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0341 Committee on Workmen's Compensation

**COLORADO LEGISLATIVE COUNCIL
RECOMMENDATIONS FOR 1990**

**COMMITTEE ON
WORKMEN'S COMPENSATION**

**Legislative Council
Report to the
Colorado General Assembly**

**Research Publication No. 341
November, 1989**

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LEGISLATIVE COUNCIL

ROOM 029 STATE CAPITOL
DENVER, COLORADO 80203-1784
(303) 866-3521

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To Members of the Fifty-Seventh Colorado General Assembly:

Submitted herewith is the final report of the Committee on Workmen's Compensation. The Committee was appointed by the Legislative Council pursuant to House Joint Resolution No. 1030, 1989 session.

At its meeting on November 9, the Legislative Council reviewed this report. A motion to forward the report and recommendations of the Committee on Workmen's Compensation to the Fifty-seventh General Assembly was also approved. However, the chairman of the Legislative Council ruled that a proposed bill providing a complete restructuring of the workmen's compensation laws 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. The Legislative Council recommends that the bill be drafted and be reconsidered for final action by the committee. If the bill is approved by the committee, the Legislative Council will meet again to act on the bill.

Respectfully submitted,

/s/ Representative Chris Paulson
Chairman
Colorado Legislative Council

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Office of Legislative Legal Services

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**Mariann Will
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COMMITTEE ON WORKMEN'S COMPENSATION

Committee Charge

As a result of the passage of House Joint Resolution 1030 (1989 session) the Committee on Workmen's Compensation was continued for a second year. The study resolution directed the committee to focus its efforts on the following topics:

- 1) a review of the economic impact of the Colorado workmen's compensation system on employees and employers;
- 2) an examination of the Department of Labor and Employment's new computer system's ability to maintain and process data electronically;
- 3) a review of the methods to improve employer's experience ratings and consequent insurance costs through education and risk management programs; and
- 4) a performance review of the Division of Administrative Hearings with respect to the services the division provides to the Division of Labor in hearing matters arising under the "Workmen's Compensation Act of Colorado."

Committee Recommendations

As a result of committee discussion and deliberation, the committee recommends four bills for consideration in the 1990 legislative session. The bills will:

- 1) require the reduction of workmen's compensation benefits because of certain acts of employees;
- 2) provide a statutory definition for the term "permanent total disability" and schedule all ratings for permanent disability based on the whole body concept;
- 3) revise administrative hearing procedures related to workmen's compensation cases; and

- 4) provide a complete restructuring of the workmen's compensation laws to improve the organization thereof. Since this bill could not be drafted for consideration at the November 9 meeting of the Legislative Council, it will be reconsidered by that committee when it next meets, approximately January 10, 1990. Copies of the bill will be available at the Legislative Council office at the beginning of the 1990 legislative session.

Committee Activities

Testimony was provided to the committee by: interested citizens; insurance company representatives; spokespersons for the Colorado Association of Commerce and Industry (CACI); the National Federation of Independent Business (NFIB); Workers Compensation Education Association; National Council on Compensation Insurance; Colorado Self-Insurance Association; representatives of the Department of Labor and Employment and the Division of Insurance; and administrative law judges. Committee topics of discussion included:

- an update on implementation by the Division of Labor of workmen's compensation legislation enacted in 1989;
- evaluating the performance of administrative law judges dealing with workmen's compensation issues;
- an examination of the rate setting process and classification system established by the National Council on Compensation Insurance (NCCI);
- an explanation of how the Division of Insurance regulates workmen's compensation rates;
- monitoring the activities of various task forces (e.g., CACI and NFIB) which are considering a variety of workmen's compensation topics;
- an overview of the benefits to businesses of safety and risk management programs (e.g., programs at the Public Service Company of Colorado, I.B.M. Corporation, City of Northglenn) and consideration of the insurance industry perspectives on safety programs (e.g., Crum and Forster, Trans America, and the State Compensation Insurance Authority); and
- a review of a rewrite of the "Workmen's Compensation Act of Colorado" which was drafted by John Donlon, Executive Director of the Department of Labor and Employment and members of the Workers' Compensation Act Task Force. Major changes proposed in the rewrite included reinstating vocational rehabilitation and revising procedures governing employee/employer selection of an authorized treating physician.

I. Legislative Recommendations

Concerning the Reduction of Workers' Compensation Benefits Because of Certain Acts of Employees -- Bill 1

Bill 1 requires that every employee injured on the job give his employer a written notice of his injury. An employer is required to mark the notice with the date and time received. Current statutes require an employee to give only verbal notice of an injury to initiate a claim. Consequently, if an employee claims that he gave a verbal report, and the employer does not file a timely response, severe penalties can be imposed upon the employer.

When an injury results from an employee being under the influence of alcohol or drugs, compensation benefits are reduced by 75 percent. Current statutes provide for a 50 percent reduction in benefits for being under the influence of alcohol, while no similar provisions exist regarding benefit reductions for drug abuse. (The State Board of Health is responsible for implementing rules and regulations relating to the testing for drug or alcohol abuse.) If a person refuses to submit to such tests, this fact will be admissible at any administrative hearing concerning the injury, and the employee cannot claim the privilege against self-incrimination with regard to admission of refusal to submit to any tests. For purposes of this bill, refusal to submit to tests constitutes admission of being under the influence of alcohol or drugs.

The bill provides that judges, the director of the Division of Labor, and administrative law judges are to take judicial notice of methods of testing an employee's alcohol or drug level and of the design and operation of devices used for such testing.

A 75 percent reduction in workmen's compensation benefits is also authorized in Bill 1 when an injured employee fraudulently conceals any material fact concerning his health history and when it is determined that the condition concealed proximately caused the injury. The Division of Labor is required by July 1, 1991, to adopt a statewide standard health history form and to make said form available to employers and insurers.

Concerning Permanent Disability Benefits for Workers' Compensation -- Bill 2

There are currently two systems for determining payment for permanent partial disability injuries. The first is the schedule ("whole body concept") approach. It provides that an injured worker be paid a set amount of money for the disability incurred. The other system is known as the general permanent disability, or working unit. Under this system, if the case goes to litigation, the claimant may receive a much

higher settlement amount. The term "permanent total disability" is not defined in the "Workmen's Compensation Act of Colorado." The absence of a statutory definition leaves broad discretion to administrative law judges in determining permanent disability.

In response to these concerns, Bill 2 is recommended. The bill schedules all ratings for permanent disability based on the whole body concept. The terms "gainful employment," "maximum medical improvement," and "permanent total disability" are defined in the bill.

Bill 2 provides that the amounts specified in the schedule for disability periods be calculated and paid at 50 percent of the temporary total rate specified in section 8-51-102, C.R.S., whenever an employer employs, or offers to employ, or continues the disabled employee at his preinjury rate of pay. Procedures are set forth for redetermination of a partial disability award where an employee returns to work but, as a result of the permanent disability, is dismissed or resigns. The award of permanent partial disability must offset any amount of permanent partial disability which had previously been paid.

The bill amends section 8-51-107, C.R.S. (awards for permanent total disability) to provide that an injured employee shall be determined as permanently totally disabled only when the employee's physical or mental impairment is of such severity that the employee is unable to perform any of his previous employment responsibilities and is unable to be rehabilitated to perform gainful employment.

Concerning Administrative Hearings Related to Workers' Compensation Cases -- Bill 3

Concern was expressed by administrative law judges and persons commenting on the performance of ALJs that too much time elapses from the date of hearing until decisions are rendered. Approximately 50 percent of the cases currently being heard by ALJs date back to before 1987 due to the enormous backlog of cases in the system. There are instances where statutory constraints prevent the resolution of cases prior to hearing.

Bill 3 is recommended as a means of reducing expenses incurred in the litigation process and eliminating unnecessary delays. The bill has the following major components:

- The law is clarified concerning 1) parties qualified to appeal a decision of a utilization review committee and 2) the standard used by an administrative law judge in his review of decisions rendered by such a committee.

- **Mandatory prehearing settlement conferences are required of the Division of Administrative Hearings. The settlement conferences must occur at least 30 days before the date set for any hearing.**
- **Mediation is mandatory for all disputes related to workers' compensation cases except in instances where a claimant's accident or injury or illness is compensable.**
- **The director of the Division of Labor or the Division of Administrative Hearings is authorized to call for a status conference. The purpose of a status conference is to determine what issues are in dispute and what conflicts exist between the parties. Such a conference is to resolve claims to which there is no substantial dispute.**
- **The Division of Administrative Hearings rather than the Division of Labor is authorized to docket workmen's compensation cases for hearings.**
- **To enable the Division of Administrative Hearings to perform its duties relating to the docketing and administration of workmen's compensation hearings, the bill authorizes the transfer of personnel and property from the Division of Labor to the Division of Administrative Hearings.**
- **The Executive Director of the Department of Administration is authorized to establish by rule and regulation a time schedule for hearings by administrative law judges. Administrative law judges are allowed to control the order of their dockets once cases have been set for hearing.**
- **Administrative law judges are allowed to assess attorney fees for frivolous actions in the hearings process and to impose sanctions for the willful noncompliance with any order relating to workmen's compensation cases.**
- **A 90 day time limit is established for completing any workmen's compensation hearings. Final orders by administrative law judges are required to be completed within 30 days after the case is ready for order.**
- **The Division of Administrative Hearings is required to monitor the compliance of administrative law judges with the deadlines for conducting hearings as established by Bill 3. An annual report regarding such compliance is to be submitted to the executive directors of the Departments of Administration and Labor and Employment as well as the General Assembly.**

II. Major Workmen's Compensation Issues Considered By The Committee

Computer System

The 1988 Interim Committee on Workmen's Compensation and Unemployment Insurance Programs determined that the Division of Labor, within the Department of Labor and Employment, needed improved computer capabilities to provide basic information for the management and analysis of the workmen's compensation system in Colorado. The division was unable to meet many fundamental information needs for an efficient and effective system.

Problems noted in the 1988 report of the interim committee included the division's inability to identify where delays in the workmen's compensation system were occurring, to foresee trends, to counteract problems in the early stages of the process, and to address the problems with the backlog of cases.

The 1988 committee submitted a letter to the Joint Budget Committee (JBC) recommending increased spending to improve the data management capabilities of the Division of Labor. In response to these concerns, the General Assembly appropriated \$1,331,384 and an additional 1.5 FTE for fiscal year 1989-1990 for improved computer capabilities within the Division of Labor. The computer system is designed to help improve the workmen's compensation administrative procedures and will enable the division to maintain better records, to track problems in the process, eliminate the backlog of cases, and analyze long term trends.

The Director of the Division of Labor noted for the 1989 committee the following capabilities of the system.

- The system is designed to have a management information component for data collection and reporting. This will help the division maintain accurate records of benefits paid.
- It will provide performance statistics for insurance companies and the Division of Labor.
- The system will enhance the department's ability to obtain statistics of types of injuries that occur on the job.
- The computer will provide statistics and show trends in the litigation process, and will also allow the tracking of individual cases through the system.

- The new system could provide data matches with other agencies (e.g., the Department of Revenue) to keep track of employers who are covered by insurance and would allow the division to identify uninsured employers.
- The system will be helpful in limiting the paperwork that is currently required for each case.

According to the Division of Labor, the internal design of the system is complete, and requests for proposals are being sent out for the purchase of the hardware necessary to implement the system. The ultimate goal is for the computer system to be operational by January 1, 1990.

Risk Management and Cost Containment Programs

Representatives of the Public Service Company of Colorado, I.B.M. Corporation, the City of Northglenn, and companies providing workmen's compensation insurance coverage outlined their respective programs of risk management and cost containment. Dramatic increases in workmen's compensation premiums have forced employers to find a way to reduce the number and severity of injuries and workmen's compensation claims. The key elements presented in the development and implementation of an effective occupational safety and health program are listed below.

- **Management commitment.** Management must make a commitment to establish and maintain a safe workplace and work practices and must manage claims when injuries occur. Management must establish health and safety goals and objectives and clearly communicate them to all employees.
- **Inspection.** There should be regular inspections of all workplaces and equipment by plant safety personnel, insurance company or producer representatives, or outside consultants.
- **Hazard prevention and control.** Managers and employees need to be trained to recognize and avoid the hazards associated with each job. The training should include instruction on the safe handling of equipment, machinery, potentially hazardous substances and the proper use and care of personal protective equipment.
- **Occupational specific training.** There are many jobs that involve specific hazards which require specialized training as well as the use of special clothing or equipment.
- **Medical cost containment.** A medical program should be established which includes availability of first aid on site and of physician and emergency medical care nearby. Medical providers should be designated for employees to visit for all job-related injuries or illnesses.

- Standardized hiring policy. To help prevent injuries, an employee needs to have not only the technical skills for the job, but also the physical skills. Pre-employment evaluations should be made to determine potential employee health risks. If possible, restricted work assignments should be offered to those injured employees who cannot return immediately to their previous employment position.

There are a number of benefits derived from successful occupational safety and health programs. Accident rates are reduced which result in increased employee morale and productivity. Workmen's compensation premium costs to the employer are reduced. Employees and management are brought closer together in working toward the common goal of enhanced safety in the workplace. Monetary awards and employee recognition can result from the development of safe work habits. In the City of Northglenn, employee performance evaluations and resulting salary adjustments include consideration of safety records. Public Service Company presents awards to those employees who work a full year without incurring an injury.

The State Compensation Insurance Authority, as well as private insurers, are providing premium reductions to companies that participate in safety programs. The types of premium reductions made available to companies include:

- Scheduled credits and debits. According to a company's safety and loss record, discounts for workmen's compensation premiums may be claimed. A company with a poor safety record may be penalized with higher premiums.
- Schedule rating. A schedule rating provides lower rates if the employer engages in loss control activities that are expected to reduce either the frequency or severity of loss.
- Retrospective rating. At the end of the policy year, the premium rate is determined according to that year's safety and loss record.
- Dividends. A company with a good safety and loss record at the end of the year may be eligible to receive a dividend on its workmen's compensation premiums paid.

Recommendations. The committee has no recommendations for legislative changes in the area of risk management and cost containment. The committee suggests the administrative implementation by the State Compensation Insurance Authority of a dividend plan, similar to one that has been adopted and administered by the State Compensation Fund of Arizona. Full implementation is urged of the legislation creating the Workmen's Compensation Cost Containment Board within the Division of Labor (House Bill 1323, 1989.)

Performance Review Of Administrative Law Judges (ALJs)

Senate Bill 195 (1989 session) requires the General Assembly to conduct a performance review every four years of the Division of Administrative Hearings. The study directive to the committee included the responsibility for this performance review. Issues to be examined were the length of time taken to hear cases and render decisions and the overall performance of administrative law judges.

The Chief Administrative Law Judge, Division of Administrative Hearings, reported that there are a total of 17 ALJs, 11 of which work full-time on workmen's compensation cases. According to statistics provided by the division, in 1988, the overall approval rating for ALJs responsible for hearing workmen's compensation cases was 90 percent.

Attorneys with considerable experience in dealing with ALJs on workmen's compensation issues indicated excellent ALJ performance in the following areas:

- promptness in appearing for hearing;
- courtesy to witnesses and counsel;
- familiarity with the file and adequate preparation;
- ability to preside over a case in a fair manner;
- attentiveness to the proceedings; and
- fairness to both sides when deciding a case.

The attorneys criticized the performance of ALJs relating to the amount of time that elapses from the date of hearing until the decision is rendered, and suggested that ALJs, rather than the Division of Labor, should be responsible for the docketing of workmen's compensation cases in order to expedite the hearings process.

The Director of the Division of Administrative Hearings outlined the following strategies to reduce the backlog of cases:

- encourage mediation to prevent cases from unnecessarily going to a hearing;
- reduce litigation by allowing ALJs to make more decisions up front;
- reduce the time from date of application for hearing until date of actual hearing to approximately two to three months, and render a decision within four months; and

- allow prehearing depositions in order to eliminate the waiting period between filing for a hearing and the actual hearing.

Recommendations. As previously noted, Bill 3 will establish a 90 day time limit for completing any workmen's compensation hearings, and require that final orders be issued within 30 days after the case is ready for order.

Regulation of Workmen's Compensation Rates

The committee was concerned about the sufficiency of the Division of Insurance regulatory authority over the establishment of workmen's compensation rates. Representatives of insurance companies which provide workmen's compensation coverage and a Division of Insurance representative testified on this issue. Pertinent statutory provisions are summarized below.

Scope of regulation. Workmen's compensation insurance is considered a Type I kind of insurance. All rates for Type I insurance must be filed with the Commissioner of Insurance prior to use and must be affirmatively approved or disapproved (Section 10-4-401, C.R.S.). If the commissioner does not approve or disapprove the rates within a specified time period (i.e., 15 to 45 days depending on the statutory requirements), the rates are deemed to be approved.

Type II insurance, which includes fire, casualty, and title insurance, is regulated by open competition. Section 10-4-405, C.R.S., requires insurers to file with the Commissioner of Insurance every manual of classifications, rules, rates, and every rating plan which it proposes to use in Colorado. These requirements are not applicable to Type I kinds of insurance.

Standards for insurance rates. Section 10-4-403, C.R.S., sets forth standards for rates which are applicable to Type I and Type II kinds of insurance. The statute requires that rates not be excessive or inadequate, nor shall they be unfairly discriminatory. Rates are not considered "excessive" unless such rate is unreasonably high for the insurance coverage provided, and a reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable. Rates are not considered "inadequate" unless the rate is unreasonably low for the insurance coverage provided, and the continued use of such rate endangers the solvency of the insurer using the same, or the continued use of such rate has, or will have, the effect of destroying competition or creating a monopoly.

In the setting of rates, insurers are to consider past and prospective loss experience and catastrophic hazards, if any, solely within Colorado. If there is insufficient experience within the state upon which a rate can be based, the insurer is allowed to consider experiences within any other state or states which have a similar cost of claim and frequency of claim experience as Colorado. In its rate filing, the insurer must show what rate experience it is using (Section 10-4-403, C.R.S.).

Rates must allow a reasonable margin for underwriting profit and contingencies, including dividends, savings, or unearned premium deposits allowed or returned by insurers to their policyholders, members, or subscribers. In determining profits, the insurer must consider investment income from unearned premium reserves and reserves for incurred losses and incurred but not reported losses.

Risks can be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions or both. Such standards can measure any difference among risks that can be demonstrated to have a probable effect upon losses or expenses.

Rate regulation by Commissioner of Insurance. The Commissioner of Insurance reviews insurance rate filings and promulgates rules and statistical plans regarding various insurance rates. In promulgating such rules and plans, the commissioner is required to consider the rating systems used by the various insurers and, in order that such rules and plans may be as uniform as practicable among the several states, to consider the rules and to the form of the plans used for such rating systems in other states (Section 10-4-404, C.R.S.).

The commissioner is authorized to designate one or more rating organizations or other agencies to assist his office in gathering such experience information and making compilations thereof. The compilations are to be made available to insurers and rating organizations. (The principal rating organization is the National Council on Compensation Insurance, which is a voluntary, nonprofit, statistical, and research organization financed by its members and subscribers through assessment of fees.) For the purpose of further uniform administration of rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with the insurance supervisory officials, insurers, and rating organizations in other states.

For Type I kinds of insurance, every insurer is required to file with the commissioner every manual of classifications, rules, and rates, every rating plan, and every modification relating thereto which it proposes to use in Colorado. Information included in support of a filing may include:

- the judgment of the insurer or rating organization making the filing;
- its interpretation of any statistical data it relied upon; and
- the experience of other insurers or rating organizations.

The commissioner is responsible for reviewing all filings for Type I kinds of insurance under section 10-4-406, C.R.S.. The filing shall remain on file for 15 days and cannot be approved, disapproved, or become effective during such 15 day period except after a public hearing. The commissioner is given the discretion as to whether a public hearing on the filing should be held. If a public hearing has not been held and is not considered necessary at a future date, or if the commissioner has not affirmatively approved or disapproved the filing, such filing is deemed approved on the sixteenth day after the filing at 12:01 a.m.

Each insurer is annually required to file with the commissioner a report of the total losses paid for each line of insurance and a report of the total losses incurred on an accident-year basis. The commissioner is to annually review all such filings and reports submitted by insurers to determine the appropriateness of premium rates for various types of insurance in Colorado.

Recommendation. Testimony indicated that NCCI may file a rate with the Commissioner of Insurance which suggests that insurance companies raise their premiums an average of 28 percent. The committee believes that the Insurance Commissioner should hold public hearings on the proposed increases in workmen's compensation premium rates. The committee has requested that adequate notice of such hearings be given to all members of the General Assembly.

Other Topics Relating To Workmen's Compensation

The committee also monitored the activities of various task forces and reviewed a proposed rewrite of the "Workmen's Compensation Act of Colorado," which was drafted by the Workers' Compensation Act Task Force under the auspices of the Department of Labor and Employment. The bill reinstated vocational rehabilitation and revised procedures governing employee/employer selection of an authorized treating physician.

Draft legislation which was reviewed provided for:

- creating a catastrophic injury fund to defray the cost of workmen's compensation benefits;
- changing the rate regulation of workmen's compensation from a Type I ("prior approval") kind of insurance to a Type II ("file and use") kind of insurance;
- creating a guaranty fund and immediate payment fund to protect employees of self-insured employers who lack sufficient security to pay workmen's compensation benefits; and

- allowing the director of the Division of Labor to utilize funds from the Major Medical Insurance Fund to meet the obligations of the Medical Disaster Fund.

No action was taken by the committee on the legislation described above.

BILL 1

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A BILL FOR AN ACT

- 1 CONCERNING THE REDUCTION OF WORKERS' COMPENSATION BENEFITS
2 BECAUSE OF CERTAIN ACTS OF EMPLOYEES.

Bill Summary

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

Requires that notices of workers' compensation injuries be in writing and that employers note on such notices the date and time of receipt.

Reduces compensation benefits by a certain percentage where injury results from an employee being under the influence of alcohol or drugs. Establishes testing procedures for alcohol and drug levels. Makes refusal to take such a test an admission of intoxication. Directs judges, the director of the division of labor, and administrative law judges to take judicial notice of methods of testing for drug and alcohol levels and of the design and operation of devices used for same.

Reduces compensation benefits by a certain percentage when an injured employee fraudulently conceals any material fact concerning such employee's health history and it is determined that the condition concealed by the employee proximately caused the injury. Requires the division of labor to develop a statewide standard health history form and to make such form available to employers and insurers.

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

4 SECTION 1. 8-45-102 (1), Colorado Revised Statutes, 1986

1 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
2 SUBSECTION to read:

3 8-45-102. Notice to employer of injury - failure to
4 report. (1) Every employee who sustains an injury resulting
5 from an accident shall notify his employer IN WRITING of said
6 injury within two days of the occurrence of the injury, unless
7 said employee is physically or mentally unable to do so or
8 unless his employer, or his foreman, superintendent, or
9 manager, or any other person in charge has actual notice of
10 said injury. If said employee fails to report said injury IN
11 WRITING, he may lose up to one day's compensation for each
12 day's failure to so report. If anyone reports the accident
13 for said injured employee IN WRITING to his employer within
14 the time specified in this section, the injured employee shall
15 be relieved from reporting the accident. ANY EMPLOYER
16 RECEIVING WRITTEN NOTICE OF AN INJURY PURSUANT TO THIS
17 SUBSECTION (1) SHALL AFFIX THEREON THE DATE AND TIME OF
18 RECEIPT OF SUCH NOTICE.

19 SECTION 2. 8-52-104, Colorado Revised Statutes, 1986
20 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH
21 AMENDMENTS, to read:

22 8-52-104. Acts of employees reducing compensation -
23 testing procedures. (1) Unless the provisions of subsection
24 (2) of this section apply, the compensation provided for in
25 articles 40 to 54 of this title shall be reduced fifty percent
26 wherever:

27 (a) Injury is caused by the willful failure of the

1 employee to use safety devices provided by the employer;

2 (b) Injury results from the employee's willful failure
3 to obey any reasonable rule adopted by the employer for the
4 safety of the employee.

5 (2) The compensation provided for in articles 40 to 54
6 of this title shall be reduced seventy-five percent:

7 (a) (I) Where injury results from the employee being
8 under the influence of alcohol or one or more drugs, or any
9 combination thereof, which shall be presumed whenever:

10 (A) An employee has a blood content of 0.10 or more
11 grams of alcohol per one hundred milliliters of blood or a
12 breath content of 0.10 or more grams of alcohol per two
13 hundred ten liters of breath as shown by chemical analysis.
14 This presumption may be overcome by clear and convincing
15 evidence.

16 (B) An employee has tested positive for the existence of
17 any controlled substance as defined in section 12-22-303 (7),
18 C.R.S., or any other stupefying drug. This presumption may be
19 overcome by clear and convincing evidence.

20 (II) (A) The occurrence of an injury shall be considered
21 reasonable suspicion requiring testing to determine whether
22 the employee involved was under the influence of drugs or
23 alcohol. In the investigation an injury, any employee
24 injured, or who purportedly was the cause of an injury to
25 another, shall be required to submit to a test or tests of
26 that employee's blood, breath, saliva, or urine for the
27 purpose of determining the drug and alcohol content of said

1 blood, breath, saliva, or urine.

2 (B) Any employee who is required to submit to or who
3 requests that a specimen of blood, breath, saliva, or urine be
4 taken or drawn for testing shall cooperate with the person
5 authorized to obtain such specimens, including the signing of
6 any release forms required by the person who is authorized to
7 take or withdraw such specimens. If the employee refuses to
8 sign the forms, such refusal shall be considered a refusal to
9 take the tests.

10 (C) The tests shall be administered in accordance with
11 rules and regulations prescribed by the state board of health
12 and with the utmost respect for the constitutional rights,
13 dignity, and health of the employee being tested. No employee
14 shall be physically restrained for the purpose of obtaining a
15 specimen of blood, breath, saliva, or urine for testing.

16 (D) No person except a physician, a registered nurse, a
17 paramedic as certified in part 2 of article 3.5 of title 25,
18 C.R.S., an emergency medical technician, as defined in part 1
19 of article 3.5 of title 25, C.R.S., or a person whose normal
20 duties include withdrawing blood samples under the supervision
21 of a physician or registered nurse shall be entitled to
22 withdraw blood for the purpose of determining the alcoholic or
23 drug content therein. No civil liability shall attach to any
24 person authorized to obtain blood, breath, saliva, or urine
25 specimens from any person submitting thereto if such specimens
26 were obtained according to rules and regulations prescribed by
27 the state board of health concerning the health of the person

1 being tested and the accuracy of such testing; except that
2 such provision shall not relieve any such person from
3 liability for negligence in the obtaining of any specimen
4 sample.

5 (E) Any employee who is dead or unconscious shall be
6 tested to determine the alcoholic content of said employee's
7 blood. Tests shall also be conducted to determine the
8 presence of controlled substances or other drugs in the
9 employee's system. Such information obtained shall be made a
10 part of the employee's file and any accident reports
11 concerning the injury.

12 (F) If a person refuses to submit to tests as provided
13 for in this subparagraph (II), this fact shall be admissible
14 at any administrative hearing concerning the injury, and the
15 employee shall not claim the privilege against
16 self-incrimination with regard to admission of refusal to
17 submit to any tests. Refusal shall constitute admission of
18 being under the influence of alcohol or drugs for purposes of
19 this section.

20 (G) The fact that the employee is or has been entitled
21 to use a controlled substance or other drug under the laws of
22 this state shall not constitute a defense to working under the
23 influence of that controlled substance or drug in disregard of
24 safety requirements.

25 (H) In all judicial actions and administrative hearings
26 concerning an injury pursuant to article 53 of this title, any
27 judge, the director, or any administrative law judge shall

1 take judicial notice of methods of testing an employee's
2 alcohol or drug level and of the design and operation of
3 devices, as certified by the department of health, for testing
4 an employee's blood, breath, saliva, or urine to determine an
5 alcohol or drug level. This sub-subparagraph (H) shall not
6 prevent the necessity of establishing during a hearing that
7 the testing devices were properly operated. Nothing in this
8 sub-subparagraph (H) shall preclude a defendant from offering
9 evidence of the accuracy of the testing device.

10 (b) (I) When any employee fraudulently conceals any
11 material fact concerning such employee's health history in
12 completing the form required by subparagraph (II) of this
13 paragraph (b) and when it is determined that the condition
14 concealed by the employee proximately caused the injury.

15 (II) No later than July 1, 1991, the division shall
16 adopt a statewide standard health history form. The director
17 shall consult with appropriate health care professionals in
18 the preparation of the form. Copies of the form shall be made
19 available to all employers and insurers in the state not later
20 than August 1, 1991. The division may revise the form from
21 time to time and shall make revised forms available to all
22 employers and insurers not later than thirty days prior to the
23 effective date of use of such revised form.

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

BILL 2

A BILL FOR AN ACT

1 CONCERNING PERMANENT DISABILITY BENEFITS FOR WORKERS'
2 COMPENSATION.

Bill Summary

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

Combines all permanent disability benefit provisions into two statutory sections in the "Workmen's Compensation Act of Colorado". Schedules all ratings for permanent disability based on the whole body concept. Defines "permanent total disability", "maximum medical improvement", and "gainful employment" for certain purposes. Designates guidelines for establishing impairment under such schedule. Sets up a formula for calculating and paying amounts specified. Provides a procedure for redetermination of a partial disability award where an employee returns to work but, as a result of the permanent disability, is dismissed or resigns. Applies reemployment provisions equally to previous and new employers. Removes the term "suitable" from statutory sections related to permanent total disability.

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

4 SECTION 1. Article 51 of title 8, Colorado Revised
5 Statutes, 1986 Repl. Vol., as amended, is amended BY THE
6 ADDITION OF A NEW SECTION to read:

7 8-51-100.3. Definitions. As used in this article,

1 unless the context otherwise requires:

2 (1) "Gainful employment" means a regular activity for
3 financial remuneration which is available within fifty miles
4 of where the injured employee resides and which the injured
5 employee is physically or mentally capable of performing.

6 (2) "Maximum medical improvement" means the point when
7 the underlying physical or mental condition causing a
8 disability becomes stable and no further reasonable medical
9 treatment will measurably improve the condition.

10 (3) "Permanent total disability" means the inability to
11 perform gainful employment, or the inability to be
12 rehabilitated to perform gainful employment, by reason of any
13 physical or mental impairment which has achieved maximum
14 medical improvement.

15 SECTION 2. 8-51-104, Colorado Revised Statutes, 1986
16 Repl Vol., as amended, is REPEALED AND REENACTED, WITH
17 AMENDMENTS, to read:

18 8-51-104. Schedule of disability periods - commencement.

19 (1) In case an injury results in a loss set forth in the
20 following schedule, the injured employee, in addition to
21 compensation to be paid for temporary disability, shall
22 receive compensation for the period as specified:

23	(a) Loss of an arm at the shoulder	180 weeks
24	(b) Loss of forearm at the elbow	171 weeks
25	(c) Loss of a hand at the wrist	162 weeks
26	(d) Loss of a thumb and the metacarpal	
27	phalangeal joint	66 weeks

1	(e)	Loss of a thumb at the interphalangeal	
2		joint	48 weeks
3	(f)	Loss of an index finger and the	
4		metacarpal bone thereof	42 weeks
5	(g)	Loss of an index finger at the proximal	
6		joint	33 weeks
7	(h)	Loss of an index finger at the	
8		distal joint	18 weeks
9	(i)	Loss of all fingers except thumb at the	
10		metacarpal phalangeal joint	96 weeks
11	(j)	Loss of a middle finger at the	
12		metacarpal phalangeal joint	33 weeks
13	(k)	Loss of a middle finger at the proximal	
14		joint	24 weeks
15	(l)	Loss of a middle finger at the distal	
16		joint	15 weeks
17	(m)	Loss of a ring finger and the	
18		metacarpal phalangeal joint	15 weeks
19	(n)	Loss of a ring finger at the proximal	
20		joint	12 weeks
21	(o)	Loss of a ring finger at the distal	
22		joint	9 weeks
23	(p)	Loss of a little finger and the	
24		metacarpal phalangeal joint	9 weeks
25	(q)	Loss of a little finger at the proximal	
26		joint	6 weeks
27	(r)	Loss of a little finger at the distal	

1		joint	3 weeks
2	(s)	Loss of a leg at the hip joint or so	
3		near thereto as to preclude the use	
4		of an artificial limb	120 weeks
5	(t)	Loss of a leg at or above the knee,	
6		where the stump remains	
7		insufficient to permit the use of an	
8		artificial limb	108 weeks
9	(u)	Loss of a foot at the ankle	84 weeks
10	(v)	Loss of a great toe with the metatarsal	
11		bone thereof	24 weeks
12	(w)	Loss of a great toe at the metatarsal	
13		phalangeal	15 weeks
14	(x)	Loss of a great toe at the	
15		interphalangeal joint	12 weeks
16	(y)	Loss of any other toe with the	
17		metatarsal bone thereof	6 weeks
18	(z)	Loss of any other toe at the metatarsal	
19		phalangeal joint	3 weeks
20	(aa)	Loss of any other toe at any other	
21		joint	1.8 weeks
22	(bb)	Loss of an eye by enucleation	
23		(including disfigurement resulting	
24		therefrom)	117 weeks
25	(cc)	Loss of vision of one eye	72 weeks
26	(dd)	Total deafness of both ears	105 weeks
27	(ee)	Total deafness of one ear	26.4 weeks

1 (ff) Where workman prior to injury has
2 suffered a total loss of hearing in
3 one ear, and as a result of the
4 accident loses total hearing in
5 remaining ear 117 weeks

6 (gg) Loss of vision in both eyes 255 weeks

7 (hh) For any permanent impairment which is not included
8 in paragraphs (a) to (hh), the injured employee shall receive
9 compensation based upon a percentage of the whole person in
10 accordance with rules and regulations promulgated by the
11 director based on the tables contained in the "American
12 Medical Association Guides to the Evaluation of Permanent
13 Impairment", the latest edition, multiplied by three hundred
14 weeks.

15 (2) Temporary disability terminates as to injuries
16 coming under any provision of this section pursuant to section
17 8-51-103.

18 (3) For the purpose of this schedule, permanent and
19 complete paralysis of any member as the proximate result of
20 accidental injury shall be deemed equivalent to the loss
21 thereof.

22 (4) If amputation is made between any two joints
23 mentioned in this schedule, except amputation between the knee
24 and the hip joint, the resulting loss shall be estimated as if
25 the amputation had been made at the joint nearest thereto. If
26 any portion of the bone of the distal joint of any finger,
27 thumb, or toe is amputated, the amount paid therefor shall be

1 the amount allowed for amputation at said distal joint.

2 (5) The amounts specified in this section shall be
3 calculated and paid:

4 (a) (I) At fifty percent of the temporary total rate
5 specified in section 8-51-102, whenever an employer employs,
6 or offers to employ, or continues the disabled employee at the
7 employee's preinjury rate of pay.

8 (II) Subparagraph (I) of this paragraph (a) shall not
9 apply if the director finds that the employee is permanently
10 unable to perform the duties offered by the employer due to
11 the injury. If, during two years following the date of return
12 to work, the injured employee is dismissed from employment or
13 resigns from employment with the employer as a result of the
14 permanent disability due to the injury, the injured employee
15 may petition the director for a redetermination of said
16 employee's original permanent partial disability award, and,
17 upon a proper showing of case-specific limitations in the
18 labor market, the director shall order an appropriate award of
19 permanent partial disability pursuant to this section,
20 offsetting any amount of permanent partial disability which
21 had previously been paid.

22 (b) At the temporary total rate specified in section
23 8-51-102, in all other cases of permanent partial disability.

24 (6) When an injured employee sustains two or more
25 injuries coming under this schedule, the disabilities
26 specified in this section shall be added, and the injured
27 employee shall receive the sum total thereof.

1 SECTION 3. 8-51-107 (2) and (3), Colorado Revised
2 Statutes, 1986 Repl. Vol., as amended, are amended, and the
3 said 8-51-107 is further amended BY THE ADDITION OF A NEW
4 SUBSECTION, to read:

5 8-51-107. Award for permanent total disability.

6 (2) The loss of both hands or both arms or both feet or both
7 legs or both eyes or of any two thereof, by injury in or
8 resulting from the same injury or occupational disease, shall
9 create a presumption which may be rebutted by competent
10 contrary evidence of total and permanent disability to be
11 compensated according to the provisions of this section;
12 except that, where the disability comes under this section and
13 where the employer or the division obtains suitable GAINFUL
14 employment for such disabled person which he can perform and
15 which in all cases is subject to the sole approval of the
16 director, the disabilities set out in this subsection (2)
17 shall not constitute total disability during the continuance
18 of the director's approval of said employment but shall
19 constitute such partial disability as may be determined by the
20 director after a finding of the facts.

21 (3) A totally disabled employee capable of
22 rehabilitation to suitable gainful employment who refuses an
23 offer of employment in a suitable job by the employer or an
24 offer of vocational rehabilitation paid for by the employer
25 shall not be awarded permanent total disability.

26 (4) An injured employee shall be determined to be
27 permanently totally disabled only when the employee's physical

1 or mental impairment is of such severity that the employee is
2 unable to perform any of such employee's previous employment
3 and is unable to be rehabilitated to perform gainful
4 employment.

5 SECTION 4. 8-51-108.5, Colorado Revised Statutes, 1986
6 Repl. Vol., as amended, is amended to read:

7 8-51-108.5. Election to waive vocational rehabilitation
8 benefits and become subject to permanent partial disability
9 provisions. In all cases arising under articles 40 to 54 of
10 this title prior to July 1, 1987, the employee, the employer,
11 and, if insured, the insurance carrier may elect, upon
12 unanimous agreement, in writing to waive vocational
13 rehabilitation which was awarded pursuant to section 8-49-101
14 as it existed prior to July 1, 1987, and become subject to the
15 permanent partial disability provisions pursuant to section
16 8-51-108 AS IT EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS
17 SECTION, AS AMENDED. Such election shall be made in a form
18 prescribed by the director and shall not affect payments made
19 prior to the filing of such agreement. Failure to agree to
20 the options available under the provisions of this section
21 shall not be evidence of bad faith in any future litigation by
22 either party.

23 SECTION 5. Repeal. 8-51-108, Colorado Revised Statutes,
24 1986 Repl. Vol., as amended, is repealed.

25 SECTION 6. Safety clause. The general assembly hereby
26 finds, determines, and declares that this act is necessary

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

BILL 3

A BILL FOR AN ACT

- 1 CONCERNING ADMINISTRATIVE HEARINGS RELATED TO WORKERS'
2 COMPENSATION CASES.

Bill Summary

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

Clarifies the parties qualified to appeal a decision rendered by a utilization review committee and the standard of review by an administrative law judge for a decision rendered by such committee.

Requires mandatory prehearing settlement conferences a certain period of time prior to a hearing for workers' compensation cases. Empowers workers' compensation administrative law judges to assess attorney fees for frivolous actions in the hearings process and to impose sanctions for the willful noncompliance with any order.

Requires the parties to a workers' compensation dispute to submit a final offer of adjudication at the conclusion of the proceeding, with the final order adopting one of the parties' final offer of adjudication. Makes mediation mandatory for all disputes related to workers' compensation cases except for issues of compensability. Authorizes the division of administrative hearings in the department of administration to docket workers' compensation cases for hearings. Institutes status conference procedures.

Sets time limits for the completion of workers' compensation hearings and for entering final orders in such cases by the administrative law judges. Authorizes the executive director of the department of administration to set time schedules for the hearing of workers' compensation cases by administrative law judges and authorizes such administrative law judges to control the order of their

individual dockets of such cases.

Transfers personnel and property to the division of administrative hearings from the division of labor to perform the functions transferred to the division of administrative hearings under the act. Requires monitoring the performance of administrative law judges in meeting the deadlines for hearings established in the act.

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

2 SECTION 1. 8-49-102 (5) (b) (II) and (5) (b) (III),
3 Colorado Revised Statutes, 1986 Repl. Vol., as amended, are
4 amended to read:

5 8-49-102. Utilization review process. (5) (b) (II) If
6 the claimant, insurer, self-insured employer, or health care
7 provider appeals to the director, the director shall appoint a
8 new review committee to consider the case and report
9 recommendations either agreeing with the recommendation of the
10 first review committee or making a different recommendation.
11 The director shall order that the recommendation of the second
12 review committee be complied with, whether such recommendation
13 is to implement the recommendation of the first committee or
14 to modify such recommendation. A claimant, insurer,
15 SELF-INSURER, or health care provider dissatisfied with the
16 recommendation of the second review committee and the order of
17 the director based thereon may, if appeal is made to the
18 director within thirty days of the date of the director's
19 second order, obtain final review by a third review committee.
20 The decision of the third review committee and the director's
21 order based thereon shall be final and no party shall have a
22 further right of appeal. No claimant, insurer, self-insured

1 employer, or health care provider who appeals, PURSUANT TO
2 THIS SUBPARAGRAPH (II), an order of the director issued
3 pursuant to subsection (3) of this section ~~pursuant to this~~
4 ~~subparagraph-(II)~~ shall be entitled to any right of appeal by
5 requesting a hearing before an administrative law judge as
6 provided in article 53 of this title.

7 (III) If a claimant, insurer, or self-insured employer
8 appeals an order issued pursuant to subsection (3) of this
9 section by requesting a ~~hearing before an administrative law~~
10 ~~judge according to the provisions of article 53 of this title~~
11 REVIEW BY AN ADMINISTRATIVE LAW JUDGE, the report of the
12 utilization review committee upon which the director based his
13 order pursuant to subsection (3) of this section shall be
14 admissible in evidence, and if ~~the report of the utilization~~
15 ~~review committee upon which the director based his order in~~
16 ~~the case under this section~~ THE DIRECTOR'S ORDER is supported
17 by substantial evidence IN SAID REPORT, the director's order
18 shall not be altered by the administrative law judge.

19 SECTION 2. 8-53-103 (1), Colorado Revised Statutes, 1986
20 Repl. Vol., as amended, is amended BY THE ADDITION OF THE
21 FOLLOWING NEW PARAGRAPHS to read:

22 8-53-103. Hearings. (1) (o) Assess reasonable attorney
23 fees against any party to a hearing under this article in the
24 same manner and under the same circumstances as provided in
25 part 1 of article 17 of title 13, C.R.S., for civil actions in
26 courts of record of this state.

27 (p) Impose the sanctions provided in the rules of civil

1 procedure in the district courts for willful failure to comply
2 with any order of an administrative law judge issued pursuant
3 to articles 40 to 54 of this title.

4 SECTION 3. 8-53-103, Colorado Revised Statutes, 1986
5 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
6 SUBSECTION to read:

7 8-53-103. Hearings. (2) In any hearing conducted
8 pursuant to this article, each party shall submit a final
9 offer of adjudication supported by substantial evidence at the
10 conclusion of such proceeding. The final order shall be the
11 final offer of adjudication of one of the parties to the
12 proceeding.

13 SECTION 4. 8-53-105.5 (1) (a) and (4), Colorado Revised
14 Statutes, 1986 Repl. Vol., as amended, are amended to read:

15 8-53-105.5. Mediation. (1) (a) "Mediation" means an
16 optional A process through which parties involved in a dispute
17 concerning matters arising under articles 40 to 54 of this
18 title meet with a mediator to discuss such matter or matters,
19 defining and articulating the issues and their positions on
20 such issues, with a goal of resolving such dispute or
21 disputes.

22 (4) The division OF ADMINISTRATIVE HEARINGS shall
23 develop a program to implement the provisions of this section.
24 Such program shall be a simple, nonadversarial method for the
25 mediation of disputes arising under articles 40 to 54 of this
26 title. Such program shall provide for the use of neutral
27 mediators and the conduct of proceedings in an informal

1 setting. The ~~director~~ EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
2 ADMINISTRATION shall adopt rules and regulations to implement
3 such program.

4 SECTION 5. 8-53-105.5 (2), Colorado Revised Statutes,
5 1986 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH
6 AMENDMENTS, to read:

7 8-53-105.5. Mediation. (2) Any person involved in a
8 dispute arising under articles 40 to 54 of this title shall
9 submit to mediation services except when an issue in dispute
10 is whether the claimant's accident or injury or illness is
11 compensable pursuant to section 8-41-108 or 8-52-102. The
12 parties may voluntarily submit to mediation on those issues.

13 SECTION 6. 8-53-105.6 (1), Colorado Revised Statutes,
14 1986 Repl. Vol., as amended, is amended to read:

15 8-53-105.6. Mandatory settlement conference procedures -
16 dispute resolution by final offer of adjudication. (1) Any
17 ~~employee, insurer, or employer, if self-insured, involved in a~~
18 IN ANY dispute arising under articles 40 to 54 of this title,
19 ~~may request~~ settlement conference services ~~from~~ SHALL BE
20 PROVIDED BY the division of administrative hearings in the
21 department of administration. ~~However, such settlement~~
22 ~~procedures are optional and entirely voluntary, and no such~~
23 ~~procedures shall be conducted without the consent of both~~
24 ~~parties to the dispute.~~ SUCH SETTLEMENT CONFERENCES SHALL
25 OCCUR AT LEAST THIRTY DAYS BEFORE THE DATE SET FOR ANY HEARING
26 UNDER THIS ARTICLE.

27 SECTION 7. The introductory portion to 8-53-109 (1) and

1 8-53-109 (2), Colorado Revised Statutes, 1986 Repl. Vol., are
2 amended to read:

3 8-53-109. Notice - request for hearing. (1) At least
4 twenty days prior to any hearing, the division OF
5 ADMINISTRATIVE HEARINGS shall send written notice to all
6 parties by regular mail. The notice shall:

7 (2) Hearings shall be set by the division OF
8 ADMINISTRATIVE HEARINGS IN THE DEPARTMENT OF ADMINISTRATION
9 when any of the following occur:

10 (a) The director, OR THE DIVISION OF ADMINISTRATIVE
11 HEARINGS, upon his OR ITS own motion, sets any issue for
12 hearing. The director OR THE DIVISION OF ADMINISTRATIVE
13 HEARINGS may expedite the hearing for good cause shown.

14 (b) Any party requests a hearing by filing a written
15 request with the division OF ADMINISTRATIVE HEARINGS on forms
16 provided by the SUCH division. Such request shall be mailed
17 to all parties at the time they are filed with the division OF
18 ADMINISTRATIVE HEARINGS. After the filing of such requests,
19 the division OF ADMINISTRATIVE HEARINGS shall set the matter
20 for hearing insofar as is practicable in the order in which
21 requests are received by the SUCH division.

22 (c) Any party or the attorney of such party sends notice
23 to set a hearing to opposing parties or their attorneys. The
24 ~~director~~ DIVISION OF ADMINISTRATIVE HEARINGS shall determine
25 the place and time or times during which settings can be made.
26 At such setting, the party requesting the setting shall submit
27 a completed request for hearing form. Any notice to set shall

1 be mailed to opposing parties at least ten days prior to the
2 setting date.

3 SECTION 8. Article 53 of title 8, Colorado Revised
4 Statutes, 1986 Repl. Vol., as amended, is amended BY THE
5 ADDITION OF A NEW SECTION to read:

6 8-53-109.5. Status conference procedures. Within sixty
7 days of the filing of a response to an application for
8 hearing, the director or the division of administrative
9 hearings, on his or its own motion, or on the motion of any
10 party, may call for a status conference. The purpose of the
11 status conference shall be to determine what issues are in
12 dispute and what conflicts exist between the parties. The
13 intent of the status conference shall be to resolve claims to
14 which there is no substantial dispute. The status conference
15 shall be pursuant to rules promulgated by the executive
16 director of the department of administration.

17 SECTION 9. 8-53-110, Colorado Revised Statutes, 1986
18 Repl. Vol., as amended, is amended to read:

19 8-53-110. Time limit for conclusion of hearings -
20 orders. ANY HEARING CONDUCTED UNDER THIS ARTICLE SHALL BE
21 COMPLETED WITHIN NINETY DAYS OF A REQUEST THEREFOR. NOT MORE
22 THAN THIRTY DAYS after the conclusion of a hearing, the
23 administrative law judge shall make a summary order allowing
24 or denying said claim without being required to make specific
25 findings of fact. If compensation benefits are granted, it
26 shall be sufficient to specify the amounts thereof, the
27 disability for which compensation benefits are granted, by

1 whom and to whom such benefits shall be paid, and the method
2 and time of such payments. Such order of the administrative
3 law judge shall be in writing; a certificate of mailing and a
4 copy of such order shall be mailed to each of the parties in
5 interest, the original of which shall be a part of the records
6 in said case. Said order shall be entered as the final award
7 of the director subject to review as provided in this article.
8 Any party dissatisfied with a summary order may request
9 specific findings of fact and conclusions of law in writing
10 within twenty days after the date of the certificate of
11 mailing of the summary order. Such request shall be a
12 prerequisite to a petition to review under section 8-53-111,
13 and such request shall stay the time within which to file a
14 petition to review until after the mailing of the specific
15 findings and conclusions. Thereafter, time limits shall be
16 governed by section 8-53-111. SPECIFIC FINDINGS OF FACT AND
17 CONCLUSIONS OF LAW REQUESTED PURSUANT TO THIS SECTION SHALL BE
18 COMPLETED WITHIN THIRTY DAYS OF SUCH REQUEST.

19 SECTION 10. 8-53-130, Colorado Revised Statutes, 1986
20 Repl. Vol., as amended, is amended to read:

21 8-53-130. Time schedule for hearings - establishment -
22 docketing of cases - control. The ~~director~~ EXECUTIVE DIRECTOR
23 OF THE DEPARTMENT OF ADMINISTRATION shall establish by rule
24 and regulation a time schedule for hearings by administrative
25 law judges. Such time schedule shall establish the length of
26 time within which specified hearings shall be held by
27 administrative law judges in workmen's compensation cases.

1 Extensions of time may be granted by an administrative law
2 judge upon written request by any party to the case. Such
3 extensions may be granted when the interests of all parties
4 will be served. ADMINISTRATIVE LAW JUDGES SHALL CONTROL THE
5 ORDER OF THEIR DOCKETS ONCE CASES HAVE BEEN SET FOR HEARING
6 PURSUANT TO SECTION 8-53-109 (2).

7 SECTION 11. 24-30-102 (2) (h), Colorado Revised
8 Statutes, 1988 Repl. Vol., is amended to read:

9 24-30-102. Powers and duties of executive director.
10 (2) (h) Promulgate procedural rules governing the conduct of
11 hearings before the division of administrative hearings,
12 INCLUDING ANY RULES AND REGULATIONS NECESSARY FOR THE CONDUCT
13 OF HEARINGS, DOCKETING OF CASES, OR IMPLEMENTATION OF ANY
14 OTHER PROVISIONS RELATED TO HEARINGS CONDUCTED PURSUANT TO
15 ARTICLES 40 TO 54 OF TITLE 8, C.R.S.

16 SECTION 12. 24-30-1001, Colorado Revised Statutes, 1988
17 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to
18 read:

19 24-30-1001. Division of administrative hearings -
20 transfer of certain functions related to workers' compensation
21 hearings. (3) (a) The division of administrative hearings
22 shall, on and after July 1, 1990, execute, administer,
23 perform, and enforce the rights, powers, duties, functions,
24 and obligations vested in the director of the division of
25 labor and the division of labor in the department of labor and
26 employment related to the docketing and administration of
27 hearings under articles 40 to 54 of title 8, C.R.S., prior to

1 July 1, 1990. On July 1, 1990, all employees of the division
2 of labor in the department of labor and employment whose
3 principal duties are concerned with the duties and functions
4 transferred to the division of administrative hearings and
5 whose employment in the division of administrative hearings is
6 deemed necessary by the executive director of the department
7 of administration to carry out the purposes of this part 10
8 shall be transferred to the division of administrative
9 hearings and shall become employees thereof. Such employees
10 shall retain all rights to state personnel system and
11 retirement benefits under the laws of this state, and their
12 services shall be deemed to have been continuous. All
13 transfers and any abolishment of positions in the state
14 personnel system shall be made and processed in accordance
15 with state personnel system laws and rules and regulations.

16 (b) On July 1, 1990, all items of property, real and
17 personal, including office furniture and fixtures, books,
18 documents, and records of the division of labor in the
19 department of labor and employment pertaining to the duties
20 and functions transferred to the division of administrative
21 hearings are transferred to the said division and become the
22 property thereof.

23 (c) Whenever the division of labor in the department of
24 labor and employment is referred to or designated by any
25 contract or other document in connection with the duties and
26 functions transferred to the division of administrative
27 hearings, such reference or designation shall be deemed to

1 apply to the division of administrative hearings. All
2 contracts entered into by the said departments or divisions
3 prior to July 1, 1990, in connection with the duties and
4 functions transferred to the division of administrative
5 hearings, are hereby validated, with the division of
6 administrative hearings succeeding to all the rights and
7 obligations of such contracts. Any appropriations of funds
8 from prior fiscal years open to satisfy obligations incurred
9 under such contracts are hereby transferred and appropriated
10 to the department of administration for allocation to the
11 division of administrative hearings for the payment of such
12 obligations.

13 SECTION 13. 24-30-1003, Colorado Revised Statutes, 1988
14 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
15 SUBSECTION to read:

16 24-30-1003. Administrative law judges - appointment -
17 qualifications - performance review of division - monitoring
18 performance. (4) Commencing in the calendar year 1990 and
19 each calendar year thereafter, the division of administrative
20 hearings shall monitor compliance of the administrative law
21 judges with the deadlines for conducting hearings established
22 in article 53 of title 8, C.R.S. Such monitoring shall
23 include, but need not be limited to, whether orders were
24 entered within thirty days after hearings and after the file
25 was ready for final order. The division shall report the
26 results of the monitoring required by this subsection (4) to
27 the executive director of the department of labor and

1 employment, the executive director of the department of
2 administration, and the general assembly.

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