirm or set aside such
9 order, but only upon the following grounds: That the director
10 OR hearing officer or-commission acted without or in excess of
11 his or-its powers; that the order was procured by fraud; that
12 the findings of fact by the director or hearing officer do not
13 support the order; that the evidence does not support the
14 findings of fact.

15 SECTION 56. 8-53-122, Colorado Revised Statutes, as
16 amended, is amended to read:

17 8-53-122. Error disregarded unless prejudicial. The
18 appeal shall be upon the record returned to the court by the
19 commission DIVISION. Upon the hearing of any such action, the
20 court shall disregard any irregularity or error of the
21 director or the commission HEARING OFFICER unless it
22 affirmatively appears that the party complaining was damaged
23 thereby.

24 SECTION 57. 8-53-123, Colorado Revised Statutes, as
25 amended, is amended to read:

26 8-53-123. Court record transmitted to division - when.
27 It is the duty of the clerk of the court of appeals, without

1 order of court or application of the commission DIRECTOR, to
2 transmit the record in any case to the commission DIVISION
3 within twenty-five days after the order or judgment of the
4 court unless in the meantime further appellate review is
5 granted by the supreme court. If the supreme court grants
6 further appellate review, the clerk shall return the record
7 immediately upon receipt of remittitur from the supreme court,
8 unless the order of the supreme court requires further action
9 by the court of appeals, and then within twenty-five days
10 after such further action.

11 SECTION 58. 8-53-124, Colorado Revised Statutes, as
12 amended, is amended to read:

13 8-53-124. Court may remand case to director. Upon
14 setting aside of any order, the court may recommit the
15 controversy and remand the record in the case for further
16 hearing or proceedings by the director OR hearing officer, or
17 ~~commission~~; or it may order ~~said-commission-to-enter-the~~ ENTRY
18 OF A proper award upon the findings as the nature of the case
19 shall demand. In no event shall such order for award be for a
20 greater amount of compensation than allowed by articles 40 to
21 54 of this title , or in any manner conflict with the
22 provisions thereof.

23 SECTION 59. 8-53-125, Colorado Revised Statutes, as
24 amended, is amended to read:

25 8-53-125. Summary review by supreme court. Any affected
26 party dissatisfied with the decision of the court of appeals
27 may seek review in the supreme court. If the supreme court

1 reviews the judgment of the court of appeals, such review
2 shall be limited to a summary review of questions of law. Any
3 such action shall be advanced upon the calendar of the supreme
4 court, and a final decision shall be rendered within sixty
5 days after the date the supreme court grants further appellate
6 review. The director ~~the-commission~~; or any other aggrieved
7 party shall not be required to file any undertaking or other
8 security upon review by the supreme court.

9 SECTION 60. 8-53-126, Colorado Revised Statutes, as
10 amended, is amended to read:

11 8-53-126. Fees - costs - duty of district attorneys and
12 attorney general. No fee shall be charged by the clerk of any
13 court for the performance of any official service required by
14 articles 40 to 54 of this title. On proceedings to review any
15 order or award, costs as between the parties shall be allowed
16 in the discretion of the court, but no costs shall be taxed
17 against said director. ~~or-commission~~. In any action for the
18 review of any order or award, and upon any review thereof by
19 the supreme court, it is the duty of the district attorney in
20 the county wherein said action is pending, or of the attorney
21 general, if requested by the director ~~or-commission~~; to appear
22 on HIS behalf, ~~of--either--or-both~~; whether any other party
23 defendant should have appeared or been represented in the
24 action.

25 SECTION 61. 8-53-127, Colorado Revised Statutes, as
26 amended, is amended to read:

27 8-53-127. Witnesses and testimony - mileage - fees -

1 costs. The director ~~commission;~~ or any agent, deputy, or
2 referee of the division has THE power to issue subpoenas to
3 compel the attendance of witnesses or parties and the
4 production of books, papers, or records and to administer
5 oaths. Any person who serves a subpoena shall receive the
6 same fee as the sheriff. Each witness who is subpoenaed on
7 behalf of the director ~~or--commission;~~ and who appears in
8 obedience thereto shall receive for his attendance the fees
9 and mileage provided for witnesses in civil cases in the
10 district court, which shall be audited and paid from the state
11 treasury in the same manner as other expenses are audited and
12 paid, upon the presentation of A proper voucher approved by
13 the director. ~~or-commission:~~ The director, ~~or-commission;~~ in
14 his ~~or--its~~ discretion, may assess the cost of attendance and
15 mileage of witnesses subpoenaed by either party to any
16 proceeding against the other party to such proceeding when, in
17 his ~~or--its~~ judgment, the necessity of subpoenaing such
18 witnesses arises out of the raising of any incompetent,
19 irrelevant, or sham issues by such other party.

20 SECTION 62. 8-53-128, Colorado Revised Statutes, as
21 amended, is amended to read:

22 8-53-128. Attorney general, district attorney, or
23 attorney of division to act for director. Upon the request of
24 the director, ~~or--commission;~~ the attorney general or the
25 district attorney of any district or any attorney at law in
26 the regular employ of the division shall institute and
27 prosecute the necessary actions or proceedings for the

1 enforcement of any of the provisions of articles 40 to 54 of
2 this title, or award or order of the director, ~~or--commission;~~
3 or for the recovery of any money due the state compensation
4 insurance fund, or any penalty provided in said articles, and
5 shall defend in like manner all suits, actions, or proceedings
6 brought against the director ~~or--commission--or--any-member~~
7 thereof in his official capacity.

8 SECTION 63. 8-54-102 (1), Colorado Revised Statutes, is
9 amended to read:

10 8-54-102. State compensation insurance fund created -
11 control of fund. (1) There is hereby established a fund, to
12 be known as the state compensation insurance fund, for the
13 benefit of injured and the dependents of killed employees,
14 which shall be administered in accordance with the provisions
15 of this article by the division under the direction of the
16 manager, ~~pursuant-to;~~ WHO SHALL ADOPT rules, regulations, and
17 ~~rates-adopted-by~~ and investment policies ~~of--the--industrial~~
18 ~~commission--of--Colorado~~ FOR THE FUND. Such administration
19 shall be without liability on the part of the state, beyond
20 the amount of said fund, constituted as provided in this
21 article.

22 SECTION 64. 8-54-103 (1), (4) (a), (4) (b), and (4) (c),
23 Colorado Revised Statutes, are amended to read:

24 8-54-103. Advisory council - powers and duties. (1) To
25 assist the manager ~~and-commission~~ in the exercise of ~~their~~
26 ~~respective~~ HIS powers and jurisdiction over said fund, there
27 is hereby created an advisory council composed of thirteen

1 members, twelve of whom shall be appointed by the governor as
2 provided in this subsection (1), and one of whom, the
3 commissioner of insurance, shall be a member ex officio. The
4 appointments by the governor to the advisory council shall be
5 as follows: One member each from the senate and the house of
6 representatives of the general assembly; eight members who
7 shall be either employers whose liability under articles 40 to
8 54 of this title is insured by said fund or officers,
9 officials, or representatives of such employers; and two
10 members who shall be employees of employers whose liability
11 under said articles is insured by said fund.

12 (4) (a) Aid the industrial-commission; manager and the
13 officers and employees of the division in formulating policies
14 and discussing problems related to the administration of the
15 affairs of the fund;

16 (b) Make such recommendations from time to time to the
17 executive director of the department of labor and employment,
18 the industrial-commission; manager, and to the officers and
19 employees of the division which to the members of said council
20 may seem necessary or advisable to improve the efficiency of
21 the operation of said fund and improve its service to its
22 policyholders and their employees in the carrying out of the
23 spirit and intent of this article;

24 (c) Make such recommendations from time to time which to
25 the members of the council may seem necessary or advisable to
26 the governor, the general assembly, the executive director of
27 the department of labor and employment, the---industrial

1 commission; and the manager for changes in or additions to
2 existing laws which will improve the efficiency of operation
3 of said fund and its service to its assured employers and
4 their employees.

5 SECTION 65. 8-54-105 (1), Colorado Revised Statutes, is
6 amended to read:

7 8-54-105. Executive director to fix rates - manager to
8 administer rates - sue and be sued - contracts - care of
9 injured. (1) The commission EXECUTIVE DIRECTOR shall have
10 full power and it is its HIS duty to fix and determine the
11 rates to be charged by the state compensation insurance fund
12 for compensation insurance.

13 SECTION 66. 8-54-107, Colorado Revised Statutes, is
14 amended to read:

15 8-54-107. Places of employment classified - amount of
16 premiums. The commission EXECUTIVE DIRECTOR shall classify
17 the places of employment of employers insured under the state
18 compensation insurance fund into classes in accordance with
19 the nature of the business in which they are engaged and the
20 probable hazard or risk of injury to their employees. It HE
21 shall determine the amount of the premiums which such
22 employers shall pay to said state compensation insurance fund,
23 and may prescribe in what manner such premiums shall be paid,
24 and may change the amount thereof both in respect to any or
25 all of such employers as circumstances may require, and the
26 condition of their respective plants, establishments, or
27 places of work in respect to the safety of their employees may

1 justify. All such premiums shall be levied on a basis that
2 shall be fair, equitable, and just as among such employers.

3 SECTION 67. 8-54-108, Colorado Revised Statutes, is
4 amended to read:

5 8-54-108. Subclasses. It is also the duty of the
6 **commission** EXECUTIVE DIRECTOR to divide each class under said
7 classification into as many subclasses as may be necessary
8 upon such terms and conditions as will enable it HIM to
9 determine the risks and fix the rates of premium of the
10 different employers in the same class of employment, with
11 respect to the conditions of said places of employment as
12 regards the several requirements upon which the rates of
13 premium of risks are based and determined, as provided in
14 articles 40 to 54 of this title.

15 SECTION 68. 8-54-109, Colorado Revised Statutes, is
16 amended to read:

17 8-54-109. Insurance at cost. It is the duty of the
18 **commission** EXECUTIVE DIRECTOR, in the exercise of the powers
19 and discretion conferred upon it HIM by articles 40 to 54 of
20 this title, ultimately to fix and maintain for each class and
21 subclass of occupation the lowest possible rates of premium
22 consistent with the maintenance of a solvent state
23 compensation insurance fund, and the creation and maintenance
24 of a reasonable surplus after the payment of legitimate claims
25 for injury and death, that may be authorized to be paid from
26 the state compensation insurance fund for the benefit of
27 injured and dependents of killed employees.

1 SECTION 69. 8-54-110 (3), Colorado Revised Statutes, is
2 amended to read:

3 8-54-110. Basis of rates - reserve - surplus. (3) In
4 determining the amount of reserve to be laid aside to meet
5 deferred payments according to awards, such reserve shall be
6 ascertained by finding the present worth of such deferred
7 payments calculated at a rate of interest not higher than four
8 percent per annum, and such calculations shall be made
9 according to a table of mortality not lower than the American
10 experience table of mortality and, in the discretion of the
11 commission EXECUTIVE DIRECTOR, by such other and further
12 methods as will result in the establishment of adequate
13 reserves.

14 SECTION 70. 8-54-111, Colorado Revised Statutes, is
15 amended to read:

16 8-54-111. Division to keep accounts - readjustment by
17 executive director of rates. The division shall keep an
18 accurate account of the money paid in premiums by each of the
19 several classes and subclasses of occupations or industries
20 and the disbursements on account of injuries and death of
21 employees thereof. It shall also keep an account of the money
22 received from each individual employer and the amount
23 disbursed from the state compensation insurance fund on
24 account of injuries and death of the employees of such
25 employer. The state compensation insurance fund, including
26 such portions of said fund as may be derived from premiums
27 paid by the state and its political subdivisions, shall be one

1 fund indivisible. It is the intention that the amounts raised
2 for such state compensation insurance fund shall ultimately
3 become neither more nor less than to make said fund
4 self-supporting, and the premiums or rates levied for such
5 purpose shall be subject to readjustment from time to time by
6 the ~~commission~~ EXECUTIVE DIRECTOR as may become necessary.

7 SECTION 71. 8-54-112, Colorado Revised Statutes, is
8 amended to read:

9 8-54-112. Portions of premiums paid carried to surplus.
10 The division shall set aside such proportion as the ~~commission~~
11 EXECUTIVE DIRECTOR may deem necessary of the earned premiums
12 paid into the state compensation insurance fund as a
13 contribution to the surplus of the fund. Until the surplus of
14 the fund shall amount to the sum of five hundred thousand
15 dollars, at least ten percent of the earned premiums paid into
16 the state compensation insurance fund shall be so set aside.

17 SECTION 72. 8-54-113, Colorado Revised Statutes, as
18 amended, is amended to read:

19 8-54-113. Amendment of rates - distribution to
20 policyholders. The ~~commission~~ EXECUTIVE DIRECTOR may amend at
21 any time the rates for any class or subclass. No contract of
22 insurance between the state compensation insurance fund and
23 any employer shall be in effect until a policy or binder has
24 been actually issued by the division and the premium therefor
25 paid as and when required by this article. After the
26 inspection of the premises of any employer or after
27 considering the experience of such employer, the manager may

1 quote with respect to such employer's risk a rate higher or
2 lower than that indicated by the manual issued by the
3 commission EXECUTIVE DIRECTOR as applicable to his risk. Any
4 such decision of the manager shall be subject to review by the
5 commission EXECUTIVE DIRECTOR. Not less often than once a
6 year the manager shall tabulate the earned premiums paid by
7 policyholders of the state compensation insurance fund.
8 Should the experience of the fund show a credit balance and
9 after payment of all amounts which have fallen due because of
10 operating expenses, injury, or death, and after setting aside
11 proper reserves, the division shall distribute such credit
12 balance to the policyholders who have a balance to their
13 credit in proportion to the premium paid and losses incurred
14 by each such policyholder during the preceding insurance
15 period. In the event any such policyholder fails to renew his
16 policy in the state compensation insurance fund for the period
17 following the period in which said dividends were earned, he
18 shall be entitled to said credit dividend if he terminates
19 such policy in good standing. In the event an employer
20 actually discontinues business, his policy shall be cancelled
21 and the dividend, if any, when ascertained, shall be returned
22 to him.

23 SECTION 73. 8-54-116, Colorado Revised Statutes, is
24 amended to read:

25 8-54-116. Determination of premium - payment in advance.
26 Each employer insured in the state compensation insurance fund
27 shall pay into the state compensation insurance fund in

1 advance the amount of premium determined and assessed against
2 such employer for the ensuing period. The amount of the
3 premium to be paid by such employer shall be on the basis of
4 the annual expenditure of money by said employer for the
5 services of persons engaged in his employment. The amount of
6 premium to be so paid by each such employer shall be
7 determined by the manager in accordance with the rules and
8 rates made and published by the ~~commission~~ EXECUTIVE DIRECTOR.
9 Payment shall be made within the time fixed by this article,
10 and a receipt or certificate certifying that such payment has
11 been made shall be mailed to such employer by the division,
12 which receipt or certificate shall be prima facie evidence of
13 the payment of such premium.

14 SECTION 74. 8-54-117, Colorado Revised Statutes, is
15 amended to read:

16 8-54-117. Premiums paid by public employers. The amount
17 of money to be contributed by the state and by each county,
18 city, town, irrigation or school district, or other taxing
19 district of the state shall be determined and fixed by the
20 manager in accordance with classifications, rules, and rates
21 made and published by the ~~industrial-commission~~ EXECUTIVE
22 DIRECTOR by any of the methods provided in this article for
23 the determination of premiums and rates for private employers.

24 SECTION 75. 8-54-122 (1), Colorado Revised Statutes, as
25 amended, is amended to read:

26 8-54-122. State treasurer to invest funds. (1) Except
27 as provided in subsection (2) of this section, the state

1 treasurer shall invest any portion of the state compensation
2 insurance fund, including its surplus or reserves, ~~or any~~
3 ~~portion of any other fund under the jurisdiction of the~~
4 ~~commission which the commission determines~~ WHICH is not needed
5 for immediate use. Such moneys may be invested in the types
6 of investments authorized in sections 24-36-109, 24-36-112,
7 and 24-36-113, C.R.S.

8 SECTION 76. 8-54-124 (2) and (4), Colorado Revised
9 Statutes, are amended to read:

10 8-54-124. Visitation of fund by commissioner of
11 insurance - annual audit - examination. (2) An annual audit
12 of said fund shall be made by an auditor or firm of auditors,
13 having the necessary specialized knowledge and experience,
14 retained by the state auditor with the consultation and advice
15 of the manager and the commissioner of insurance. The cost of
16 such audit and examination shall be borne by the fund.
17 Following his examination of the report of such audit, the
18 state auditor shall transmit it, together with his comments
19 and recommendations, to the governor, the general assembly,
20 the executive director, ~~of the department of labor and~~
21 ~~employment; the industrial commission;~~ the manager, and the
22 advisory council of the fund.

23 (4) At least once every three years, the commissioner of
24 insurance shall conduct an examination of said fund, such
25 examination to be conducted in the same manner as an
26 examination of a private insurance carrier. With respect to
27 such examination, the provisions of section 10-1-110, C.R.S.,

1 1973; shall be applicable. The commissioner of insurance
2 shall transmit a copy of his examination to the governor, the
3 state auditor, the general assembly, the executive director of
4 the department of labor and employment, the---industrial
5 commission; the manager, and the advisory council of the fund.

6 SECTION 77. 8-54-127, Colorado Revised Statutes, is
7 amended to read:

8 8-54-127. Rate schedules posted. The commission
9 EXECUTIVE DIRECTOR shall cause to be prepared proper schedules
10 showing its THE classification, rates, and regulations which
11 shall be effective at such time as HE may be--ordered--by--the
12 commission ORDER. Said classification, rates, and regulations
13 shall be published by posting a copy thereof on the bulletin
14 board in the offices of said--commission THE DEPARTMENT OF
15 LABOR AND EMPLOYMENT.

16 SECTION 78. 8-66-110 (1), Colorado Revised Statutes, as
17 amended, is amended to read:

18 8-66-110. State treasurer to invest funds. (1) The
19 state treasurer shall invest any portion of the major medical
20 insurance fund, including its surplus and reserves, which the
21 commission DIRECTOR OF THE DIVISION OF LABOR determines is not
22 needed for immediate use. All interest earned upon such
23 invested portion shall be credited to the fund and used for
24 the same purposes and in the same manner as other moneys in
25 the fund. Such moneys may be invested in the types of
26 investments authorized in sections 24-36-109, 24-36-112, and
27 24-36-113, C.R.S.

1 SECTION 79. 8-70-103 (19) and (23), Colorado Revised
2 Statutes, are amended to read:

3 8-70-103. Definitions. (19) "Period of unemployment"
4 commences only after registration by the individual at an
5 employment office, except as the commission DIVISION, by
6 regulation, otherwise may prescribe.

7 (23) "Week" means such period of seven consecutive days
8 as the commission DIRECTOR may by regulations prescribe.

9 SECTION 80. 8-71-103, Colorado Revised Statutes, is
10 amended to read:

11 8-71-103. Organization of the division. There shall be
12 in the division ~~of-employment-the-unemployment-compensation~~
13 ~~commission-of-Colorado~~; the unemployment compensation section
14 and the employment service section. The unemployment
15 compensation and employment service sections shall be
16 coordinate sections of the administrative organization.

17 SECTION 81. 8-71-104, Colorado Revised Statutes, as
18 amended, is amended to read:

19 8-71-104. Head of the division. The director of the
20 division ~~of--employment-and-training~~ shall be the head of the
21 division. The director of the division shall have all the
22 functions, powers, and duties specified in articles 70 to 82
23 of this title. ~~except--functions--specifically--granted--in~~
24 ~~articles--70--to--82--of--this--title--to--the--commission:~~ Any
25 vacancy in the office of director of the division shall be
26 filled in the manner provided by law.

27 SECTION 82. 8-72-102, Colorado Revised Statutes, as

1 amended, is amended to read:

2 8-72-102. Rules and regulations. The commission
3 DIRECTOR OF THE DIVISION has the power to adopt, amend, or
4 rescind, in accordance with section 24-4-103, C.R.S.,
5 reasonable and necessary rules and regulations relating to the
6 administration of the "Colorado Employment Security Act" and
7 governing hearings and proceedings under such act.

8 SECTION 83. 8-73-101 (1), Colorado Revised Statutes, as
9 amended, is amended to read:

10 8-73-101. Payment of benefits. (1) All benefits
11 provided in this article shall be payable from the fund. All
12 benefits shall be paid through employment offices or such
13 other agencies as the commission DIRECTOR OF THE DIVISION, by
14 general rule, may designate. Notwithstanding any other
15 provision of the law to the contrary, any amount of
16 unemployment compensation payable to any individual for any
17 week, if not an even dollar amount, shall be rounded to the
18 next lower full dollar amount.

19 SECTION 84. 8-73-103 (2), Colorado Revised Statutes, is
20 amended to read:

21 8-73-103. Benefits for partial unemployment. (2) The
22 commission DIRECTOR OF THE DIVISION is authorized to prescribe
23 regulations governing benefits for partial unemployment for
24 other pay periods which will result in benefit amounts for
25 such periods proportionate to the amounts prescribed in this
26 article for weekly pay periods.

27 SECTION 85. 8-73-105 (2), Colorado Revised Statutes, is

1 amended to read:

2 8-73-105. Part-time workers. (2) The ~~commission~~
3 DIRECTOR OF THE DIVISION shall prescribe fair and reasonable
4 general rules applicable to part-time workers for determining
5 their full-time weekly wage and the total wages for employment
6 by employers required to qualify such workers for benefits.
7 The rules, with respect to such part-time workers, shall
8 supersede any inconsistent provisions of articles 70 to 82 of
9 this title but, so far as practicable, shall secure results
10 reasonably similar to those provided in the analogous
11 provisions of articles 70 to 82 of this title.

12 SECTION 86. 8-73-106 (2) and (3), Colorado Revised
13 Statutes, as amended, are amended to read:

14 8-73-106. Seasonal industry. (2) The ~~commission~~
15 DIRECTOR OF THE DIVISION shall prescribe rules and regulations
16 applicable to seasonal industries for determining their normal
17 seasonal period or periods and seasonal workers, as such terms
18 are defined in subsection (1) of this section.

19 (3) Upon written application filed with the division by
20 an employer, the director of the division shall determine and
21 may thereafter redetermine, from time to time in accordance
22 with the rules and regulations of the ~~commission~~ DIVISION, the
23 normal seasonal period during which workers are ordinarily
24 employed for the purpose of carrying on seasonal operations in
25 the seasonal industry in which such employer is engaged. Such
26 determination shall be made by said director within ninety
27 days after the filing of such application by an employer with

1 the division. Until such determination by the director of the
2 division, no occupation or industry shall be deemed seasonal.
3 Any employing unit affected by such seasonal determination may
4 appeal the determination in accordance with section 8-76-113.
5 For the purpose of determining whether an individual is a
6 seasonal worker and the duration of such individual's
7 benefits, the determination by said director of the normal
8 seasonal period of a seasonal industry shall be applicable to
9 the base period of individuals who file claims for benefits on
10 or after the first day of the calendar quarter commencing
11 after the date of such determination by said director.

12 SECTION 87. 8-73-107 (1) (a), Colorado Revised Statutes,
13 is amended to read:

14 8-73-107. Eligibility conditions - penalty. (1) (a) He
15 has registered for work at and thereafter has continued to
16 report at an employment office in accordance with such
17 regulations as the commission DIRECTOR OF THE DIVISION may
18 prescribe; except that the commission DIRECTOR OF THE
19 DIVISION, by regulation, may waive or alter either or both of
20 the requirements of this paragraph (a) as to individuals
21 attached to regular jobs and as to such other types of cases
22 or situations with respect to which it finds that compliance
23 with such requirements would be oppressive, or would be
24 inconsistent with the purposes of articles 70 to 82 of this
25 title, but that no such regulation shall conflict with section
26 8-73-101;

27 SECTION 88. 8-74-101 (1), Colorado Revised Statutes, as

1 amended, is amended to read:

2 8-74-101. Claims for benefits. (1) Claims for benefits
3 shall be made, processed, and reviewed pursuant to articles 70
4 to 82 of this title and such regulations as the **commission**
5 DIRECTOR OF THE DIVISION may prescribe.

6 SECTION 89. 8-74-102 (2), Colorado Revised Statutes, as
7 amended, is amended to read:

8 8-74-102. Deputy's decision. (2) Notwithstanding
9 articles 70 to 82 of this title, an initial determination of
10 arithmetic computations, wage amounts, and dates of wage
11 payments shall not be subject to immediate appeal. Interested
12 parties who disagree with monetary determinations of the
13 division may request reconsideration of determinations as the
14 **commission** DIRECTOR OF THE DIVISION, by regulation, may
15 prescribe. A reconsidered determination of the division is
16 subject to the provisions of section 8-74-105.

17 SECTION 90. 8-74-103 (2) and (3), Colorado Revised
18 Statutes, as amended, are amended to read:

19 8-74-103. Hearing officer review. (2) The hearing
20 officer shall have the power and authority to call, preside
21 at, and conduct hearings pursuant to the provisions of section
22 8-72-108 and such regulations as the **commission** DIRECTOR OF
23 THE DIVISION may prescribe.

24 (3) The hearing officer, after affording all interested
25 parties a reasonable opportunity for a fair hearing in
26 conformity with the provisions of this article and the
27 regulations of the **commission** DIVISION, shall make a decision

1 on each relevant issue raised, including findings of fact,
2 conclusions of law, and an order. The division shall promptly
3 provide all interested parties with copies of the hearing
4 officer's decision.

5 SECTION 91. 8-74-105, Colorado Revised Statutes, as
6 amended, is amended to read:

7 8-74-105. Reconsiderations. The deputy OR hearing
8 officer ~~or--commission~~ may, on his ~~or--its~~ own motion,
9 reconsider a decision when it appears that an apparent
10 procedural or substantive error has occurred in connection
11 therewith. Notification of a decision on reconsideration and
12 the reasons therefor shall be promptly given to all interested
13 parties. In the event that an appeal involving an original
14 decision is pending as of the date on which a decision as a
15 result of reconsideration is issued by the division, such
16 appeal shall be considered void. Any interested party who is
17 dissatisfied by a decision that is issued as a result of
18 reconsideration may appeal that decision in the manner set
19 forth in section 8-74-106.

20 SECTION 92. 8-74-106 (1) (a), (1) (b), (1) (c), (1) (e),
21 (1) (f) (I), (1) (f) (II), (1) (f) (IV), and (1) (f) (V),
22 Colorado Revised Statutes, as amended, are amended to read:

23 8-74-106. Time limits and procedures for appeal within
24 the division. (1) (a) Any party may petition for review of a
25 deputy's ~~a--hearing--officer's;--or--an--initial--commission~~
26 decision by filing a petition therefor with the division
27 within fifteen calendar days, or ten calendar days in work

1 incentive program cases, after the date of notification of
2 such decision. Notification of the decision shall be by
3 personal delivery of the decision to an interested party or by
4 mailing a copy of the decision to the last-known address shown
5 in the division files of an interested party and to his
6 attorney or representative of record, if any. The date of
7 notification shall be the date of personal delivery or the
8 date of mailing of a decision.

9 (b) Unless, within fifteen calendar days, or ten
10 calendar days in work incentive program cases, after the date
11 of notification of a deputy's ~~a--hearing--officer's-or-an~~
12 ~~initial-commission~~ decision, an interested party petitions for
13 review of such decision, the decision shall be final.
14 Petitions for review may be accepted out of time only for good
15 cause shown and in accordance with regulations adopted by the
16 ~~commission~~ DIRECTOR OF THE DIVISION.

17 (c) The division shall give written notice to all
18 interested parties when a petition for review is filed. Such
19 notice shall be pursuant to regulations adopted by the
20 ~~commission~~ DIRECTOR OF THE DIVISION.

21 (e) Any interested party to an appeal from a deputy's
22 decision shall be entitled to a hearing before a hearing
23 officer. All interested parties shall have the right to be
24 present or to be represented by an attorney or other
25 representative at the hearing, to present such testimony and
26 evidence as may be pertinent to the claim, and to
27 cross-examine witnesses. The division, pursuant to regulations

1 adopted by the commission DIRECTOR OF THE DIVISION, shall
2 notify all interested parties of the hearing. Such
3 notification shall be made not less than ten calendar days
4 prior to the hearing.

5 (f) (I) The manner in which disputed claims shall be
6 presented, the reports required from interested parties, and
7 the conduct of hearings shall be in accordance with the
8 provisions of this article and the regulations prescribed by
9 the commission DIRECTOR OF THE DIVISION, whether or not such
10 regulations conform to common law or statutory or regulatory
11 rules of evidence or other technical rules of procedure.

12 (II) Evidence and requirements of proof shall conform,
13 to the extent practicable, with those in civil nonjury cases
14 in the district courts of this state. However, when necessary
15 to do so in order to ascertain facts affecting the substantial
16 rights of the parties to the proceeding, the person conducting
17 the hearing may receive and consider evidence not admissible
18 under such rules, if such evidence possesses probative value
19 commonly accepted by reasonable and prudent men in the conduct
20 of their affairs. Objections to evidentiary offers may be made
21 and shall be noted in the record. The person conducting a
22 hearing shall give effect to the rules of privilege recognized
23 by law. He may exclude incompetent and unduly repetitious
24 evidence. Documentary evidence may be received in the form of
25 a copy or excerpt if the original is not readily available;
26 but, upon request, the party shall be given an opportunity to
27 compare the copy with the original. The division and--the

1 commission may utilize their ITS experience; technical
2 competence, and specialized knowledge in the evaluation of the
3 evidence presented. The provisions of the "State
4 Administrative Procedure Act", article 4 of title 24, C.R.S.,
5 and particularly sections 24-4-105 and 24-4-106, C.R.S., shall
6 not apply to hearings ~~commission--review~~; and court review
7 under this article. However, the rule-making provisions of
8 section 24-4-103, C.R.S., shall apply to this article.

9 (IV) No person shall participate on behalf of the
10 division ~~or--the--commission~~ in any case in which he has a
11 direct or indirect interest.

12 (V) A full and complete record shall be kept of all
13 proceedings in connection with a disputed claim. All
14 testimony at any hearing upon a disputed claim shall be
15 recorded but need not be transcribed unless the disputed claim
16 is presented for further review. If review is sought pursuant
17 to section ~~8-74-104~~ 8-74-107, the division shall transcribe
18 the testimony pursuant to such regulations as the ~~commission~~
19 DIRECTOR OF THE DIVISION may prescribe.

20 SECTION 93. 8-74-107 (1), (2), (3), (4), and (5), the
21 introductory portion to 8-74-107 (6), and 8-74-107 (6) (a),
22 Colorado Revised Statutes, as amended, are amended to read:

23 8-74-107. Court review. (1) No action, proceeding, or
24 suit to set aside ~~an-initial-commission~~ A HEARING OFFICER'S
25 decision or to enjoin the enforcement thereof shall be brought
26 unless the petitioning party has first complied with the
27 review provisions of section ~~8-74-104-(2)~~ 8-74-106.

1 (2) Actions, proceedings, or suits to set aside, vacate,
2 or amend any final decision of ~~the--commission~~ A HEARING
3 OFFICER or to enjoin the enforcement of ~~any-final-decision-of~~
4 ~~the-commission~~ THEREOF may be commenced in the court of
5 appeals by any interested party, including the division. Such
6 actions, proceedings, or suits shall be commenced by filing in
7 the court of appeals within twenty days a notice of appeal,
8 together with a certificate of service showing service of a
9 copy of said notice of appeal on the ~~commission~~ DIVISION and
10 all other parties who appeared in the administrative
11 proceedings. The ~~commission~~ DIVISION, within twenty days
12 after the service of the notice, shall make return to said
13 court of all documents and papers on file in the matter, of
14 all testimony taken therein, and of certified copies of all
15 findings, orders, and awards, which return shall be deemed its
16 answer to said petition. Such return of the ~~commission~~
17 DIVISION shall constitute the judgment roll in any such
18 action, proceeding, or suit, and it shall not be necessary to
19 settle a bill of exceptions in order to make such return part
20 of the record of such court in such action, proceeding, or
21 suit.

22 (3) ~~The-commission~~ A HEARING OFFICER may certify to the
23 court of appeals questions of law involved in any of ~~its~~ HIS
24 decisions.

25 (4) In judicial proceedings under this article, the
26 ADMINISTRATIVE findings of ~~the-commission~~ as to the facts, if
27 supported by substantial evidence and in the absence of fraud,

1 shall be conclusive.

2 (5) Actions, proceedings, and suits to review any final
3 decision of the ~~commission~~ A HEARING OFFICER or questions
4 certified to the court of appeals by ~~the-commission~~ A HEARING
5 OFFICER shall be heard in an expedited manner and shall be
6 given precedence over all other civil cases, except cases
7 arising under the "Workmen's Compensation Act of Colorado",
8 articles 40 to 54 of this title.

9 (6) A ~~commission~~ HEARING OFFICER'S decision may be set
10 aside only upon the following grounds:

11 (a) That the ~~commission~~ HEARING OFFICER acted without or
12 in excess of ~~its~~ HIS powers;

13 SECTION 94. 8-74-108, Colorado Revised Statutes, as
14 amended, is amended to read:

15 8-74-108. Conclusiveness of determinations and
16 decisions. Any right, fact, or matter in issue directly
17 passed upon or necessarily involved in a decision of a deputy,
18 a hearing officer, ~~the-commission~~; or the court of appeals
19 which has become a final decision under this article, after
20 appeal procedures, if initiated, have been completed or
21 otherwise terminated, shall be conclusive for all the purposes
22 of articles 70 to 82 of this title as between all interested
23 parties. Determinations made under articles 70 to 82 of this
24 title shall not be binding on the parties under any other
25 statutory or contractual relationship or on any other agency
26 or court.

27 SECTION 95. 8-74-109 (2), Colorado Revised Statutes, as

1 amended, is amended to read:

2 8-74-109. Payment of benefits. (2) If by reason of
3 fraud, mistake, or clerical error a claimant receives moneys
4 in excess of benefits to which he is entitled or if a claimant
5 receives benefits to which he is subsequently determined to be
6 not entitled as a result of a final decision in the appeals
7 process, the division shall recoup such moneys in accordance
8 with section 8-79-102 and such regulations as may be
9 prescribed by the commission DIRECTOR OF THE DIVISION.

10 SECTION 96. 8-76-101 (1), Colorado Revised Statutes, as
11 amended, is amended to read:

12 8-76-101. Payment. (1) Taxes shall accrue and become
13 payable by each employer for each calendar year in which he is
14 subject to articles 70 to 82 of this title with respect to
15 wages for employment. The taxes shall become due and be paid
16 by each employer to the division for the fund in accordance
17 with such regulations as the commission DIRECTOR OF THE
18 DIVISION may prescribe and shall not be deducted, in whole or
19 in part, from the wages of individuals in such employer's
20 employ.

21 SECTION 97. 8-76-103 (1) (b), Colorado Revised Statutes,
22 as amended, is amended to read:

23 8-76-103. Future rates based on benefit experience.
24 (1) (b) The maximum amount so charged against the experience
25 rating account of any employer shall not exceed one-third of
26 the wages paid to such individual by each such employer for
27 insured work during such individual's base period, but not

1 more per completed calendar quarter or portion thereof than
2 one-third of the maximum wage credits as computed in section
3 8-73-104. Nothing in sections 8-76-101 to 8-76-104 shall be
4 construed to limit benefits payable pursuant to sections
5 8-73-101 to 8-73-106. Notwithstanding the provisions of
6 section 8-73-108 and administrative practices which result in
7 fund charging, a reimbursing employer shall bear the cost of
8 all benefits paid to its former employees, with the exception
9 of benefit overpayments. The ~~commission~~ DIRECTOR OF THE
10 DIVISION, by general rules, shall prescribe the manner in
11 which benefits shall be charged against the accounts of
12 several employers for whom an individual performed employment
13 at the same time.

14 SECTION 98. 8-76-113 (2) and (3), Colorado Revised
15 Statutes, as amended, are amended, and the said 8-76-113 is
16 further amended BY THE ADDITION OF THE FOLLOWING NEW
17 SUBSECTIONS, to read:

18 8-76-113. Protest - appeal - filed by an employer.
19 (2) Any employer who wishes to protest an assessment of
20 taxes, a notice of rate of tax, a recomputation of tax rate,
21 or any notice of correction of any matter set forth in this
22 subsection (2) shall file a request for redetermination with
23 the division, in accordance with regulations promulgated by
24 the ~~commission~~ DIRECTOR OF THE DIVISION. The division shall
25 thereafter promptly notify the employer of its redetermination
26 decision. Any employer who wishes to appeal from a
27 redetermination decision may file a written notice of appeal

1 with the division. ~~Except--as--otherwise--provided--by--this~~
2 ~~section;--proceedings--on--appeal--shall--be--governed--by--the~~
3 ~~provisions-of-article-74-of-this-title:~~ No appeal shall be
4 heard unless notice of appeal has been postmarked or received
5 by the division within fifteen calendar days from the date the
6 notice of such redetermination is mailed by the division to
7 the employer.

8 (3) Any determination or redetermination from which
9 appeal may be taken pursuant to subsections (1) or (2) of this
10 section shall be final and binding upon the employer unless a
11 notice of appeal is filed in accordance with the time limits
12 set forth in subsections (1) and (2) of this section or unless
13 the employer establishes to the satisfaction of the division
14 that he had good cause for failure to file a timely notice of
15 appeal. Guidelines for determining what constitutes good
16 cause shall be established by the ~~commission~~ DIRECTOR.

17 (3.5) Any administrative appeal pursuant to this section
18 shall be conducted by a referee or hearing officer of the
19 division.

20 (6) Any employer who disagrees with the determination of
21 a referee or hearing officer in any case appealed pursuant to
22 this section may seek judicial review as provided in section
23 24-4-106, C.R.S.

24 SECTION 99. 8-77-104 (1), Colorado Revised Statutes, is
25 amended to read:

26 8-77-104. Benefit account - requisitions - payment of
27 benefits. (1) The benefit account shall consist of moneys

1 requisitioned by the division of employment from the account
2 of the state of Colorado in the federal unemployment trust
3 fund. Expenditures from the benefit account shall be made by
4 the division solely for payment of benefits provided in
5 articles 70 to 82 of this title, in accordance with
6 regulations prescribed by the ~~industrial---commission---~~
7 ~~Colorado~~ DIRECTOR OF THE DIVISION. Such expenditures shall
8 not be subject to any provisions of law requiring specific
9 appropriations for payment thereof.

10 SECTION 100. 8-77-105, Colorado Revised Statutes, is
11 amended to read:

12 8-77-105. Discontinuance of unemployment trust fund.
13 The provisions of sections 8-77-101 to 8-77-104, to the extent
14 that they relate to the unemployment trust fund, shall be
15 operative only so long as such unemployment trust fund
16 continues to exist and so long as the secretary of the
17 treasury of the United States of America continues to maintain
18 for this state a separate book account of all funds deposited
19 therein by this state for benefit purposes, together with this
20 state's proportionate share of the earnings of such
21 unemployment trust fund, from which no other state is
22 permitted to make withdrawals. If such unemployment trust
23 fund ceases to exist, or such separate book account is no
24 longer maintained, all moneys, properties, or securities
25 therein belonging to the unemployment compensation fund of
26 this state shall be transferred to the treasurer of the
27 unemployment compensation fund, who shall hold, invest,

1 transfer, sell, deposit, and release such moneys, properties,
2 or securities in a manner approved by the commission DIRECTOR
3 OF THE DIVISION in accordance with provisions of articles 70
4 to 82 of this title. Such moneys shall be invested in readily
5 marketable classes of securities as now provided by law with
6 respect to public moneys of the state. Such investment, at
7 all times, shall be so made that all the assets of the fund
8 shall always be readily convertible into cash when needed for
9 the payment of benefits. The treasurer shall dispose of
10 securities or other properties belonging to the unemployment
11 compensation fund only under the direction of the commission
12 DIRECTOR OF THE DIVISION.

13 SECTION 101. 8-79-101, Colorado Revised Statutes, as
14 amended, is amended to read:

15 8-79-101. Interest on past-due taxes. Taxes unpaid on
16 the date on which they are due and payable, as prescribed by
17 the commission DIVISION, shall bear interest at the rate of
18 nine percent per annum or three-fourths of one percent per
19 month or any portion thereof on and after such date until
20 payment plus accrued interest is received by the division. On
21 and after October 1, 1983, taxes unpaid on the date on which
22 they are due and payable, as prescribed by the commission
23 DIVISION, shall bear interest at the rate of eighteen percent
24 per annum or one and one-half percent per month or any portion
25 thereof on and after such date until payment plus accrued
26 interest is received by the division. Interest collected
27 pursuant to this section shall be paid into the unemployment

1 revenue fund.

2 SECTION 102. 8-79-103 (1), Colorado Revised Statutes, as
3 amended, is amended to read:

4 8-79-103. Taxes a lien on property. (1) The taxes
5 imposed by sections 8-76-101 to 8-76-104 shall be a first and
6 prior lien upon the real and personal property of any employer
7 subject to articles 70 to 82 of this title, except as to the
8 lien of general property taxes and except as to valid liens
9 existing at the time of the filing of the notice provided for
10 in section 8-79-105, and shall take precedence over all other
11 liens or claims of whatsoever kind or nature. Any employer
12 who sells, assigns, transfers, conveys, loses by foreclosure
13 of a subsequent lien, or otherwise disposes of his business,
14 or any part thereof, shall file with the division such reports
15 as the commission DIRECTOR OF THE DIVISION, by regulation, may
16 prescribe within ten days after the date of any such
17 transaction. The employer's successor shall be required to
18 withhold sufficient of the purchase money to cover the amount
19 of said tax due and unpaid until such time as the former owner
20 produces a receipt from the division showing that said taxes
21 have been paid or a certificate that no taxes are due. Any
22 such successor who fails to comply with the above provisions
23 shall be personally liable for the payment of any taxes due
24 and unpaid.

25 SECTION 103. 8-79-104 (1), Colorado Revised Statutes, as
26 amended, is amended to read:

27 8-79-104. Failure to file true report - penalty.

1 (1) If any employer fails or neglects to make and file such
2 report, as required by articles 70 to 82 of this title or by
3 the regulations of the commission DIVISION pursuant thereto,
4 or willfully makes a false or fraudulent report, the division
5 may make an assessment of the taxes due from its own knowledge
6 and from such information as it can obtain through testimony
7 or otherwise. Upon the basis of assessments so made, the
8 division may compute and assess in addition thereto a penalty
9 equal to ten percent of such delinquent taxes or of the
10 deficiency resulting from such false or fraudulent report, and
11 this penalty shall be in addition to the interest imposed in
12 section 8-79-101. For the purposes of section 13-80-104,
13 C.R.S., and this subsection (1), an offense is committed as of
14 the date a determination of delinquency is no longer subject
15 to appeal.

16 SECTION 104. 8-80-102, Colorado Revised Statutes, as
17 amended, is amended to read:

18 8-80-102. Limitation of fees. No individual claiming
19 benefits shall be charged fees of any kind in any proceeding
20 under articles 70 to 82 of this title by the division or its
21 representatives or by any court or any officer thereof; except
22 that the controller may charge a reasonable fee as provided in
23 section 8-79-102 (2) for the recoupment of benefit
24 overpayments, and any party appealing the decision of a
25 referee shall be assessed the actual costs of preparing a
26 transcript according to rules promulgated by the commission
27 DIRECTOR OF THE DIVISION except if the appellant is successful

1 the cost of preparing the transcript will be refunded. Any
2 person who violates this provision is guilty of a misdemeanor.
3 Any individual claiming benefits in any proceeding before the
4 division or a court may be represented by counsel. Unless
5 approved by the division, no lien shall be allowed or suit
6 brought for attorney fees, contingent or otherwise, for
7 services rendered for the collection of any individual's claim
8 for benefits.

9 SECTION 105. 8-81-101 (4) (b) and (4) (c), Colorado
10 Revised Statutes, as amended, are amended to read:

11 8-81-101. Penalties. (4) (b) Pursuant to rules and
12 regulations promulgated by the ~~commission~~ DIRECTOR OF THE
13 DIVISION, the division may waive the recovery of all or a part
14 of the amount of any overpayment which it finds to be
15 uncollectible or the recovery of which it finds to be
16 administratively impracticable. Amounts which remain
17 uncollected for more than five years, or seven years for
18 overpayments due to false representation or willful failure to
19 disclose a material fact, may be waived as uncollectible.

20 (c) Any person aggrieved by a determination of the
21 division made under this subsection (4) may appeal that
22 determination and obtain a hearing before a hearing officer
23 with the right to ~~further-appeal;-as-provided-by-article-74-of~~
24 ~~this--title~~ SEEK JUDICIAL REVIEW AS PROVIDED IN SECTION
25 24-4-106, C.R.S. The initial appeal must be postmarked within
26 fifteen calendar days after the date of notification of such
27 determination by the division; otherwise, the determination

1 shall be final.

2 SECTION 106. 2-5-119, Colorado Revised Statutes, 1980
3 Repl. Vol., as amended, is amended to read:

4 2-5-119. Tax levy on civil actions. In lieu of the tax
5 imposed by section 135-4-29, C.R.S. 1963, a tax of one dollar
6 is imposed upon each action filed in the office of each clerk
7 of a court of record of the state of Colorado, except criminal
8 actions, cases filed for reviews of findings and orders of the
9 ~~industrial-commission~~ DIVISION OF LABOR OR THE DIVISION OF
10 EMPLOYMENT AND TRAINING, petitions relating to the
11 distribution of estates under sections 15-12-1203 and
12 15-12-1204, C.R.S., petitions relating to the mentally ill or
13 deficient filed under articles 10 to 16 of title 27, C.R.S.,
14 cases filed by the state of Colorado, cases filed by the
15 United States of America or any of its agencies in any matter
16 under articles 10 to 20 of title 15, C.R.S., and cases where a
17 party is allowed to sue as a poor person. The tax shall be
18 paid to the clerk by the party filing the action at the time
19 of such filing. Each clerk shall keep the taxes so received
20 in a separate fund and remit them to the state treasurer on
21 the first day of each month for the purpose of reimbursing the
22 general fund for appropriations made for the use of the
23 committee on legal services for statutory revision purposes.

24 SECTION 107. 9-7-104 (1) (a), Colorado Revised Statutes,
25 is amended to read:

26 9-7-104. Enforcement. (1) (a) Issue permits to
27 applicants found by the division, after inspection and

1 investigation, to be qualified for such permit under the
2 provisions of this article and the rules and regulations of
3 the commission DIVISION;

4 SECTION 108. 9-7-105, Colorado Revised Statutes, is
5 amended to read:

6 9-7-105. Duties of director of division. (1) The
7 commission DIRECTOR OF THE DIVISION shall promulgate rules and
8 regulations to implement the provisions of this article. Such
9 rules and regulations may include requirements not mentioned
10 specifically in this article but which are reasonably
11 necessary for the safety of workers, the public, and the
12 protection of property. The procedure for the promulgation of
13 such rules and regulations shall be in accordance with the
14 provisions of section 24-4-103, C.R.S. 1973:

15 (2) ~~The--commission--shall--provide--administrative--review~~
16 ~~of--any--decision--or--order--of--the--division--upon--timely~~
17 ~~application--by~~ Any person aggrieved by such A decision or
18 order and OF THE DIRECTOR OF THE DIVISION MAY SEEK judicial
19 review ~~of--any--finding--or--order--of--the--commission--may~~
20 ~~thereafter--be--had~~ pursuant to the provisions of section
21 24-4-106, C.R.S. 1973:

22 SECTION 109. 9-10-103, Colorado Revised Statutes, is
23 amended to read:

24 9-10-103. Director of division to make rules. The
25 ~~industrial--commission--of--Colorado~~ DIRECTOR OF THE DIVISION OF
26 LABOR shall make all reasonable and necessary rules and
27 regulations, not inconsistent with this article, to enforce

1 the provisions of this article and to accomplish its purpose.

2 SECTION 110. 9-10-104, Colorado Revised Statutes, is
3 amended to read:

4 9-10-104. Penalty for violation. Any person who
5 violates any of the provisions of this article or of the rules
6 and regulations of the ~~commission~~ DIVISION OF LABOR made in
7 respect hereto is guilty of a misdemeanor and, upon conviction
8 thereof, shall be punished by a fine of not more than three
9 hundred dollars, or by imprisonment in the county jail for not
10 more than ninety days, or by both such fine and imprisonment.

11 SECTION 111. 9-10-105, Colorado Revised Statutes, is
12 amended to read:

13 9-10-105. District attorney to prosecute violations. It
14 is the duty of the district attorneys of the several districts
15 of the state to prosecute for the violation of any of the
16 provisions of this article or of the rules and regulations of
17 the ~~industrial-commission~~ DIVISION OF LABOR made in connection
18 herewith.

19 SECTION 112. 11-70-107, Colorado Revised Statutes, as
20 amended, is amended to read:

21 11-70-107. Workmen's compensation. The coverage
22 provided by a trust established pursuant to this article shall
23 be deemed insurance meeting the requirements of article 44 of
24 title 8, C.R.S., to secure the payment of compensation under
25 the Colorado workmen's compensation law, and such trust, upon
26 obtaining approval of the ~~industrial--commission--of--Colorado~~
27 DIRECTOR OF THE DIVISION OF LABOR, may act as its own

1 insurance carrier, as provided in section 8-44-109, C.R.S.

2 SECTION 113. 12-22-204, Colorado Revised Statutes, 1984
3 Repl. Vol., is amended to read:

4 12-22-204. State board of pharmacy to enforce. The
5 ~~industrial-commission~~ STATE BOARD OF PHARMACY is authorized to
6 enforce the provisions of this part 2.

7 SECTION 114. 13-4-102 (2), Colorado Revised Statutes, as
8 amended, is amended to read:

9 13-4-102. Jurisdiction. (2) The court of appeals shall
10 have initial jurisdiction to review awards or actions of the
11 ~~industrial--commission~~ DIVISION OF LABOR AND THE DIVISION OF
12 EMPLOYMENT AND TRAINING, as provided in articles 53 and 74 of
13 title 8, C.R.S., to review orders of the banking board
14 granting or denying charters for new state banks, as provided
15 in article 2 of title 11, C.R.S., to review all final actions
16 and orders appropriate for judicial review of the state board
17 of registration for professional engineers and professional
18 land surveyors as provided in article 25 of title 12, C.R.S.,
19 to review all final actions and orders appropriate for
20 judicial review of the Colorado podiatry board, as provided in
21 section 12-32-108.7, C.R.S., to review all final actions and
22 orders appropriate for judicial review of the Colorado state
23 board of chiropractic examiners as provided in section
24 12-33-121, C.R.S., to review actions of the state board of
25 medical examiners in refusing to grant or in revoking or
26 suspending a license or in placing the holder thereof on
27 probation, as provided in section 12-36-119 (2), C.R.S., to

1 review actions of the board of dental examiners in refusing to
2 issue or renew or in suspending or revoking a license to
3 practice dentistry or dental hygiene, as provided in section
4 12-35-115, C.R.S., to review all final actions and orders
5 appropriate for judicial review of the board of nursing as
6 provided in articles 38 and 42 of title 12, C.R.S., to review
7 actions of the state board of optometric examiners in refusing
8 to grant or renew, revoking, or suspending a license, issuing
9 a letter of admonition, or placing a licensee on probation or
10 under supervision, as provided by section 12-40-119 (2) (e),
11 C.R.S., to review decisions of the board of education in
12 proceedings for the dismissal of a teacher, as provided in
13 section 22-63-117, C.R.S., to review final decisions or orders
14 of the Colorado real estate commission, as provided in parts
15 1, 3, 4, and 6 of article 61 of title 12, C.R.S., and to
16 review final decisions and orders of the Colorado civil rights
17 commission, as provided in parts 3, 4, and 7 of article 34 of
18 title 24, C.R.S.

19 SECTION 115. 24-4-106 (11) (a), Colorado Revised
20 Statutes, is amended to read:

21 24-4-106. Judicial review. (11) (a) Whenever judicial
22 review of any agency action is directed to the court of
23 appeals, the provisions of this subsection (11) shall be
24 applicable except for review of orders of the industrial
25 ~~commission~~ DIVISION OF LABOR AND THE DIVISION OF EMPLOYMENT
26 AND TRAINING.

27 SECTION 116. 22-32-124, Colorado Revised Statutes, as

1 amended, is amended to read:

2 22-32-124. Building codes - zoning - planning.

3 (1) Prior to the acquisition of land or any contracting for
4 the purchase thereof, the board of education shall consult
5 with and advise in writing the planning commission, or
6 governing body if no planning commission exists, which has
7 jurisdiction over the territory in which the site is proposed
8 to be located in order that the proposed site shall conform to
9 the adopted plan of the community insofar as is feasible. In
10 addition, the board of education shall submit a site
11 development plan for review and comment thereon to such
12 planning commission or governing body prior to construction of
13 any structure or building. The planning commission or
14 governing body may request a public hearing before the board
15 of education relating to the proposed site location or site
16 development plan. The board of education shall thereafter
17 promptly schedule the hearing, publish at least one notice in
18 advance of the hearing, and provide written notice of the
19 hearing to the requesting planning commission or governing
20 body. Prior to the acquisition of land for school building
21 sites or construction of any buildings thereon, the board of
22 education also shall consult with the Colorado geological
23 survey regarding potential swelling soil, mine subsidence and
24 other geologic hazards and to determine the geologic
25 suitability of the site for its proposed use. All buildings
26 and structures shall be erected in conformity with the
27 standards of the ~~industrial-commission-of-colorado~~ DIVISION OF

1 LABOR. Nothing in this subsection (1) shall be construed to
2 limit the authority of a board of education to finally
3 determine the location of public schools within the district
4 and erect necessary buildings and structures.

5 (2) (a) Notwithstanding the provisions of section
6 8-1-107 (2) (d), C.R.S., upon request of the division of labor
7 after consulting with the affected board of education, the
8 appropriate building department of a county, town, city, or
9 city and county wherein a building or structure has been
10 erected pursuant to subsection (1) of this section may make
11 the necessary inspections to determine that such building or
12 structure has been erected in conformity with the standards of
13 the ~~industrial--commission-of-colorado~~ DIVISION OF LABOR and,
14 if such building or structure is in conformity, shall issue
15 the necessary certificate of occupancy prior to use of the
16 building or structure by the school district. A fee may be
17 charged for such inspections upon approval of the board of
18 education, if the amount of the fee is determined on the basis
19 of the direct cost of providing such service. If the division
20 of labor after consulting with the affected board of education
21 requests inspections by the building department, such
22 inspections shall be in lieu of any inspections made by the
23 division of labor; except that this subsection (2) shall not
24 be construed to relieve the division of labor of the
25 responsibility to conduct such inspections if the appropriate
26 county, town, city, or city and county agency does not conduct
27 the inspections. Any county, town, city, or city and county

1 conducting such inspections shall also be authorized to
2 annually reinspect the building or structure to assure that it
3 is maintained and operated in accordance with the fire code
4 adopted by the ~~industrial-commission~~ DIRECTOR OF THE DIVISION
5 OF LABOR. The inspecting entity shall cooperate with the
6 affected school district in carrying out the duties of this
7 section.

8 (b) If the division of labor conducts the necessary
9 inspection to determine that a building or structure erected
10 pursuant to subsection (1) of this section has been erected in
11 conformity with the standards of the ~~industrial-commission-of~~
12 Colorado DIVISION OF LABOR, it shall charge a fee of two
13 hundred dollars for such inspection. Any fees collected by
14 the division of labor pursuant to this paragraph (b) shall be
15 transmitted to the state treasurer, who shall credit the same
16 to the public safety inspection fund created pursuant to
17 section 8-1-151, C.R.S.

18 (3) The county, town, city, city and county, or fire
19 protection district providing fire protection service for the
20 buildings and structures of a school district may annually
21 inspect such buildings and structures to assure that they are
22 maintained in accordance with the fire code adopted by the
23 ~~industrial-commission~~ DIRECTOR OF THE DIVISION OF LABOR unless
24 the board of education of the district has contracted for such
25 inspections to be conducted by a person qualified to conduct
26 such inspections by reason of experience, training, or
27 certification.

1 SECTION 117. 23-71-122 (1) (v), Colorado Revised
2 Statutes, as amended, is amended to read:

3 23-71-122. Junior college committees - specific powers.

4 (1) (v) (I) Determine the location of each school site,
5 building, or structure, and construct, erect, repair, alter,
6 rebuild, replace, and remodel buildings and structures without
7 a permit or fee or compliance with a local building code. The
8 authority delegated by this subparagraph (I) shall exist
9 notwithstanding any authority delegated or vested in any
10 county, town, city, or city and county. Prior to the
11 acquisition of land for school building sites or the
12 construction of buildings thereon, the committee shall consult
13 with the planning commission which has jurisdiction over the
14 territory in which the site, building, or structure is
15 proposed to be located relative to the location of such site,
16 building, or structure in order that the proposed site,
17 building, or structure shall conform to the adopted plan of
18 the community insofar as is feasible. All buildings and
19 structures shall be erected in conformity with the standards
20 of the ~~industrial--commission-of-colorado~~ DIVISION OF LABOR.
21 The committee shall advise the planning commission which has
22 jurisdiction over the territory in which a site, building, or
23 structure is proposed to be located, in writing, relative to
24 the location of such site, building, or structure prior to the
25 awarding of a contract for the purchase or the construction
26 thereof.

27 (II) Notwithstanding the provisions of section 8-1-107

1 (2) (d), C.R.S., upon request of the division of labor after
2 consulting with the affected junior college committee, the
3 appropriate building department of a county, town, city, or
4 city and county wherein a building or structure has been
5 erected pursuant to subparagraph (I) of this paragraph (v) may
6 make the necessary inspections to determine that such building
7 or structure has been erected in conformity with the standards
8 of the ~~industrial--commission--of--Colorado~~ DIVISION OF LABOR
9 and, if such building or structure is in conformity, shall
10 issue the necessary certificate of occupancy prior to use of
11 the building or structure by the junior college district. No
12 fee shall be charged for such inspections. If the division of
13 labor, after consulting with the affected junior college
14 committee, requests inspections by the building department,
15 such inspections shall be in lieu of any inspections made by
16 the division of labor; except that this subparagraph (II)
17 shall not be construed to relieve the division of labor of the
18 responsibility to conduct such inspections if the appropriate
19 county, town, city, or city and county agency does not conduct
20 the inspections. Any county, town, city, or city and county
21 conducting such inspections shall also be authorized to
22 annually reinspect the building or structure to assure that it
23 is maintained and operated in accordance with the fire code
24 adopted by the ~~industrial--commission~~ DIRECTOR OF THE DIVISION
25 OF LABOR. The inspecting entity shall cooperate with the
26 affected junior college district in carrying out the duties of
27 this section.

1 (III) The county, town, city, city and county, or fire
2 protection district providing fire protection service for the
3 buildings and structures of a junior college district may
4 annually inspect such buildings and structures to assure that
5 they are maintained in accordance with the fire code adopted
6 by the ~~industrial-commission~~ DIRECTOR OF THE DIVISION OF LABOR
7 unless the junior college committee of the district has
8 contracted for such inspections to be conducted by a person
9 qualified to conduct such inspections by reason of experience,
10 training, or certification.

11 SECTION 118. 24-33.5-809, Colorado Revised Statutes, as
12 amended, is amended to read:

13 24-33.5-809. Agreement for disposition of claims. The
14 division of disaster emergency services and the division of
15 the state compensation insurance fund of the department of
16 labor and employment shall enter into an agreement requiring
17 the state compensation insurance fund, as adjusting agent, to
18 adjust and dispose of claims and furnish compensation to civil
19 defense workers and their dependents. The agreement shall
20 authorize the state compensation insurance fund to make all
21 expenditures, including payments to claimants for compensation
22 or for the adjustment or settlement of claims. Nothing in
23 this part 8 shall be construed to mean that the state
24 compensation insurance fund or its officers or agents have the
25 final decision with respect to the compensability of any case
26 or the amount of compensation or benefits due, but any civil
27 defense worker or his dependents shall have the same right to

1 hearings before the division of labor in the department of
2 labor and employment and its referees and to appeal from
3 awards of said division and referees to ~~the--industrial~~
4 ~~commission-and~~ the courts in accordance with the hearing and
5 review procedures of the "Workmen's Compensation Act of
6 Colorado" found in article 53 of title 8, C.R.S., subject,
7 however, to the limitations prescribed in this part 8.

8 SECTION 119. 24-70-205 (1), Colorado Revised Statutes,
9 is amended to read:

10 24-70-205. Contracts for public printing. (1) All
11 public printing for the state of Colorado shall be performed
12 under contract, to be given to the lowest responsible bidder,
13 under the regulations set forth in this part 2 and under a
14 specific provision that all persons employed by the contractor
15 in the manufacture or furnishing of materials, supplies, or
16 articles in the performance of the contract shall observe the
17 prevailing standards of working hours and conditions fixed and
18 prescribed by the ~~industrial-commission-of--Colorado~~ DIVISION
19 OF LABOR as a condition precedent to the submission of such
20 bid and while performing such contract. Such contracts shall
21 be made by the state purchasing director after bids have been
22 submitted to him, but printing to be done for state agencies
23 outside the Denver area may be purchased under the direction
24 of the respective heads of such agencies in accordance with
25 the rules and regulations established by the state purchasing
26 director. The provisions of this subsection (1) shall not
27 apply to fourth-class printing required by the legislative

1 department of the state in the regular course of its
2 activities.

3 SECTION 120. 25-12-102 (2), Colorado Revised Statutes,
4 is amended to read:

5 25-12-102. Definitions. (2) "db(A)" means sound levels
6 in decibels measured on the "A" scale of a standard sound
7 level meter having characteristics defined by the American
8 National Standards Institute, Publication S1. 4 - 1971. and
9 ~~approved-by-the-industrial-commission-of-colorado:~~

10 SECTION 121. 30-28-135, Colorado Revised Statutes, 1977
11 Repl. Vol., is amended to read:

12 30-28-135. Safety glazing materials. The board of
13 county commissioners of each county in this state shall adopt
14 standards governing the use of safety glazing materials for
15 hazardous locations in the unincorporated areas of the county.
16 ~~which-standards-shall-be-no-less-stringent-than-the-provisions~~
17 ~~of--article--2--of--title--9;--E-R-5--1973:~~ No building permit
18 shall be issued for the construction, reconstruction, or
19 alteration of any structure in the unincorporated area of such
20 county unless such construction, reconstruction, or alteration
21 conforms to the standards adopted pursuant to this section.
22 The county building inspector shall inspect all places not
23 ~~inspected--by--the--division--of--labor--under--the--provisions--of~~
24 ~~article-2-of-title-9;--E-R-5--1973;~~ to determine whether such
25 places are in compliance with the standards for the use of
26 safety glazing materials.

27 SECTION 122. 31-23-312, Colorado Revised Statutes, 1977

1 Repl. Vol., is amended to read:

2 31-23-312. Safety glazing materials. The governing body
3 of each municipality in this state shall adopt standards
4 governing the use of safety glazing materials for hazardous
5 locations within its jurisdiction. ~~which standards shall be no~~
6 ~~less stringent than the provisions of article 2 of title 9;~~
7 ~~C.R.S. 1973:~~ No building permit shall be issued for the
8 construction, reconstruction, or alteration of any structure
9 in such municipality unless such construction, reconstruction,
10 or alteration conforms to the standards adopted pursuant to
11 this section. The building inspection authority in such
12 municipality shall inspect all places ~~not inspected by the~~
13 ~~division of labor under the provisions of article 2 of title~~
14 ~~9; C.R.S. 1973;~~ to determine whether such places are in
15 compliance with the standards for the use of safety glazing
16 materials.

17 SECTION 123. 33-4-104 (1), Colorado Revised Statutes, is
18 amended to read:

19 33-4-104. Free licenses issued - when. (1) Any active
20 or retired member of the United States armed forces while
21 stationed as a resident patient at any United States armed
22 forces hospital or convalescent station located within
23 Colorado, any resident patient at a veterans administration
24 hospital and resident patients of any state mental institution
25 or other mental health institution in Colorado while under
26 supervision of a proper staff member thereof, and any resident
27 who is totally and permanently disabled as determined by the

1 social security administration or the ~~industrial-commission-of~~
2 ~~Colorado~~ DIVISION OF LABOR or pursuant to rule or regulation
3 of the commission may obtain a fishing license free of charge,
4 valid for taking fish during the period of residency only,
5 under rules and regulations of the commission.

6 SECTION 124. Repeal. 8-1-102, 8-1-104 (1), 8-1-106 (1),
7 8-1-107 (1), 8-1-131, 8-1-132, 8-1-133, 8-1-134, 8-1-135,
8 8-1-136, 8-1-137, 8-1-138, 8-3-104 (5) and (6), 8-3-110 (11),
9 (12), (13), and (14), 8-4-101 (1), 8-5-101 (1), 8-6-103 (1)
10 and (2), 8-12-103 (1), 8-41-101 (1), 8-53-111 (5), (6), (7),
11 and (9), 8-70-103 (5), 8-71-105, 8-74-104, article 2 of title
12 9, and 9-7-103 (1), Colorado Revised Statutes, as amended, and
13 24-9-102 (1) (e), Colorado Revised Statutes, 1982 Repl. Vol.,
14 as amended, and 43-2-208 (2), Colorado Revised Statutes, 1984
15 Repl. Vol., are repealed.

16 SECTION 125. Effective date. This act shall take effect
17 July 1, 1986.

18 SECTION 126. Safety clause. The general assembly hereby
19 finds, determines, and declares that this act is necessary
20 for the immediate preservation of the public peace, health,
21 and safety.

BILL 4

A BILL FOR AN ACT

1 CONCERNING SUITS AGAINST STATE OFFICIALS ARISING OUT OF
2 OCCUPATIONAL INJURIES.

Bill Summary

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

Limits venue for suits against state officials regarding actions arising out of occupational injuries to courts of the state of Colorado.

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

4 SECTION 1. 8-51-106 (5) (a), Colorado Revised Statutes,
5 as amended, is amended to read:

6 8-51-106. Subsequent injury fund. (5) (a) (I) Sue and
7 ~~be--sued~~ in all the courts of this state, of any other state,
8 or of the United States and in actions arising out of any act,
9 deed, matter, or thing made, omitted, entered into, done, or
10 suffered in connection with the subsequent injury fund and the
11 administration or conduct of matters relating thereto,
12 including the authority to employ counsel to represent the

1 THERETO; AND SHALL BE AUTHORIZED TO EMPLOY COUNSEL TO
2 REPRESENT THE FUND IN ANY ACTION. NOTHING IN THIS
3 SUBPARAGRAPH (II) SHALL BE CONSTRUED TO WAIVE ANY PROVISIONS
4 OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF
5 TITLE 24, C.R.S.

6 SECTION 3. 8-65-103 (2) (a), Colorado Revised Statutes,
7 as amended is amended to read:

8 8-65-103. Enforcement powers - violations.

9 (2) (a) (I) Sue ~~and-be-sued~~ in all courts of this state, of
10 any other state, or of the United States and in actions
11 arising out of any act, deed, matter, or thing made, omitted,
12 entered into, done, or suffered in connection with the medical
13 disaster insurance fund and the administration or conduct of
14 matters relating thereto, including the authority to employ
15 counsel to represent the fund in any action;

16 (II) BE SUED IN ALL COURTS OF THE STATE OF COLORADO IN
17 ACTIONS ARISING OUT OF ANY ACT, DEED, MATTER, OR THING MADE,
18 OMITTED, ENTERED INTO, DONE, OR SUFFERED IN CONNECTION WITH
19 THE MEDICAL DISASTER INSURANCE FUND AND THE ADMINISTRATION OR
20 CONDUCT OF MATTERS RELATING THERETO; AND SHALL BE AUTHORIZED
21 TO EMPLOY COUNSEL TO REPRESENT THE FUND IN ANY ACTION.
22 NOTHING IN THIS SUBPARAGRAPH (II) SHALL BE CONSTRUED TO WAIVE
23 ANY PROVISIONS OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT",
24 ARTICLE 10 OF TITLE 24, C.R.S.

25 SECTION 4. 8-66-102 (2) (a), Colorado Revised Statutes,
26 as amended, is amended to read:

27 8-66-102. Major medical insurance fund - tax imposed -

1 returns. (2) (a) (I) Sue ~~and--be-sued~~ in all the courts of
2 this state, of any other state, or of the United States and in
3 actions arising out of any act, deed, matter, or thing made,
4 omitted, entered into, done, or suffered in connection with
5 the major medical insurance fund and the administration or
6 conduct of matters relating thereto, including the authority
7 to employ counsel to represent the fund in any action;

8 (II) BE SUED IN ALL COURTS OF THE STATE OF COLORADO IN
9 ACTIONS ARISING OUT OF ANY ACT, DEED, MATTER, OR THING MADE,
10 OMITTED, ENTERED INTO, DONE, OR SUFFERED IN CONNECTION WITH
11 THE MAJOR MEDICAL INSURANCE FUND AND THE ADMINISTRATION OR
12 CONDUCT OF MATTERS RELATING THERETO; AND SHALL BE AUTHORIZED
13 TO EMPLOY COUNSEL TO REPRESENT THE FUND IN ANY ACTION.
14 NOTHING IN THIS SUBPARAGRAPH (II) SHALL BE CONSTRUED TO WAIVE
15 ANY PROVISIONS OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT",
16 ARTICLE 10 OF TITLE 24, C.R.S.

17 SECTION 5. Applicability. This act shall apply to suits
18 brought on and after the effective date of this act against
19 state officials arising out of occupational injuries.

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

BILL 5

A BILL FOR AN ACT

1 CONCERNING ENFORCEMENT OF ORDERS ISSUED UNDER THE "WORKMEN'S
2 COMPENSATION ACT OF COLORADO".

Bill Summary

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

Creates a mechanism for registering an order of the director of the division of labor, the commission, or a hearing officer with a district court for execution thereon. Provides for the vacating of such recording and any execution thereon if the director or commission certifies that the order has been set aside, modified, reversed, or vacated or a bond has been filed to guarantee payment.

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

4 SECTION 1. 8-53-118, Colorado Revised Statutes, as
5 amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6 8-53-118. Collection of fines and penalties. (1) A
7 certified copy of any order of the director, the commission,
8 or a hearing officer finding a violation of any provision of
9 articles 40 to 54 of this title or ordering the payment of

1 compensation or benefits pursuant to articles 40 to 54 of this
2 title may be filed with the clerk of the district court of any
3 county in this state at any time after the entry of the order,
4 and the same shall be recorded by him in the judgment book of
5 said court and entry thereof made in the judgment docket, and
6 it shall thenceforth have all the effect of a judgment of the
7 district court, and execution may issue thereon out of said
8 court as in other cases. Upon the certification by the
9 director or commission that the order has been set aside,
10 modified, reversed, or vacated or that a bond has been filed
11 with the division in such form and amount as prescribed and
12 fixed by the director guaranteeing the payment of the fine,
13 penalty, compensation, or benefits, said record in the
14 judgment docket shall be vacated and any execution thereon
15 shall be recalled.

16 (2) A civil action to execute upon a judgment entered
17 pursuant to subsection (1) of this section may be brought
18 against the employer or insurer, or any officer or agent of
19 either, or any employee, or any other person as the case may
20 be, in the name of and by the director, and all such penalties
21 when collected shall be payable to the division and
22 transmitted through the state treasurer for credit to the
23 subsequent injury fund.

24 SECTION 2. Effective date. This act shall take effect
25 July 1, 1986.

26 SECTION 3. Safety clause. The general assembly hereby
27 finds, determines, and declares that this act is necessary

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

BILL 6

A BILL FOR AN ACT

1 CONCERNING REDUCING THE OFFSET FOR PERIODIC DEATH BENEFITS
2 GRANTED UNDER FEDERAL LAW OR THE LAW OF ANOTHER STATE
3 PURSUANT TO THE "WORKMEN'S COMPENSATION ACT OF COLORADO".

Bill Summary

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

Reduces the offset for periodic death benefits awarded under the federal old age, survivors, and disability insurance act or a workmen's compensation act of another state or of the federal government from one hundred percent to approximately fifty percent of such benefits pursuant to the "Workmen's Compensation Act of Colorado".

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

5 SECTION 1. 8-50-103, Colorado Revised Statutes, as
6 amended, is amended to read:

7 8-50-103. Death benefits. In case of death, the
8 dependents of the deceased entitled thereto shall receive as
9 compensation or death benefits sixty-six and two-thirds
10 percent of the deceased employee's average weekly wages, not

1 to exceed a maximum of eighty percent of the state average
2 weekly wage per week for accidents occurring on or after
3 September 1, 1975, and not less than a minimum of twenty-five
4 percent of the applicable maximum per week. In cases where it
5 is determined that periodic death benefits granted by the
6 federal old age, survivors, and disability insurance act or a
7 workmen's compensation act of another state or of the federal
8 government are payable to an individual and his dependents,
9 the aggregate benefits payable for death pursuant to this
10 section shall be reduced, but not below zero, by an amount
11 equal ~~to--one--hundred-percent-of~~ AS NEARLY AS PRACTICABLE TO
12 ONE-HALF such periodic benefits.

13 SECTION 2. Applicability. This act shall apply to
14 claims for compensation arising under articles 40 through 54
15 of title 8, Colorado Revised Statutes, on or after July 1,
16 1986.

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

BILL 7

A BILL FOR AN ACT

1 CONCERNING INCREASING THE BURIAL FEE UNDER THE "WORKMEN'S
2 COMPENSATION ACT OF COLORADO".

Bill Summary

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

Increases the burial expense fee payable under the "Workmen's Compensation Act of Colorado".

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

4 SECTION 1. 8-50-107, Colorado Revised Statutes, as
5 amended, is amended to read:

6 8-50-107. Burial expenses. When, as a proximate result
7 of an injury, death occurs to an injured employee, there shall
8 be paid in one lump sum within thirty days after his death a
9 sum not to exceed ~~one~~ TWO thousand dollars for his reasonable
10 funeral and burial expenses. Said sum may be paid to the
11 undertaker, or to any other person who has paid the
12 undertaker, if the director so orders. If the employee leaves

1 no dependents, compensation shall be limited to said sum and
2 the compensation, if any, which has accrued to date of death
3 and the medical, surgical, and hospital expenses provided in
4 articles 40 to 54 of this title. If the deceased employee
5 leaves dependents, said sum shall be paid in addition to all
6 other sums of compensation provided for in this article.

7 SECTION 2. Applicability. This act shall apply to
8 deaths as a result of injuries occurring to employees on or
9 after the effective date of this act.

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 8

A BILL FOR AN ACT

1 CONCERNING A COST OF LIVING ADJUSTMENT TO AWARDS FOR PERMANENT
2 TOTAL DISABILITY UNDER THE "WORKMEN'S COMPENSATION ACT OF
3 COLORADO".

Bill Summary

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

Adds a cost-of-living increase to the weekly benefit amount received by an injured employee for permanent total disability pursuant to the "Workmen's Compensation Act of Colorado".

4 Be it enacted by the General Assembly of the State of Colorado:
5 SECTION 1. 8-51-107 (1), Colorado Revised Statutes, is
6 amended to read:
7 8-51-107. Award for permanent total disability. (1) In
8 cases of permanent total disability, the award shall be
9 sixty-six and two-thirds percent of the average weekly wages
10 of the injured employee and shall continue until death of such
11 person so totally disabled. ~~but not in excess of~~ COMMENCING

1 JULY 1, 1986, AND ON JULY 1 OF EVERY EVEN-NUMBERED YEAR
2 THEREAFTER, THE WEEKLY BENEFIT RECEIVED BY THE INJURED
3 EMPLOYEE SHALL BE INCREASED BY THREE PERCENT FOR THE FOLLOWING
4 TWENTY-FOUR-MONTH PERIOD. HOWEVER, NO AWARD UNDER THIS
5 SECTION SHALL EXCEED the weekly maximum benefits specified in
6 this article for injuries causing temporary total disability.

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

BILL 9

A BILL FOR AN ACT

1 CONCERNING THE CONTINUATION OF THE PAYMENT OF MEDICAL BENEFITS
2 THROUGHOUT THE PERIOD OF DISABILITY UNDER THE "WORKMEN'S
3 COMPENSATION ACT OF COLORADO".

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 medical benefits payable as a result of workmen's compensation claims shall be payable throughout the period of disability and are not subject to being reopened.

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

5 SECTION 1. 8-49-101 (1) (a), Colorado Revised Statutes,
6 as amended, is amended to read:

7 8-49-101. Employer must furnish medical aid - approval
8 of plan. (1) (a) Every employer, regardless of his method of
9 insurance, shall furnish such medical, surgical, dental,
10 nursing, and hospital treatment, medical, hospital, and
11 surgical supplies, crutches, apparatus, and vocational
12 rehabilitation, which shall include tuition, fees,

1 transportation, and weekly maintenance equivalent to that
2 which the employee would receive under section 8-51-102 for
3 the period of time that the employee is attending a vocational
4 rehabilitation course, as may reasonably be needed at the time
5 of the injury or occupational disease and thereafter during
6 the disability and period of vocational rehabilitation, to
7 cure and relieve from the effects of the injury. In no event
8 shall the injured employee be entitled to receive both
9 temporary total disability benefits and income maintenance
10 benefits while attending a vocational rehabilitation program.
11 MEDICAL, SURGICAL, DENTAL, NURSING, AND HOSPITAL TREATMENT,
12 MEDICAL, HOSPITAL, AND SURGICAL SUPPLIES, CRUTCHES, APPARATUS,
13 AND ALL REASONABLE MEDICAL SERVICES SHALL BE FURNISHED WITHOUT
14 LIMITATION AS TO THE LENGTH OF TIME OR THE DOLLAR AMOUNT AS A
15 RESULT OF THE INJURIES SUSTAINED.

16 SECTION 2. 8-53-113, Colorado Revised Statutes, as
17 amended, is amended to read:

18 8-53-113. Reopening. At any time within six years from
19 the date of injury or at any time within two years after the
20 date the last compensation becomes due and payable, whichever
21 is longer, the director or a hearing officer may, after notice
22 to all parties, review and reopen any award on the ground of
23 an error, a mistake, or a change in condition, except for
24 those settlements entered into pursuant to section 8-53-105 in
25 which the claimant waived his right to reopen an award; but a
26 settlement may be reopened at any time on the ground of fraud
27 or mutual mistake of material fact. If an award is reopened,

1 compensation ~~and-medical-benefits~~ previously ordered may be
2 ended, diminished, maintained, or increased. No such
3 reopening shall affect the earlier award as to moneys already
4 paid. Any order entered under this section shall be subject
5 to review in the same manner as other orders.

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.

BILL 10

A BILL FOR AN ACT

1 CONCERNING THE MORTALITY TABLE AS EVIDENCE.

Bill Summary

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

Increases the life expectancy rate for each age within the mortality table from which the life expectancy of any person can be determined for evidentiary purposes.

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

3 SECTION 1. 13-25-103, Colorado Revised Statutes, as
4 amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 13-25-103. Mortality table. The table referred to in
6 section 13-25-102 is as follows:

7	<u>Completed</u>	<u>Expectancy of Life,</u>
8	<u>Age</u>	<u>U.S. Life Table: 1981</u>
9	0	74.2
10	1	74.1
11	2	73.1
12	3	72.2

1	<u>Completed</u>	<u>Expectancy of Life,</u>
2	<u>Age</u>	<u>U.S. Life Table: 1981</u>
3	4	71.2
4	5	70.2
5	6	69.3
6	7	68.3
7	8	67.3
8	9	66.3
9	10	65.3
10	11	64.4
11	12	63.4
12	13	62.4
13	14	61.4
14	15	60.4
15	16	59.5
16	17	58.5
17	18	57.6
18	19	56.6
19	20	55.7
20	21	54.8
21	22	53.8
22	23	52.9
23	24	52.0
24	25	51.0
25	26	50.1
26	27	49.2

1	<u>Completed</u>	<u>Expectancy of Life,</u>
2	<u>Age</u>	<u>U.S. Life Table: 1981</u>
3	28	48.2
4	29	47.3
5	30	46.3
6	31	45.4
7	32	44.5
8	33	43.5
9	34	42.6
10	35	41.6
11	36	40.7
12	37	39.8
13	38	38.8
14	39	37.9
15	40	37.0
16	41	36.1
17	42	35.2
18	43	34.3
19	44	33.4
20	45	32.5
21	46	31.6
22	47	30.7
23	48	29.8
24	49	29.0
25	50	28.1
26	51	27.3

	<u>Completed</u>	<u>Expectancy of Life,</u>
	<u>Age</u>	<u>U.S. Life Table: 1981</u>
1		
2		
3	52	26.5
4	53	25.6
5	54	24.8
6	55	24.0
7	56	23.2
8	57	22.5
9	58	21.7
10	59	21.0
11	60	20.2
12	61	19.5
13	62	18.8
14	63	18.1
15	64	17.4
16	65	16.7
17	66	16.0
18	67	15.4
19	68	14.7
20	69	14.1
21	70	13.5
22	71	12.9
23	72	12.3
24	73	11.8
25	74	11.2
26	75	10.7

	<u>Completed</u>	<u>Expectancy of Life,</u>
	<u>Age</u>	<u>U.S. Life Table: 1981</u>
1		
2		
3	76	10.1
4	77	9.6
5	78	9.1
6	79	8.6
7	80	8.1
8	81	7.7
9	82	7.3
10	83	6.8
11	84	6.5
12	85	6.1
13	86	4.97
14	87	4.68
15	88	4.42
16	89	4.18
17	90	3.94
18	91	3.73
19	92	3.53
20	93	3.35
21	94	3.19
22	95	3.06
23	96	2.95
24	97	2.85
25	98	2.76
26	99	2.69

	<u>Completed</u>	<u>Expectancy of Life,</u>
	<u>Age</u>	<u>U.S. Life Table: 1981</u>
1		
2		
3	100	2.62
4	101	2.56
5	102	2.51
6	103	2.46
7	104	2.41
8	105	2.37
9	106	2.34
10	107	2.30
11	108	2.27
12	109	2.24
13	110	

14 SECTION 2. Effective date. This act shall take effect
15 July 1, 1986.

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

BILL 11

A BILL FOR AN ACT

1 CONCERNING LIMITATIONS ON PAYMENTS OF WORKMEN'S COMPENSATION
2 BENEFITS TO INCARCERATED INDIVIDUALS.

Bill Summary

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

Makes individuals confined in a jail or prison following conviction ineligible to receive workmen's compensation benefit payments.

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

4 SECTION 1. Article 52 of title 8, Colorado Revised
5 Statutes, as amended, is amended BY THE ADDITION OF A NEW
6 SECTION to read:

7 8-52-104.5. Limitations on payments to prisoners. The
8 compensation provided for in articles 40 to 54 of this title
9 shall not be paid to any individual for any week during which
10 such individual is confined in a jail or prison following
11 conviction. If upon appeal such conviction is overturned, the

1 benefits suspended shall be reinstated.

2 SECTION 2. Applicability. This act shall apply to
3 individuals receiving the compensation provided for in
4 articles 40 through 54 of this title and who are confined in a
5 jail or prison following conviction on or after the effective
6 date of this act.

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

BILL 12

A BILL FOR AN ACT

1 CONCERNING AN INCREASE IN COMPENSATION PAID UNDER THE
2 "WORKMEN'S COMPENSATION ACT OF COLORADO" AS A RESULT OF
3 EMPLOYER CONDUCT.

Bill Summary

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

Increases by a certain percentage the compensation payable by an employer to a claimant if the injury was caused by the wanton, willful, or reckless conduct of the employer. Requires that such additional compensation be paid by the employer and not by his insurance carriers.

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

5 SECTION 1. Article 52 of title 8, Colorado Revised
6 Statutes, as amended, is amended BY THE ADDITION OF A NEW
7 SECTION to read:

8 8-52-104.5. Acts of employers increasing compensation.

9 The compensation provided for in articles 40 to 54 of this
10 title shall be increased by fifty percent if the injury was
11 caused by the wanton, willful, or reckless conduct of the

1 employer. The additional compensation provided by this
2 section shall be paid by the employer and not by any of his
3 insurance carriers.

4 SECTION 2. Effective date - applicability. This act
5 shall take effect July 1, 1986, and shall apply to claims
6 arising on or after said date.

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

BILL 13

A BILL FOR AN ACT

1 CONCERNING THE IMPOSITION OF PENALTIES IN CONNECTION WITH THE
2 PAYMENT OF LAWFUL COMPENSATION BENEFITS UNDER THE
3 "WORKMEN'S COMPENSATION ACT OF COLORADO".

Bill Summary

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

Imposes upon employers or, if insured, the employers' insurance carriers several penalties payable to the injured employee for acts or omissions in connection with paying workmen's compensation benefits. Imposes a monetary penalty based on the amount of compensation due to the employee for failure to adequately or timely investigate a compensable workmen's compensation claim or for denial of a compensable workmen's compensation claim without reasonable grounds, if the claimant is successful in establishing his right to compensation or benefits. Permits an employer or insurance carrier to withdraw an admission of liability previously given on the ground that a claim is fraudulent if the director gives permission to withdraw or a hearing officer determines at hearing that such claim is fraudulent.

Imposes a penalty on an employer or insurance carrier who does not pay overdue bills or expense statements within thirty days of presentment and within fifteen days of receiving written notice that such bills and expense statements are overdue if the employer or insurance carrier is liable for such bills and expense statements and had no reasonable grounds for denying or delaying their payment. Creates a penalty for overdue compensation checks.

Creates a penalty based on the daily compensation rate

for every day compensation or rehabilitation maintenance benefits are improperly terminated or suspended, if the claimant successfully establishes his right to such compensation or benefits.

Directs that controversies regarding these penalties shall be resolved by hearing.

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

2 SECTION 1. Article 53 of title 8, Colorado Revised
3 Statutes, as amended, is amended BY THE ADDITION OF A NEW
4 SECTION to read:

5 8-53-118.5. Additional penalties. (1) In addition to
6 the penalties provided for in sections 8-53-116 to 8-53-118
7 and all other penalties provided for in articles 40 to 54 of
8 this title, the following penalties shall be payable by the
9 employer or, if insured, his insurance carrier, to the injured
10 employee:

11 (a) If the employer or insurance carrier fails to
12 adequately or timely investigate a claim for compensation or
13 benefits which is compensable, or if the employer or insurance
14 carrier denies a compensable claim without reasonable grounds,
15 the employer or insurance carrier shall be penalized in an
16 amount equal to fifty percent of all compensation and benefits
17 due at the time the first payment is made to the injured
18 employee, if the claimant is successful in establishing his
19 right to compensation or benefits. The employer or insurance
20 carrier may withdraw or seek to withdraw any admission of
21 liability previously given in connection with a claim on the
22 ground that the claim is fraudulent only if the director gives

1 permission to so withdraw or a hearing officer, at hearing,
2 determines that such claim is fraudulent.

3 (b) If the employer or insurance carrier does not pay
4 for health care providers, prescriptions, mileage, or expenses
5 of vocational rehabilitation within thirty days of presentment
6 of the bills or expense statements and within fifteen days
7 after being notified in writing by the employee that such
8 payments are thirty days or more overdue, the employer or
9 insurance carrier shall be penalized in an amount equal to
10 fifty percent of the bills or expense statements if it is
11 found that the employer or insurance carrier is liable for
12 such bills or expense statements and had no reasonable grounds
13 to deny or delay payment.

14 (c) If a compensation check is more than five days
15 overdue, the employer or insurance carrier shall be penalized
16 in an amount equal to one day's compensation for every day the
17 check is overdue.

18 (d) If compensation or rehabilitation maintenance
19 benefits are improperly terminated or suspended by the
20 employer or insurance carrier, the employer or insurance
21 carrier shall be penalized in an amount equal to three times
22 the daily compensation rate for every day the benefits are
23 improperly terminated or suspended, if the claimant is
24 successful in establishing his right to compensation or
25 rehabilitation maintenance benefits during the time of
26 improper termination or suspension.

27 (2) Liability for the penalties provided by this

1 section, if in controversy, shall be determined in hearings
2 held pursuant to section 8-53-103.

3 SECTION 2. Effective date - applicability. This act
4 shall take effect July 1, 1986, and shall apply to all acts or
5 omissions committed on or after said date.

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.

BILL 14

A BILL FOR AN ACT

1 CONCERNING THE INCLUSION OF A SCHOOL DISTRICT'S ANNUAL TAX
2 LEVY FOR WORKMEN'S COMPENSATION SELF-INSURANCE WITHIN THE
3 MILL LEVY LIMIT SET FOR LIABILITY AND PROPERTY DAMAGE
4 SELF-INSURANCE.

Bill Summary

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

Clarifies that a school district's annual tax for workmen's compensation self-insurance shall be levied within the mill limit for general liability and property damage self-insurance.

5 Be it enacted by the General Assembly of the State of Colorado:
6 SECTION 1. 8-44-110 (2), Colorado Revised Statutes, as
7 amended, is amended to read:
8 8-44-110. Public entities - self-insurance authorized
9 for workmen's compensation - pooled insurance. (2) A public
10 entity may, after receiving permission pursuant to section
11 8-44-101 (1) (c), act as its own insurance carrier for

1 compensation and benefits. It may establish and maintain an
2 insurance reserve fund for self-insurance purposes and may
3 include in the annual tax levy of the public entity such
4 amounts as are determined by its governing body to be
5 necessary for the uses and purposes of the insurance reserve
6 fund, subject to the limitations imposed by ~~section~~ SECTIONS
7 24-10-115 (3) AND 29-1-301, C.R.S. In the event that a public
8 entity has no annual tax levy, it may appropriate from any
9 unexpended balance in the general fund such amounts as the
10 governing body shall deem necessary for the purposes and uses
11 of the insurance reserve fund.

12 SECTION 2. 24-10-115 (3), Colorado Revised Statutes,
13 1982 Repl. Vol., is amended to read:

14 24-10-115. Authority for public entities other than the
15 state to obtain insurance. (3) A public entity, other than
16 the state, may establish and maintain an insurance reserve
17 fund for self-insurance purposes and may include in the annual
18 tax levy of the public entity such amounts as are determined
19 by its governing body to be necessary for the uses and
20 purposes of the insurance reserve fund, subject to the
21 limitations imposed by section 29-1-301, C.R.S. ~~1973:~~ In the
22 event that a public entity has no annual tax levy, it may
23 appropriate from any unexpended balance in the general fund
24 such amounts as the governing body shall deem necessary for
25 the purposes and uses of the insurance reserve fund. The fund
26 established pursuant to this subsection (3) shall be kept
27 separate and apart from all other funds and shall be used only

1 for the payment of administrative and legal expenses
2 necessary for the operation of the fund and for the payment of
3 claims against the public entity which have been settled or
4 compromised or judgments rendered against the public entity
5 for injury under the provisions of this article or to secure
6 and pay for premiums on insurance as provided in this article.
7 School districts may include an annual tax levy for liability
8 and property damage self-insurance, INCLUDING WORKMEN'S
9 COMPENSATION PURSUANT TO SECTION 8-44-110 (2), C.R.S.,
10 purposes not to exceed one and one-half mills, whether under
11 this subsection (3) or under section 29-13-101 (3), C.R.S.,
12 1973; or under both said subsections. In no case shall the
13 revenue raised by any school district exceed an amount
14 adequate for such reserve fund, which shall be determined in a
15 manner similar to, and the payment of the costs thereof shall
16 be in the same manner as, that provided in section
17 24-10-115.5; except that the commissioner of insurance shall
18 review the school district's determination of the amount to
19 be raised by said tax levy, which review shall be made no
20 later than October 20 of each year. In such review, the
21 commissioner shall determine the need for continuation of the
22 mill levy for the insurance reserve fund. Subsequent to
23 determination that the amount in the reserve fund is adequate,
24 money for the payment of any liability and property insurance
25 premiums and for payments into the reserve fund to cover the
26 cost of operations and expected losses out of the insurance
27 reserve fund shall be budgeted from the school district's

1 general fund. The commissioner of insurance may determine
2 that the insurance reserve levy should be reapplied because
3 the insurance reserve fund has experienced extraordinary
4 claims.

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

BILL 15

A BILL FOR AN ACT

1 CONCERNING THE "COLORADO EMPLOYMENT SECURITY ACT", AND, IN
2 CONNECTION THEREWITH, CHANGING DEFINITIONS, TAX RATES TO
3 EMPLOYERS, AND ELIGIBILITY REQUIREMENTS.

Bill Summary

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

Changes the exceptions to the definition of "employment" under the "Colorado Employment Security Act" to include service performed by insurance agents or solicitors, if such service is performed solely on a commission basis, and securities salesmen.

Changes the definition of "taxable wages" to conform to changes in the basis of tax rates under the "Colorado Employment Security Act". Changes eligibility requirements for benefits from service performed on behalf of an educational institution of an organization or activity exempted from the definition of "employment".

Adds the requirement of a written employment contract to the separation prerequisite for receipt of a full award of benefits.

Makes conforming changes to the types of other remuneration which will be included to calculate the total number of weeks an individual received his full-time weekly wage for purposes of awarding benefits.

Limits a deputy, hearing officer, or commission reconsideration of a decision to a twelve-month period subsequent to the date of the decision.

Clarifies conditions under which an employer is subject

to the surcharge tax rate established annually by the division of employment and training.

Makes changes in the positive and negative excess employers' tax rate schedules.

Empowers the state treasurer to refuse to honor warrants or checks issued against accounts of the unemployment compensation fund not presented for payment within two calendar years from date of issue.

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

2 SECTION 1. The introductory portion to 8-70-103 (11)
3 (1), Colorado Revised Statutes, as amended, is amended, and
4 the said 8-70-103 is further amended BY THE ADDITION OF A NEW
5 PARAGRAPH, to read:

6 8-70-103. Definitions. (11) (1) Service performed by
7 an individual ~~as an insurance agent or insurance solicitor~~; as
8 a licensed real estate salesman ~~as a security salesman~~; or as
9 a direct seller engaged in the trade or business of selling,
10 or soliciting the sale of, a consumer product in a home or in
11 an establishment other than a permanent retail establishment
12 if:

13 (q) Service performed by an individual for a person as
14 an insurance agent or an insurance solicitor, if all such
15 service performed by such individual for such person is
16 performed for remuneration solely by way of commission.

17 SECTION 2. 8-70-103 (20.4), Colorado Revised Statutes,
18 as amended, is amended to read:

19 8-70-103. Definitions. (20.4) "Taxable wages" means
20 those wages paid an individual employee during a calendar year
21 on which the employer of that employee is required to pay tax

1 as provided by article 76 of this title, including all wages
2 subject to a tax under federal law which imposes a tax against
3 which credit may be taken for taxes required to be paid into a
4 state unemployment fund. For the calendar year commencing
5 January 1, 1983, the taxable wage is the first seven thousand
6 dollars paid an individual. For the calendar year commencing
7 January 1, 1984, ~~and each calendar year thereafter;~~ 1985, AND
8 1986, the taxable wage is the first eight thousand dollars
9 paid an individual. FOR THE CALENDAR YEAR COMMENCING JANUARY
10 1, 1987, THE TAXABLE WAGE IS THE FIRST TEN THOUSAND EIGHT
11 HUNDRED DOLLARS PAID AN INDIVIDUAL. FOR THE NEXT FIVE
12 CALENDAR YEARS THEREAFTER, THE TAXABLE WAGE BASE WILL BE
13 INCREASED IN INCREMENTS OF TWENTY PERCENT EACH YEAR UNTIL THE
14 TAXABLE WAGE BASE REACHES EQUALITY WITH THE ANNUALIZED MAXIMUM
15 TAXABLE WAGES NECESSARY TO ARRIVE AT THE MAXIMUM WEEKLY
16 BENEFIT AMOUNT. CORRESPONDING DECREASES IN THE RATES OF THE
17 TAX TABLE IN EFFECT FOR EACH YEAR WILL BE MADE. EACH YEAR THE
18 DIVISION OF EMPLOYMENT AND TRAINING, SUBJECT TO APPROVAL BY
19 THE GENERAL ASSEMBLY, WILL PROPOSE AND ESTABLISH A TAXABLE
20 WAGE BASE AND TAX RATE TABLE FOR THE YEAR CONSISTENT WITH SAID
21 FIVE-YEAR SCHEDULE OF IMPLEMENTATION.

22 SECTION 3. 8-73-107 (3), Colorado Revised Statutes, as
23 amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to
24 read:

25 8-73-107. Eligibility conditions - penalty.
26 (3) (f) With respect to service to which section 8-70-103
27 (10) (g) applies, if such services are provided to or on

1 behalf of an educational institution, benefits shall not be
2 payable under the same circumstances and subject to the same
3 terms and conditions as described in paragraphs (a) to (d) of
4 this subsection (3).

5 SECTION 4. 8-73-108 (4) (h), Colorado Revised Statutes,
6 as amended, is amended to read:

7 8-73-108. Benefit awards. (4) (h) Quitting employment
8 because of a violation of the WRITTEN employment contract by
9 the employer; except that before such quitting the worker must
10 have exhausted all remedies provided in such WRITTEN contract
11 for the settlement of disputes before quitting his job;

12 SECTION 5. The introductory portion to 8-73-110 (1) and
13 8-73-110 (3) (a) and (6), Colorado Revised Statutes, as
14 amended, are amended, and the said 8-73-110 is further amended
15 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

16 8-73-110. Other remuneration. (1) Individuals who
17 receive the following types of remuneration shall be
18 determined to have received, ~~for-weeks-after-separation-from~~
19 **employment** FROM THE DATE THE REMUNERATION WAS RECEIVED BY THE
20 INDIVIDUAL, the individual's full-time weekly wage for a
21 number of consecutive weeks equal to the total amount of the
22 remuneration awarded, divided by the full-time weekly wage:

23 (1.5) Individuals who receive severance allowances shall
24 be determined to have received, for weeks after separation
25 from employment, the individual's full-time weekly wage for a
26 number of consecutive weeks equal to the total amount of the
27 severance allowance awarded, divided by the full-time weekly

1 wage. In addition, an individual who receives severance
2 allowances shall have his weeks of potential entitlement
3 reduced by the number of weeks such severance allowances
4 constitute weeks of an individual's full-time weekly wage.

5 (3) (a) An individual's weekly benefit amount shall be
6 reduced (but not below zero) by the prorated weekly amount of
7 a primary insurance benefit under Title II of the federal
8 "Social Security Act", a pension, retirement or retired pay,
9 annuity, or any other similar periodic OR LUMP SUM payment
10 from a plan or fund which has been contributed to by a base
11 period employer.

12 (6) Individuals who receive maternity SICK PAY benefits
13 or other SIMILAR PERIODIC cash payments paid to the worker by
14 a base period employer or from any trust or fund contributed
15 to by a base period employer shall be entitled to receive
16 benefits for a corresponding week, if otherwise eligible,
17 reduced by the amount of such maternity-benefit SICK PAY
18 BENEFITS or other SIMILAR PERIODIC cash payments.

19 (8) Individuals who receive other cash payments,
20 including, but not limited to, checks and warrants, paid to
21 the worker by a base period employer or from any trust or fund
22 contributed to by a base period employer shall be entitled to
23 receive benefits for a corresponding week, if otherwise
24 eligible, reduced by the amount of such other cash payments.

25 SECTION 6. 8-74-105, Colorado Revised Statutes, as
26 amended, is amended to read:

27 8-74-105. Reconsiderations. The deputy, hearing

1 officer, or commission may, on his or its own motion,
2 reconsider a decision WITHIN A TWELVE-MONTH PERIOD SUBSEQUENT
3 TO THE DATE OF DECISION when it appears that an apparent
4 procedural or substantive error has occurred in connection
5 therewith. Notification of a decision on reconsideration and
6 the reasons therefor shall be promptly given to all interested
7 parties. In the event that an appeal involving an original
8 decision is pending as of the date on which a decision as a
9 result of reconsideration is issued by the division, such
10 appeal shall be considered void. Any interested party who is
11 dissatisfied by a decision that is issued as a result of
12 reconsideration may appeal that decision in the manner set
13 forth in section 8-74-106.

14 SECTION 7. 8-76-102 (4), Colorado Revised Statutes, as
15 amended, is amended to read:

16 8-76-102. Rate of tax - surcharge for benefits not
17 effectively charged. (4) Based on the amount of benefits
18 paid and not chargeable to any active employer account prior
19 to each July 1, beginning July 1, 1983, the division shall
20 annually establish a tax rate, rounded to the nearest
21 one-tenth of one percent. The total amount of benefits not
22 effectively charged shall be divided by the total taxable
23 payroll estimated to be paid by all employers in the ensuing
24 calendar year, and the resulting percentage, rounded to the
25 nearest one-tenth of one percent, shall be the surcharge tax
26 rate, which shall then be added to the employer's standard or
27 computed tax rate. This tax rate added to the employer tax

1 rate shall also be identified separately on the employer tax
2 rate notice as the tax surcharge for benefits not effectively
3 charged. The combined rate shall be the employer's tax rate
4 for the ensuing calendar year. The division shall use the
5 four quarters most recently available for benefits not
6 effectively charged prior to the computation date used for
7 determinations under section 8-76-103. Since total taxable
8 payroll is estimated and the tax rate rounded, any amount for
9 the benefits not effectively charged and not fully recovered
10 in one year shall be added to the following calendar year's
11 identified amount. Any amount recovered over that amount
12 shall be subtracted from the following calendar year's
13 identified amount. The surcharge established by this
14 subsection (4) shall not be assessed against any employer
15 whose benefit-charge account balance is zero, and the
16 estimated taxable payrolls of such employers shall not be
17 included in the calculation of the surcharge tax rate; EXCEPT
18 THAT, IF THE EMPLOYER IS STILL BEING RATED UNDER THE
19 PROVISIONS OF SECTION 8-76-103 (3) (a), SUCH EMPLOYER IS
20 SUBJECT TO THE SURCHARGE TAX RATE.

21 SECTION 8. 8-76-103 (3) (b) (II) (A), Colorado Revised
22 Statutes, as amended, is amended, and the said 8-76-103 (3)
23 (b) (II) is further amended BY THE ADDITION OF THE FOLLOWING
24 NEW SUB-SUBPARAGRAPHS, to read:

25 8-76-103. Future rates based on benefit experience.
26 (3) (b) (II) (A) The total of all an employer's taxes paid on
27 his own behalf on or before thirty-one days immediately after

1 the computation date and the total benefits which were
2 chargeable to his account and were paid before the computation
3 date, with respect to weeks, or any established payroll period
4 of unemployment, beginning prior to the computation date,
5 shall be used to compute his tax rate for the ensuing calendar
6 year in accordance with the table set forth in either
7 sub-subparagraph (B) or (C) of this subparagraph (II); except
8 that, for rate year 1984, the negative excess employer rate
9 schedule shall be effective for a maximum of .045 for
10 employers with a negative excess of minus seventeen percent or
11 more, and for rate years 1985 and thereafter, the maximum rate
12 for negative excess employers shall be .054 as shown in the
13 table set forth in sub-subparagraph (C) of this subparagraph
14 (II). "Percent of excess", in both said tables, means the
15 percentage resulting from dividing the excess of taxes paid
16 over benefits charged by the average taxable payroll, computed
17 to the nearest one percent. The word "to" in the column
18 headings which make reference to fund balances (resources
19 available for benefits) means "not including". EFFECTIVE FOR
20 THE RATE YEAR COMMENCING JANUARY 1, 1987, THE RATE TABLES IN
21 SUB-SUBPARAGRAPHS (D) AND (E) OF THIS SUBPARAGRAPH (II) SHALL
22 BE USED IN PLACE OF THE RATE TABLES IN SUB-SUBPARAGRAPHS (B)
23 AND (C) OF THIS SUBPARAGRAPH (II).

1 SECTION 9. 8-77-101, Colorado Revised Statutes, is
2 amended to read:

3 8-77-101. Unemployment compensation fund - state
4 treasurer custodian. (1) There is hereby established the
5 unemployment compensation fund, which shall be a special fund
6 administered by the division of employment exclusively for the
7 purposes of articles 70 to 82 of this title. The state
8 treasurer shall be custodian of said fund and shall be liable
9 under his official bond for the faithful performance of all
10 his duties in connection therewith. He shall establish and
11 maintain within the fund the accounts specified in this
12 article and such other accounts as may be necessary to reflect
13 the administration of the fund by the division of employment.

14 (2) THE STATE TREASURER, AS TREASURER AND CUSTODIAN OF
15 THE UNEMPLOYMENT COMPENSATION FUND, IS HEREBY AUTHORIZED AND
16 DIRECTED TO CANCEL OF RECORD AND REFUSE TO HONOR WARRANTS OR
17 CHECKS ISSUED AGAINST ANY OF THE ACCOUNTS ESTABLISHED WITH THE
18 UNEMPLOYMENT COMPENSATION FUND WHICH HAVE NOT BEEN PRESENTED
19 FOR PAYMENT WITHIN TWO CALENDAR YEARS FROM THE DATE OF ISSUE.

20 SECTION 10. Repeal. 8-73-110 (1) (c), Colorado Revised
21 Statutes, as amended, is repealed.

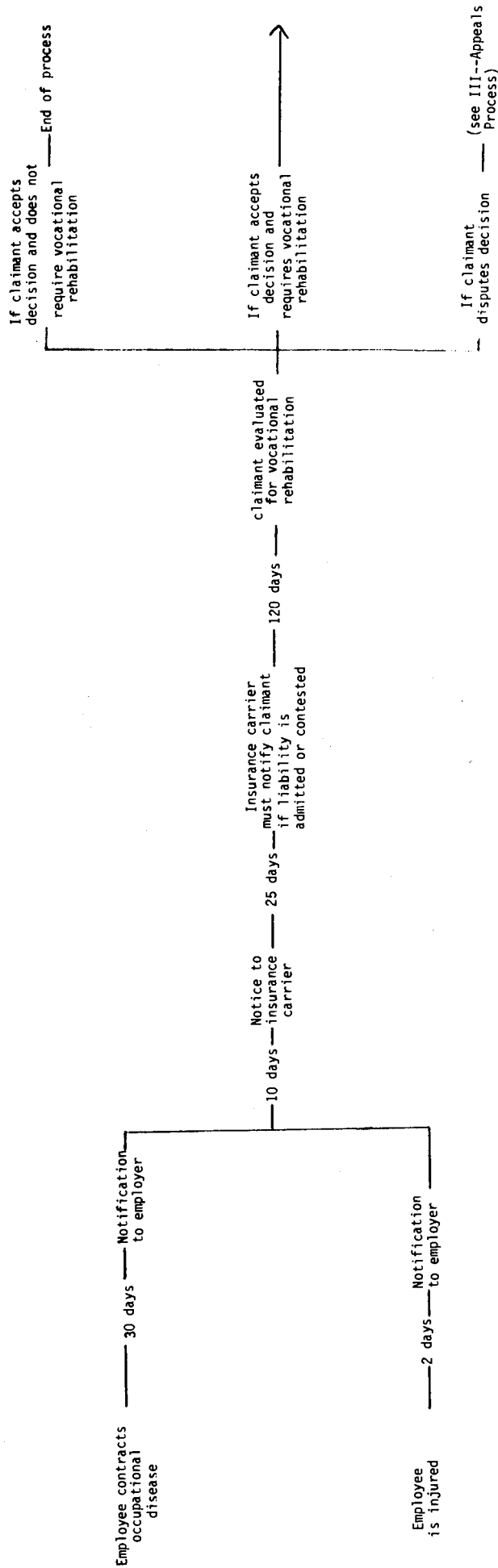
22 SECTION 11. Effective date. Sections 2, 3, 4, 5, 6, 7,
23 8, 9, and 10 of this act shall take effect July 1, 1986, and
24 the remainder of this act shall take effect upon its passage.

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

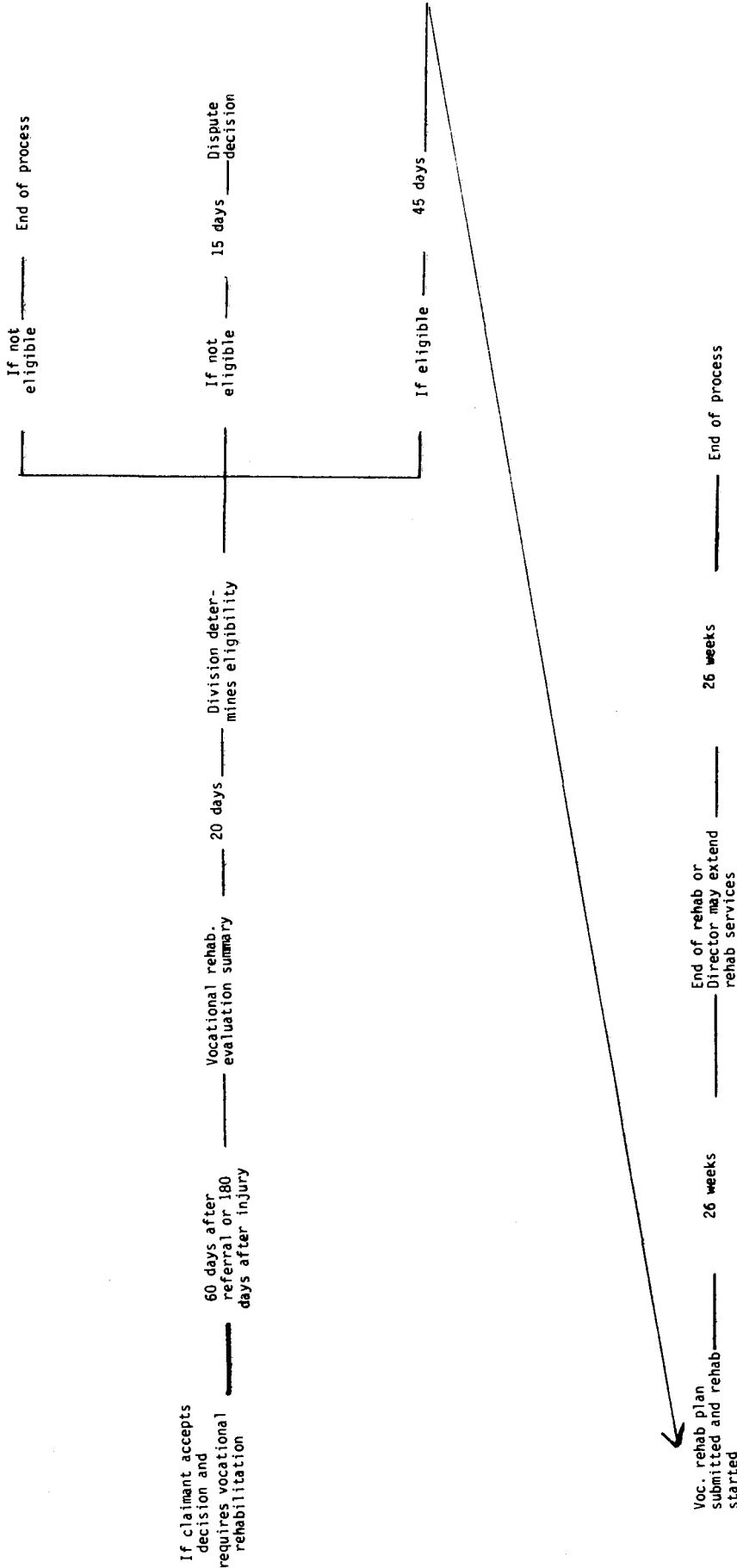
1 and safety.

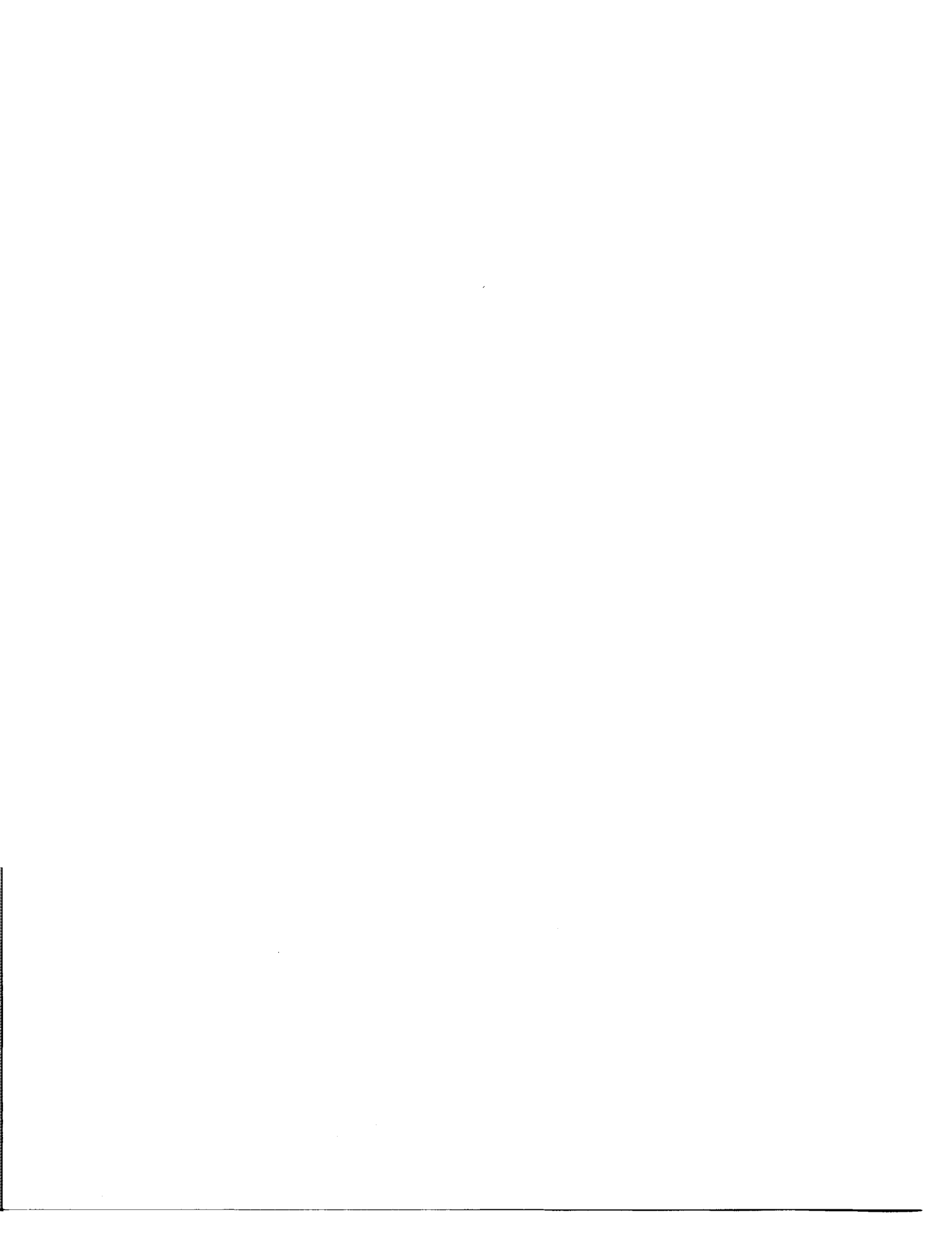
APPENDIX A

I. FILING OF CLAIMS



II. VOCATIONAL REHABILITATION
PROCESS





LEGISLATIVE COUNCIL
COMMITTEE ON STATE TAX POLICY

Members of the Committee

Rep. Paul Schauer,
Chairman
Sen. Les Fowler,
Vice Chairman
Sen. Polly Baca
Sen. Jim Brandon
Sen. Jim Lee
Sen. James Rizzuto

Rep. Charles Berry
Rep. JoAnn Groff
Rep. Tony Hernandez
Rep. Betty Neale
Rep. Chris Paulson

Legislative
Council Staff

Charles Brown
Principal Analyst

Dan Chapman
Senior Analyst

Legislative Drafting
Office Staff

Margaret Makar
Staff Attorney

SUMMARY OF RECOMMENDATIONS

The committee was created by House Joint Resolution 1025 to conduct a two-year study of the state's tax policy, including both state and local government revenue sources. It was decided at the committee's first meeting that the first year of the study would be devoted to an examination of state general fund revenue sources. The second year of the study is reserved for review of local government revenue sources and state-local fiscal relations. To meet its first-year objective, the committee held five meetings dedicated to analyzing the various taxes which comprise the state general fund, and one meeting which previewed issues relating to local government finance.

At its initial meeting, the committee reviewed the reasons for undertaking a comprehensive study of the state tax system at this time, and determined that the focus of the first year of study would be data gathering and analysis of state general fund taxes rather than drafting of legislative recommendations. The first meeting also provided the opportunity for presentation of an overview of the current status of the state general fund and an additional presentation on state economic trends generally. Subsequent meetings were used for in-depth analysis of the Colorado individual income tax, the corporate income tax, sales and use and other excise taxes, and a group of smaller general fund revenue sources ranging from the pari-mutuel racing tax to interest income which reverts to the general fund.

The committee recommends that the research findings regarding each of these revenue sources be published in handbook form in a separate publication (Legislative Council Research Publication No. 301, December, 1985). This handbook is intended to serve as a convenient and understandable guide to the state revenue system, accessible to both legislators and nonlegislators alike. The committee recommends ongoing updates of this document to assure that it remains a timely and accurate resource.

The committee also recognized the expediency of previewing issues relating to local government finance, specifically due to the pending nature of the shift in the base year level of valuation scheduled to occur in 1987. To meet this concern, the committee held a half-day meeting devoted exclusively to the topic of local government revenue raising and the coming shift in the base year level of valuation.

As a result of its deliberations on this topic, the committee agreed that there is sufficient urgency with respect to the problem of potential property tax dislocations to warrant recommendation of one committee bill. The committee's recommendation is as follows:

- a bill to impose a four percent revenue-raising limitation on property taxes levied by statutory cities and towns, counties, home-rule cities and towns, special districts, and school

districts during the local government fiscal years 1987 and 1988. Currently, the statutory limitation is fixed at seven percent and does not extend to school districts or home rule cities and towns.

CHARGE TO THE COMMITTEE

Established by House Joint Resolution 1025, the Committee on State Tax Policy was charged to study a broad range of issues relating to state and local revenue sources over a two-year period. The study directives are quoted below:

- (1) A two-year study of the state's tax policy, including, but not limited to, the following:
 - (a) An examination of the individual income tax, the corporate income tax, the sales and use taxes and all other excise taxes, local government taxes, mill levy and debt limits, and any other state and local revenue sources which the committee shall deem appropriate to consider. Such study shall include an evaluation of the rate, base, incidence, and relative stability of each tax and shall also include consideration of the efficiency and equity of the administration of each tax. The committee is authorized to identify problems in current state and local tax policies, to develop recommended solutions, and to prepare legislation to implement such recommendations.

ISSUES AND RECOMMENDATIONS

Trends in State Finance -- Past, Present, and Future

At its initial meeting, the Committee on State Tax Policy devoted a portion of its agenda to presentations depicting general trends in Colorado state finance, a topic that was also highlighted at later meetings. Testimony presented to the committee on past trends in state finance cited the 1959 report and recommendations of Governor McNichol's Tax Study Group ^{1/} as a pivotal point in Colorado's establishment of a modern tax system.

The committee learned that since 1959, no major study of the state tax system had been undertaken, although elements of the revenue system had been addressed by interim study committees over the years. The reasons for conducting a comprehensive and systematic study of the state tax system at this time were: 1) the fact that the evolution of

^{1/} Report of the Governor's Tax Study Group, Financing Government in Colorado, 1959.

the tax system since 1959, coupled with the unprecedented growth of the state, has increased the need for reexamining the system; 2) the future needs of the state and the necessity for planning revenue and expenditure growth demand beyond just a one or two-year time frame; 3) the need to examine state tax policy in light of its role in ensuring the ongoing economic health and stability of the state economy; and 4) the current impetus for tax reform being generated at the federal level which may have significant impacts on state and local governments. The committee identified the following issues related to these four factors.

- . The Colorado tax system has changed significantly over the last 25 years. Testimony indicated that the sales and use tax, the individual income tax, and the corporate income tax had all undergone modifications of some magnitude during that period. In addition, whole new revenue sources such as the cigarette tax have appeared during that span. With the exception of the Fiscal Policy Interim Committees (1968-70), the evaluation and scope of the state's revenue system has not been explored in a comprehensive fashion.
- . Recent shortfalls in anticipated revenues have underscored the need to examine such issues as the erosion of the tax base both in excise and income taxes, the cyclical vulnerability* of sales and income taxes, and the relative unpredictability of some taxes due to the enactment of numerous credits, exemptions, and deductions over the years. Testimony pointed out the exacerbating effects of projected slower population growth for the state, which, along with changing demographics, point to increased demand for some governmental goods and services.
- . The tax system in Colorado, as in other states, is playing an increasingly important role in promoting and protecting the economic vitality of the state. The committee investigated the role of tax policy in encouraging economic development and in enhancing Colorado's business climate vis-a-vis other states.
- . The potential implications of federal tax reform on state and local financial capabilities were identified as a major concern. Recent federal proposals would have a profound effect on the deductibility of state and local taxes and the ability of state and local governments to issue tax-exempt bonds for capital construction. The committee considered monitoring further federal activity as a critical element in planning the ongoing tax policies of the state.

* "Cyclical vulnerability" indicates that the revenue stream of the tax is not a stable source and, as such, is susceptible to economic downturns.

State Excise Taxes

The committee utilized its second meeting to examine state excise taxes, principally the sales and use taxes, but also cigarette and liquor taxes as well. Periodic reports from the interim Committee on Highways and Hazardous Materials Transportation kept the committee apprised of activity in the area of motor fuels taxes. Issues raised concerning state excise taxes included the following items.

- . The committee learned that since the creation of the state sales tax (1935) and use tax (1936), fifty-four items have been exempted from the provisions of these taxes. Probably the most significant exemptions are those of food for off-premises consumption (1979), and sales of fuels for residential light and power (1979). The cumulative effect of these exemptions has been to significantly narrow the tax base to more discretionary purchases, thus heightening the cyclical vulnerability of the tax.
- . The narrowing of the base has caused some jurisdictions to raise sales tax rates to their statutorily prescribed limits. According to some indices, this has caused local jurisdictions to rely too heavily on this specific revenue source.
- . Testimony indicated that cigarette and liquor taxes have provided a declining share of state general fund collections in recent years. As national trends point toward a slowing of consumption of these articles, the state can expect growth in these categories to be minimal in future years.
- . Committee members expressed an ongoing concern with efforts to further simplify the sales tax and its collection system. Reports from the Sales Tax Simplification Task Force informed the members of continuing efforts in this direction. Nonetheless, the committee emphasized the need to further examine ways of improving the administration and collection of sales and use taxes.

Corporate Income Tax

The third meeting of the committee was devoted to discussion of the corporate income tax. These issues are listed below.

- . The committee examined the diminishing share of total general fund revenues contributed by the corporate income tax. As a result of tax law changes such as enactment of deductions, credits, and exemptions, the corporate share of gross general fund revenues has been declining and is projected to continue to decline into the future.

- . The role that state taxes play in encouraging economic development was explored from a number of angles, including Colorado's competitive stance in relation to other states. While research data presented to the committee could not confirm a correlation between low state tax rates and business relocations, testimony underscored the importance of tax policy as one component of a state's overall business climate.

Individual Income Tax

Colorado's personal income tax was the topic of discussion at the committee's fourth meeting. The principal issues which were raised with regard to the personal income tax are as follows.

- . While commendable efforts have been made in the direction of tax simplification in this area, there appear to be additional modifications which might be desirable. State deviations from the federal definition of the "taxpaying unit" have caused confusion in several areas including the following.
 - Filing status. Taxpayers filing a joint federal return may file either a combined or joint state return, which may result in unequal treatment of taxable incomes.
 - Apportionment of deductions. Taxpayers who file a combined state return may allocate deductions among the two wage earners, but there are currently no guidelines governing the process.
 - The tax computation schedule. Many taxpayers using zero bracket tax tables to compute their federal taxes must use a state tax computation schedule, which can result in mathematical errors on their state return.
 - Marriage penalty deduction. Many taxpayers qualify for the marriage penalty deduction at the federal level while the state allows no marriage penalty deduction.
- . Major legislative changes in the individual income tax base are causing a decline in the rate of growth of revenues collected from this tax. Major tax reduction measures which have occurred over the last ten years include indexation, a permanent one-half percent credit, general tax credits, and a variety of special tax credits.
- . The concept of a flat rate income tax was discussed by the committee in the context of possible methods of restoring and preserving the state's income tax base.

Other General Fund Revenue Sources

The committee's fifth meeting focused on other general fund revenue sources, specifically pari-mutuel racing fees, the insurance tax, the estate tax, and interest income which accrues to the general fund. The major issue of concern expressed by the committee centered on the complex structure of state taxation of pari-mutuel racing. The distribution of revenue from this tax was viewed as overly complicated, perhaps due to the number of diversions which have evolved over the years. Examples of such diversions include distributions to the Horse Breeders and Owners Awards and Supplemental Purse Fund, and cash funding of the Colorado Racing Commission.

State-Local Fiscal Relations

Although study of state-local fiscal relations was intentionally reserved for the second year of the tax policy study, the committee used its sixth and final meeting to preview issues which will be the subject of committee study in this area. Among the issues highlighted were the following.

- . The adequacy of the current seven percent limitation on local government revenue was discussed in the context of the coming (1987) shift in the base year level of valuation. The committee learned that, due to a number of exemptions to the limitation and to the proliferation of new taxing entities, it is uncertain that the seven percent limit will be effective in controlling the rate of growth of property taxes.
- . Testimony illustrated that fiscal strains are being experienced by local governments due to the following factors:
 - the phase-out of federal revenue sharing and other reductions in federal aid, and the potential impacts of federal tax reform;
 - the costs of state and federally mandated programs, and shifts to increased cash funding of state-required services;
 - erosion of existing revenue sources through such changes as the number of exemptions to the sales and use tax, and the freezing of the local share of cigarette tax revenues; and
 - the increased burden placed on local property taxes by decreases in the state's share of public school equalization funds.
- . Finally, the committee received information on the possible magnitude of tax shifts and dislocations due to the reappraisal scheduled for 1987. At that time the base year level of

Also excluded from the four percent limit are increases in assessed valuation from the preceding year due to: 1) annexation or inclusion of additional land and improvements, and personal property on this land; and 2) new construction and personal property related to that construction. Otherwise, exceptions currently allowed under the seven percent limit do not apply to the four percent limit.

The four percent limit also varies from the seven percent limit in that the Colorado Division of Local Government is not able to grant separate increases in revenue above the four percent limit. However, local governments are permitted the option of holding an election to increase their revenue beyond four percent.

Local governments are not allowed to apply the four percent limit cumulatively. In other words, a taxing authority which fails to impose the maximum possible levy in any prior year may not apply the revenue-raising limitation against a base which represents the amount of revenue which could have been raised, but must use the actual amount of revenue levied in the immediately preceding year as a base. The seven percent limit is restored in 1989, but cumulation is not reinstated until 1990 because 1989 will be the first year in which cumulation of an unused seven percent revenue increase will be allowed.

BILL 16

A BILL FOR AN ACT

1 CONCERNING IMPOSITION OF A REVENUE-RAISING LIMITATION ON
2 PROPERTY TAX LEVIES TO BE CERTIFIED ON OR AFTER JANUARY
3 1, 1987.

Bill Summary

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

Imposes a 4% revenue-raising limitation on each property tax levied by statutory and home rule cities and towns, counties, special districts, and school districts during the local government fiscal years 1987 and 1988 but excepts new growth from the total valuation for assessment for the purpose of calculating the amount of revenue to which the 4% applies. Allows certain obligations as exceptions to the 4% limit. Does not allow the division of local government to grant an increased levy above the 4% limit but does allow the 4% limit to be exceeded if an increased levy is approved by the qualified electorate. Does not allow a taxing authority which failed to impose the maximum levy which it could have imposed in any prior year to apply the revenue-raising limitation cumulatively in order to arrive at a revenue figure which is greater than the actual amount of revenue levied in the immediately preceding year. Allows cumulation after the 7% limit resumes but only with respect to those years following the imposition of the 4% limit.

4 Be it enacted by the General Assembly of the State of Colorado:
5 SECTION 1. Part 3 of article 1 of title 29, Colorado

1 Revised Statutes, 1977 Repl. Vol., as amended, is amended BY
2 THE ADDITION OF A NEW SECTION to read:

3 29-1-302.1. Levies reduced - limitation for property tax
4 years 1987 and 1988 - increased levy - submitted to people at
5 election. (1) Notwithstanding the provisions of section
6 29-1-301 or 29-1-302, all statutory tax levies set in local
7 government fiscal years 1987 and 1988 when applied to the
8 total valuation for assessment of the state, each of the
9 counties, cities, and towns not chartered as home rule, each
10 of the cities and towns chartered as home rule, each of the
11 school districts, and each of the fire, sanitation,
12 irrigation, drainage, conservancy, and other special districts
13 established by law shall be reduced so that, if applied to the
14 total valuation for assessment, the amount of revenue levied
15 is no greater than the amount which was levied in the
16 preceding year plus four percent, except to provide for the
17 payment of bonds and interest thereon, for the payment of
18 obligations incurred by a county or municipality pursuant to
19 section 30-11-104.1 or 31-15-801, C.R.S., by contracts entered
20 into prior to July 1, 1986, or for the payment of that portion
21 of a salary increase in excess of four percent which is to be
22 paid to a county employee whose salary is set by the state.
23 In computing the four percent limit, the following shall be
24 excluded: The increased valuation for assessment attributable
25 to annexation or inclusion of additional land, the
26 improvements thereon, and personal property connected
27 therewith within the taxing district for the preceding year;

1 and the increased valuation for assessment attributable to new
2 construction and personal property connected therewith within
3 the taxing district for the preceding year. The inclusion
4 within this section of cities and towns chartered as home rule
5 is in furtherance of the compelling and urgent statewide
6 policy of insuring reasonable property tax revenues.

7 (2) No later than January 1, 1987, the division of local
8 government in the department of local affairs shall notify
9 each governing body of each taxing authority subject to this
10 section of the change in the revenue-raising limitation
11 pursuant to subsection (1) of this section.

12 (3) Property tax revenues raised from any property tax
13 levied by any taxing authority to which this section applies
14 are independently and in the aggregate subject to the four
15 percent limitation imposed by this section. The property tax
16 revenues raised from any property tax levied by a taxing
17 authority to which this section applies shall be separately
18 determined from the aggregate property tax revenues for the
19 purpose of determining the amount of revenue which the taxing
20 authority is allowed to raise from any specific property tax
21 levy. The four percent limitation as applied to the aggregate
22 property tax revenues raised by any taxing authority subject
23 to this section, however, shall not include any property tax
24 revenues which are raised by or on behalf of a district, an
25 authority, or an area which is within but is not comprised of
26 the entire taxing authority and which is raised by a tax upon
27 only property within such district, authority, or area; such

1 property tax revenues are subject to a four percent limitation
2 independent of the four percent limitation which is applied to
3 the taxing authority within which such district, authority, or
4 area is located. No statute establishing a set mill levy or
5 establishing a maximum mill levy or authorizing an additional
6 mill levy for a special purpose shall be construed as
7 authorizing the taxing authority to exceed the four percent
8 limitation imposed by this section.

9 (4) If any board authorized to levy a tax, except a
10 school board, or any officer charged with the duty of levying
11 a tax in any taxing district is of the opinion that the amount
12 of the tax limited by this section will be insufficient for
13 the needs of such taxing district for the 1988 or 1989 local
14 government fiscal year, the question of an increased levy may
15 be submitted to the qualified electors of said district at a
16 general or special election called for the purpose and in the
17 manner provided by law for calling special elections in such
18 taxing district. Due notice of submission of the question of
19 whether to grant the increased levy shall be given by the
20 appropriate official designated by law for at least thirty
21 days in advance of the date set for the general or special
22 election by publication in the two newspapers published in and
23 having the largest paid circulation in such taxing district.
24 If a majority of the votes cast at any such election is in
25 favor of the increased levy as named in said election notice,
26 then the officers charged with levying taxes may make such
27 increased levy for the year voted upon.

1 (5) The limitations of this section shall apply to home
2 rule counties unless provisions are included in the county
3 home rule charter which are, as determined by the division of
4 local government, equal to or more restrictive than the
5 provisions of this section.

6 SECTION 2. 29-1-301 (1.3) and (2), Colorado Revised
7 Statutes, 1977 Repl. Vol., as amended, are amended to read:

8 29-1-301. Levies reduced - limitation. (1.3) If a
9 taxing authority which is enumerated in subsection (1) of
10 this section does not impose in any given year the maximum
11 levy that it could impose under such subsection (1), the
12 taxing authority may impose, in the year immediately
13 following, a levy sufficient to levy the amount of revenue
14 which could have been levied in the year in which it did not
15 impose the maximum levy plus seven percent. If, for two or
16 more consecutive years, a taxing authority does not impose the
17 maximum levy that it could impose under subsection (1) of this
18 section, the taxing authority may impose in any year a levy
19 sufficient to levy the amount of revenue which was raised in
20 the most recent year in which the maximum levy was imposed
21 plus seven percent for each intervening year so that the
22 application of said seven percent will be cumulative and the
23 net result will be as if the taxing authority had levied the
24 full amount it could have levied under subsection (1) of this
25 section for each intervening year. THIS SUBSECTION (1.3)
26 SHALL NOT APPLY TO LEVIES CERTIFIED IN LOCAL GOVERNMENT FISCAL
27 YEARS 1987, 1988, AND 1989. BEGINNING WITH LOCAL GOVERNMENT

1 FISCAL YEAR 1990, THIS SUBSECTION (1.3) SHALL APPLY BUT THE
2 CUMULATION OF CONSECUTIVE YEARS IN WHICH THE MAXIMUM LEVY WAS
3 NOT IMPOSED SHALL NOT INCLUDE ANY LOCAL GOVERNMENT FISCAL YEAR
4 PRIOR TO 1989.

5 (2) If an increase over said seven percent is allowed by
6 the division of local government in the department of local
7 affairs or voted by the electors of a taxing district under
8 the provisions of section 29-1-302, the increased revenue
9 resulting therefrom shall be included in determining the seven
10 percent limitation in the following year. However, any
11 portion of such increased revenue which is allowed as a
12 capital expenditure pursuant to section 29-1-302 (1.5) shall
13 not be included in determining the seven percent limitation in
14 the following year. THIS SUBSECTION (2) SHALL NOT APPLY TO
15 LEVIES CERTIFIED IN LOCAL GOVERNMENT FISCAL YEARS 1987, 1988,
16 AND 1989.

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