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0372 Joint Legislative Sunrise and Sunset Review Committee



# COLORADO

GENERAL ASSEMBLY

Legislative Council  
Research Publication No. 372

**Joint Legislative Sunrise  
and Sunset Review  
Committee**

**November 1992**

**RECOMMENDATIONS FOR 1993**

**JOINT LEGISLATIVE SUNRISE AND SUNSET  
REVIEW COMMITTEE**

**Report to the  
Colorado General Assembly**

**Research Publication No. 372  
November 1992**

# COLORADO GENERAL ASSEMBLY

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Rep. Ruth Wright

November 12, 1992

To Members of the Fifty-Ninth Colorado General Assembly:

Submitted herewith is the final report for the Joint Legislative Sunrise Sunset Review Committee. The committee was created pursuant to section 2-3-1201, C.R.S., (House Bill 1087, 1985 session), and Rule 35 of the Joint Rules of the Senate and House of Representatives. The purpose of the committee is to review the termination of divisions, boards or agencies pursuant to the statutory sunset provisions (section 24-34-104, C.R.S.) and to review requests for new regulation of occupations and professions pursuant to the statutory sunrise provisions (section 24-3-104.1, C.R.S.).

At its meeting on October 15, the Legislative Council reviewed this report. A motion to forward the report and recommendations of the Joint Legislative Sunrise Sunset Committee to the Fifty-Ninth General Assembly was also approved.

Respectfully submitted,

/s/ Senator Ted Strickland  
Chairman  
Colorado Legislative Council

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(Not printed in this report)**

# **JOINT LEGISLATIVE SUNRISE AND SUNSET REVIEW COMMITTEE**

## **Members of the Committee**

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Senator MaryAnne Tebedo  
Senator Bob Martinez**

**Representative David Owen  
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## **SUMMARY OF RECOMMENDATIONS**

### **A. Sunset Reviews of Existing Regulatory Programs**

#### **Nursing Home Penalty Cash Fund**

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**RECOMMENDATION:** **Bill 1** extends the sunset date for provisions that authorize the Department of Health (DOH) to impose fines against a nursing facility that violates a federal regulation under the Medicaid Program. The bill states that the dates on which penalties may be assessed and the range of penalties assessed against a nursing facility shall be established by regulations issued by the DOH.

#### **Office of Outfitters**

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**RECOMMENDATION:** **Bill 2** provides for the continued registration of outfitters. The bill transfers regulatory authority from the Department of Regulatory Agencies to the Division of Wildlife in the Department of Natural Resources. In addition, the bill:

- creates the Outfitter Registration Cash Fund for the deposit of fees collected from the registration of outfitters;
- clarifies grounds for disciplinary action against outfitters;
- provides for the distribution of fine monies;
- requires changes in written contracts between outfitters and their clients; and
- provides for an appropriation to the Department of Natural Resources for allocation to the Division of Wildlife for the implementation of the legislation.

#### **Bail Bonding Agents**

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**RECOMMENDATION:** **Bill 3** changes the name of the profession regulated by Article 7, Title 12, from "bail bondsman" to "professional bonding agent." The bill:

- establishes the maximum dollar value for any single bail bond issued by an agent and changes the amount of a qualification bond;
- requires testing of all applicants for bonding agent licenses;

- requires bonding agents to issue receipts for any collateral taken as security and specifies what information such receipt shall contain;
- creates a three-member advisory committee; and
- requires that bonding agents report the names of their employees, partners, and associates to the Division of Insurance.

### **Division of Racing Events**

**RECOMMENDATION:** **Bill 4** continues the Division of Racing Events and the Colorado Racing Commission. The proposed bill directs the commission to promulgate rules on licensing and registration of persons employed in the racing industry. The bill also:

- clarifies the powers and duties of the commission;
- adds certain offenses to the list of grounds for discipline;
- eliminates the requirement for a "verified" complaint for commission action; and
- allows appeals of commission action to be taken to the Court of Appeals.

### **Public Utilities Commission**

**RECOMMENDATION:** **Bill 5** continues the authority of the Public Utilities Commission. The bill provides for judicial review of PUC decisions by the Court of Appeals rather than district courts. The bill addresses rule making procedure and makes changes to the hearing process. Other provisions of the bill:

- increase commissioners' salaries;
- clarify the PUC office structure;
- allow utilities to collect rates under amended tariffs before the PUC completes hearings on such rates;
- adopt standards relating to *ex parte* communications;
- increase civil penalties for violations of motor vehicle regulatory requirements;
- extend the "doctrine of regulated competition" to passenger carriers;
- allow summary revocation of interstate carrier registration for failure to maintain insurance coverage;
- provide for the commission to certify 911 emergency providers on a state-wide basis;
- allow simplified regulatory treatment of small telephone companies;
- reorganize statutes governing railroads;
- repeal obsolete provisions;

- amend penalty sections throughout public utilities law to refer to standard penalty classifications; and
- clarify certain enforcement provisions.
- **(Bill 5 is not printed in this report. A copy is available from the office of Legislative Council.)**

#### **Office of Consumer Counsel**

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RECOMMENDATION: **Bill 6** continues the Office of Consumer Counsel (OCC), and transfers the OCC from the Department of Law to the Department of Regulatory Agencies. The bill creates the Utility Consumers' Board to provide policy guidance to the OCC. The bill makes an appropriation from the PUC's Fixed Utility Fund for the implementation of the legislation.

#### **Board of Nursing Home Administrators**

---

RECOMMENDATION: **Bill 7** continues the regulatory authority of the Board of Examiners of Nursing Home Administrators. The bill deletes all references to the registration of nursing home administrators, but retains all licensing references. In addition, the bill:

- changes the membership of the board;
- clarifies the board's authority concerning disciplinary action, disciplinary hearing, and complaint procedures;
- adds a provision for inactive licenses;
- sets forth requirements for application for a license;
- authorizes the mental and physical examination of licensees; and
- makes an appropriation from the Division of Registrations Cash Fund to DORA for allocation to the Board of Examiners of Nursing Home Administrators.
- **(Bill 7 is not printed in this report. A copy is available from the office of Legislative Council.)**

#### **Passenger Tramway Safety Board**

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RECOMMENDATION: **Bill 8** continues the Passenger Tramway Safety Board. The bill:

- makes changes to the membership of the board and allows removal for cause by the Governor;
- clarifies the investigation, disciplinary, and appeal powers of the board;

- provides for continued appropriation of funds to the board for inspection; and
- gives the board authority to enforce orders for the modification, shutdown, or operation of tramways deemed hazardous.

### **Games of Chance**

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**RECOMMENDATION: Concurrent Resolution 1** deletes specific references in the state constitution to the Office of Secretary of State as the entity of state government regulating bingo. The resolution also permits such regulatory authority to be designated by law. In addition, the resolution authorizes the issuance of licenses to permit raffle operations only.

**RECOMMENDATION: Bill 9** continues the regulation of bingo by the Secretary of State; however, the bill removes enforcement responsibilities from the Secretary of State's office and transfers those duties to the Department of Revenue. Other provisions of the bill:

- clarify disciplinary hearing processes;
- create an advisory committee;
- provide for changes in the operation of bingo games;
- address the licensing powers and duties of the Secretary of State; and
- clarify definitions.

### **Nurse Aides**

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**RECOMMENDATION: Bill 10** continues the authority for regulation of nurse aides by the State Board of Nursing. The bill:

- clarifies the term "medical facility";
- provides for the revocation of certification;
- reorganizes the advisory committee;
- clarifies the State Board of Nursing's disciplinary powers; and
- makes an appropriation from the Division of Registrations Cash Fund to DORA for allocation to the State Board of Nursing for the implementation of the legislation.

## **B. Sunrise Review of Occupations Requesting State Regulation**

### **Private Utilization Review Organizations**

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**RECOMMENDATION:** Bill 11 does not provide for the regulation of private utilization review organizations. Instead, the bill provides that any private utilization review entity providing services to a health insurer, nonprofit hospital, health care service corporation, or health maintenance organization is the agent of such regulated entity. The bill makes the insurer responsible for the activities and functions of private utilization review organizations operating within the scope of any contract.

### **Colorado Seed Sellers**

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**RECOMMENDATION:** Bill 12 repeals and reenacts current law regulating seeds used for propagation. The bill requires all persons in certain professions associated with the sale of seeds for propagation to register annually with the Department of Agriculture. In addition, the bill:

- clarifies the responsibilities of the Commissioner of Agriculture to oversee registration and to conduct disciplinary proceedings concerning registrants;
- allows the commissioner to promulgate rules and regulations;
- creates an arbitration council and changes the membership of the advisory committee; and
- creates the Seed Cash Fund to supplement General Fund appropriations.
- **(Bill 12 is not printed in this report. A copy is available from the office of Legislative Council.)**

### **Direct-Entry Midwives**

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**RECOMMENDATION:** Bill 13 decriminalizes the unlicensed practice of direct-entry midwifery by excluding it from the definition of the practice of medicine. The bill does not immunize direct-entry midwives from other civil or criminal liability. The bill provides guidelines for the regulation and registration of direct-entry midwives by the Division of Registrations.

## **Interpreters for the Deaf**

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**RECOMMENDATION:** **Bill 14** creates the State Board of Examiners of Interpreters in the Department of Education with the authority to license interpreters. However, the bill gives disciplinary authority to the Department of Education instead of the board of examiners. Other provisions of the bill:

- require the use of licensed interpreters in public and private schools;
- require persons currently practicing as interpreters to register with the board in order to continue practicing while preparing to meet the educational and performance standards outlined in the bill;
- provide for the repeal of the article on July 1, 1999 subject to review by the Sunrise Sunset Review Committee; and
- create the Interpreters Cash Fund from which appropriations may be distributed to the Department of Education and the board.

## **Radon Service Providers**

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**RECOMMENDATION:** The committee recommends that Radon Service Providers not be licensed, but does recommend **Bill 15** concerning radon services. **Bill 15** declares any false representation of radon test results or the need for mitigation of radon as a deceptive trade practice. The bill requires the addition of a clause to real estate contracts to disclose the fact that radon exists in high levels in Colorado and to advise testing of property prior to purchase. The bill authorizes the Department of Health to set guidelines for the mitigation of radon in schools.

## **Hemodialysis Technicians**

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**RECOMMENDATION:** The committee recommends that Hemodialysis Technicians not be regulated.

## **Consumer Electronics Service Technicians**

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**RECOMMENDATION:** The committee recommends that Consumer Electronics Service Technicians not be regulated.



## **C. Sunset Review of Advisory Committees**

**RECOMMENDATION:** Bill 16 provides for continuation of certain advisory committees and boards scheduled for termination on July 1, 1993. The advisory committees and boards continued are listed below.

- Advisory Committee on Factory-Built Housing
- Advisory Committee on Factory-Built Nonresidential Structures
- Advisory Committee to the State Housing Board Concerning Camper Trailers and Camper Coaches
- Colorado Board of Veterans Affairs
- Advisory Committee on Governmental Accounting
- Organic Certification Advisory Board
- Advisory Committee to the Auraria Board
- Advisory Committee to the Property Tax Administrator
- Colorado Economic Development Advisory Board
- Advisory Board on Hazardous Materials Responders

Two additional advisory boards scheduled for sunset review were the Passenger Tramway Safety Advisory Committee and the Advisory Committee on Nurse Aides. The Passenger Tramway Safety Advisory Committee was not addressed because it does not exist in practice. The Advisory Committee on Nurse Aides was addressed by Bill 10.

## **D. Additional Committee Reviews**

### **Manufactured Housing**

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**RECOMMENDATION:** Bill 17 continues the regulatory authority of the Colorado Manufactured Housing Licensing Board. The bill:

- amends the definitions of "manufactured home" and "manufacturer";
- clarifies the powers and duties of the board;
- exempts from licensure licensed real estate brokers who sell a manufactured home in connection with real estate;
- amends provisions relating to the Manufactured Housing Recovery Fund;
- exempts banks and certain persons from dealer and salesperson licensing requirements under certain circumstances; and
- amends dealers' and salespersons' licensing requirements.
- **(Bill 17 is not printed in this report. A copy is available from the office of Legislative Council.)**

# **JOINT LEGISLATIVE SUNRISE AND SUNSET REVIEW COMMITTEE**

## **Statutory Authority and Responsibility**

The Joint Legislative Sunrise and Sunset Review Committee was established in 1985 to perform the functions and duties relating to the termination of specified commissions, divisions, agencies, and citizens' advisory committees (sunset) and to consider proposals for the regulation of occupations and professions not presently regulated (sunrise) (section 2-3-1202, et seq., C.R.S. and Rule 35 of the Joint Rules of the Senate and House of Representatives). In addition, the Department of Regulatory Agencies (DORA) is required to analyze and evaluate those professions seeking state regulation, and the performance of each division, board, agency or function of an agency that is scheduled for termination (section 24-34-104, et seq., C.R.S.).

During the 1992 interim, the committee held thirteen days of meetings. The committee reviewed findings and recommendations prepared by the Office of Policy and Research in DORA. Concerned citizens, interest groups, and representatives of regulatory entities and advisory committees testified before the committee. The committee conducted ten sunset reviews of existing state agency regulatory functions, seven sunrise reviews of applications for state occupational regulation, and ten advisory committee reviews. In addition, the committee revisited issues related to the Manufactured Housing Board. Seventeen bills and one concurrent resolution are recommended for action during the 1993 session.

## **A. Sunset Reviews of Existing State Agency Regulatory Functions**

During their sunset analysis of each agency, the committee and DORA are required by statute to consider several factors regarding the need for the entity being reviewed. The factors to be considered follow:

1. Whether regulation by the agency is necessary to protect the public health, safety, and welfare.
2. Whether the conditions which led to the initial regulation have changed.
3. Whether other conditions have arisen which would warrant more, less, or the same degree of regulation.

4. If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms.
5. Whether agency rules enhance the public interest and are within the scope of legislative intent.
6. Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters.
7. Whether an analysis of agency operations indicates that the agency is performing its statutory duties efficiently and effectively.
8. Whether the composition of the agency's board or commission adequately represents the public interest.
9. Whether the agency encourages public participation in its decision rather than participation only by the people it regulates.
10. The economic impact of regulation and whether the agency stimulates or restricts competition.
11. Whether complaint, investigation, and disciplinary procedures adequately protect the public and whether disposition of complaints are in the public interest or self-serving to the profession.
12. Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action.
13. Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest (section 24-34-104 (9)(b), C.R.S.).

DORA prepares a report of its findings and distributes the report to the Joint Legislative Sunrise and Sunset Review Committee no later than July 1 of the year prior to the entity's termination date. The report provides the basis for discussion in public hearings which the Sunrise Sunset Committee conducts during the legislative interim.

The committee conducted sunset reviews of one division, three boards, one commission, and five other regulatory programs during the 1992 interim. These were:

- Nursing Home Penalty Cash Fund
- Outfitters
- Bail Bonding Agents

- Division of Racing Events
- Public Utilities Commission
- Office of Consumer Counsel
- Nursing Home Administrators
- Passenger Tramway Safety Board
- Games of Chance
- Nurse Aides

## **Committee Recommendations**

### **Nursing Home Penalty Cash Fund - Bill 1**

The creation of the Nursing Home Penalty Cash Fund evolved in response to the Federal Omnibus Budget Reconciliation Act of 1987, which mandated nursing home reform. In response to federal mandates to establish remedies for nursing home violations of federal regulations, the General Assembly passed Senate Bill 5 during the 1989 special session. Senate Bill 5 required the Colorado Department of Health and the Department of Social Services to develop penalties to assess against facilities for non-compliance with specified regulations.

During the sunset review hearing on the cash fund, DORA reported that no penalties had been assessed pursuant to the statute. In addition, final federal regulations have not been issued; therefore, the program has not been implemented. The agency recommended the continuation of the program and the creation of a three-year sunset date to ensure compliance with upcoming federal regulations.

After hearing brief testimony, the committee voted for the continuation of the Nursing Home Penalty Cash Fund and recommended **Bill 1**. The bill extends the sunset date of provisions authorizing the imposition of fines against a nursing facility that violates relevant federal regulations. In addition, the bill authorizes the Department of Health to establish the range of penalties and the dates on which penalties may be assessed.

### **Office of Outfitters Registration - Bill 2**

Currently, the Office of Outfitters Registration in the Division of Registrations administers the registration of approximately 500 hunting and fishing outfitters. Colorado statutes (section 12-55.5-101, et seq., C.R.S.) define "outfitters" as persons who provide equipment, guide services, or transportation, in exchange for compensation, for purposes of hunting or fishing on land that they do not own.

In its sunset report, DORA recommended discontinuing the outfitter registration program for the following reasons: 1) the law was ineffective - unlicensed outfitters accounted for most of the complaints; 2) complaints against unlicensed outfitters alleged only that the outfitter was unlicensed; and 3) other state and federal laws would continue to apply to most outfitters upon the elimination of state licensing. Although DORA recommended discontinuing the program, the sunset report made several statutory recommendations, should the committee decide to continue the registration program.

Public testimony focused on the continued registration of outfitters. Outfitters who testified suggested strengthening and clarifying enforcement provisions of unregistered outfitters. In their opinion, illegal outfitters often: 1) violate hunting regulations on federal lands; and 2) receive cash, making it difficult to prove they received compensation for their services. In addition, vague statutory language makes it difficult the involve state and local law enforcement officials in the criminal investigations of illegal or unethical outfitters. Many outfitters believe that state regulation ensures high quality outfitting and guide services.

Despite DORA's recommendation to discontinue regulation, the committee voted to continue the Office of Outfitter Registration through **Bill 2**. Bill 2 transfers regulatory authority of outfitters from DORA to the Division of Wildlife. The bill also creates the Outfitter Registration Cash Fund for the deposit of fees collected from the registration of outfitters. Other provisions of the bill:

- clarify grounds for disciplinary action against outfitters including any conviction under the criminal trespass laws;
- provide for the equal distribution of fine monies between law enforcement agencies involved in investigations and the Division of Wildlife;
- require written contracts between outfitters and their clients to include statements: disclosing the outfitter's refund policy; that outfitters be bonded and insured; that the activities of outfitters are regulated by the Division of Wildlife; and the address and phone number where complaints may be directed;
- change the age of competence for outfitters from 21 years of age to 18; and
- provide for an appropriation from the Outfitter Registration Cash Fund to the Department of Natural Resources for allocation to the Division of Wildlife.

### **Bail Bonding Agents - Bill 3**

Colorado currently regulates 240 professional bail bondsmen through the Division of Insurance. Professional bail bondsmen are statutorily defined as:

any person who furnishes bail for compensation in any court or courts in this state and who is appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings and who is other than a full-time salaried officer or employee of an insurer or a person who pledges United States currency, United States postal money order, cashier's check, or other property as security for a bail bond in connection with a judicial proceeding, whether for compensation or otherwise (section 12-7-101 (4), C.R.S.).

Controversy surrounds this definition of bail bondsmen because of the uncertainty over the application of the definition to "cash bondsmen."

"Cash bondsmen" are individuals who, if they pass an examination and post a \$50,000 bond with the Division of Insurance are allowed to write bail bonds. Other professional bail bondsmen ("surety bondsmen") licensed to practice in Colorado are employed as agents of insurance companies. These "surety bondsmen" must also pass an examination, and post a qualification bond. However, the insurance company which the surety bondsmen represents writes the bond. In 1988, an administrative law judge ruled that cash bondsmen were excluded from the definition of bail bondsmen. Since that time, the Division of Insurance has not licensed new cash bondsmen, but has renewed the licenses of those who were licensed prior to the decision. Currently, fourteen cash bondsmen are licensed in Colorado.

Cash bondsmen opposed DORA's recommendation to increase the amount of a qualification bond from \$50,000 to \$250,000. In addition, they opposed the agency's recommendation to study the bail reform proposal prepared by the Colorado Judicial Department, the Criminal Law Section of the Colorado Bar Association, and the University of Colorado School of Law.

Surety bondsmen testified that because cash bondsmen are not subject to the regulations of insurance companies, they have an unfair competitive advantage over surety bondsmen. When issuing a bond, cash bondsmen may retain the entire bond fee for themselves, while surety bondsmen retain only a portion of the fee because they are obligated to give a specified amount to the insurance company. The amount paid to the insurance company remains the same regardless of the amount of the bond fee collected.

DORA recommended the continued regulation of bail bondsmen. Agency recommendations accepted by the committee include that the Division of Insurance assist the Judicial Department in studying the bail reform proposal, and that the Judicial Department prepare a uniform bail bond instrument to be used in all courts in the state.

In addition, the committee recommends Bill 3 to continue the authority of the Division of Insurance to regulate bail bondsmen. Bill 3 changes the term "bail

bondsmen" to "professional bonding agent." The bill changes the amount of a qualification bond from \$50,000 to a minimum of \$50,000 and prohibits an agent from writing a single bond in an amount greater than the amount of the qualification bond. The bill also:

- provides that the Division of Insurance have priority over all other claimants when a qualification bond is forfeited;
- requires testing of all bonding agent license applicants;
- requires bonding agents to issue receipts for any collateral taken as security and specifies what information such receipt shall contain;
- creates a three-member advisory committee;
- requires bonding agents to report the names of their employees, partners, and associates to the Division of Insurance; and
- establishes a sunset date of July 1, 1996.

#### **Division of Racing Events and Colorado Racing Commission - Bill 4**

During the 1992 legislative session, the General Assembly adopted House Bill 92-1206 which transferred the Racing Commission and the Division of Racing Events from DORA to the Colorado Department of Revenue. Currently, the commission and the division are charged with the following duties:

- to promote racing in the state;
- to raise revenue for the state;
- to regulate the operation of pari-mutuel machines and equipment, money rooms, accounting rooms, and seller's and cashier's windows;
- to establish high standards of sport;
- to promote the health and safety of racing animals;
- to regulate all in-state simulcast facilities that conduct pari-mutuel wagering;
- to ensure that the statute and commission rules and regulations are strictly complied with by the racing industry; and
- to issue licenses to persons who work at racetracks.

In its sunset analysis, DORA recommended continued regulation of racing because of the potential for fraud, abuse, and corruption within the dog and horse racing industries. DORA stated that public confidence in the integrity of racing and wagering requires strict regulatory oversight of the industry.

Public testimony focused on the continued regulation of racing. The commission currently requires the licensing of parking lot attendants, concession employees and janitors. Track owners testified that because each employee requires a different license, cross-training employees for sickness or vacation backup is difficult. Owners also expressed concern about DORA's recommendation to discontinue the current practice

of allowing stewards or judges who are not employees of the commission to participate in any disciplinary action against a licensee. The committee voted against this recommendation pending an attorney general's opinion.

After consideration of all testimony, the committee recommends **Bill 4**, which will continue the Division of Racing Events and the Colorado Racing Commission. The committee adopted a majority of recommendations suggested by DORA. Specifically, the bill:

- directs the commission to promulgate rules on licensing and registration of persons employed in the racing industry;
- clarifies the powers and duties of the commission;
- adds certain offenses to the list of grounds for discipline;
- eliminates the requirement for a "verified" complaint for commission action;
- allows appeals of commission actions to be taken to the Court of Appeals;
- allows the commission to randomly test animals for drug use and to test when concerns are raised about a particular animal;
- provides for the revocation of a license, if the holder of a license has been convicted of, or entered a plea of guilty or nolo contendere, to criminal charges in this or any other state, or entered into a plea bargain for acts or omissions that if committed in Colorado would have been grounds for discipline;
- provides that any hearing may be conducted before an administrative law judge;
- allows the commission, board of stewards, or judges to issue a letter of admonition to a licensee; and
- grants subpoena power to the commission.

#### **Public Utilities Commission - Bill 5**

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The Colorado Public Utilities Commission (PUC) was formed in 1913. Three commissioners appointed by the governor, and approximately ninety-nine staff members hired by the executive director of DORA, comprise the PUC. The commission regulates more than 1,100 companies, such as railroads, telecommunications, and residential utility companies.

During the sunset hearing, DORA addressed a number of issues facing the PUC. The agency noted that confusion exists among PUC employees because of the current structure of accountability. Staff work closely with the commissioners, yet are accountable to the executive director of DORA. Additional concerns expressed by the agency were a huge workload and lack of support from the commissioners and upper level managers for PUC staff. According to DORA, the commissioners also cited lack of support for their work and lack of understanding of their important decision making



role. A representative from DORA stated that despite recent controversies involving the PUC, the agency has confidence in the commission for three reasons: the solid base of hard working people at the PUC; the new leadership of Bruce Smith, Executive Secretary; and the sunset review process, which allows for improvements.

The following recommendations were adopted by the committee and are contained in bill 5.

- Revise the PUC's policies on ex parte communications by requiring that all communications with the PUC commissioners or administrative law judges (ALJ) be "on the record" and available for review by the public. This requirement is achieved by requiring a memorandum to be filed by a commissioner or ALJ whenever they hold private meetings with any person in which general matters under their jurisdiction are discussed.
- Increase commissioners' salaries from \$48,400 to \$70,500 annually.
- Lift the requirement of filing a motion for reconsideration, reargument, or rehearing before appealing a PUC decision.
- Allow simplified regulatory treatment of small telephone companies.
- Allow staff, corporations, partnerships, and other legal entities to appear without counsel in certain nonadjudicatory matters before the commission, and authorize the commission to adopt rules concerning representation by non-attorneys for such entities.
- Provide for judicial review of PUC decisions by the Court of Appeals rather than district courts.

After consideration of testimony, the committee recommends **Bill 5**, which continues the authority of the PUC. In addition to the DORA recommendations listed above, the bill also:

- clarifies the PUC office structure;
- changes the hearing process;
- allows utilities to collect rates under amended tariffs before the PUC completes hearings on such rates;
- increases civil penalties for violations of motor vehicle regulatory requirements;
- extends the "doctrine of regulated competition" to passenger carriers;
- allows summary revocation of interstate carrier registration for failure to maintain insurance coverage;
- provides for the commission to certify 911 emergency providers on a state-wide basis;
- reorganizes statutes governing railroads;
- amends penalty sections throughout public utilities law to refer to standard penalty classifications;
- clarifies certain enforcement provisions; and

- repeals obsolete provisions.

**A copy of the bill is available from the office of Legislative Council.**

### **Office of Consumer Counsel - Bill 6**

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Section 40-6.5-101, et seq., C.R.S. authorizes the Office of Consumer Counsel (OCC) to represent residential, small business, and agricultural consumers in cases before the PUC which affect the consumers' interests. Since the OCC is a division within the Department of Law, that department prepared the sunset report submitted to the Sunrise Sunset Committee. The department made three recommendations: 1) continue the OCC; 2) statutorily mandate that the PUC use the same procedural time limits for deciding OCC complaints that it provides for deciding a utility's request for rate changes; and 3) allocate at least two additional full-time employees to the OCC.

In response to claims by DORA that the OCC should be combined with the Office of External Affairs in the PUC, the committee requested that the Department of Law and DORA jointly determine the appropriate location and structure for the OCC and report back to the committee. The two departments reported that a balance between independence and accountability can best be achieved by transferring the OCC to DORA and creating an utility consumer board to provide policy guidance.

In response to these recommendations, the committee recommends **Bill 6**, which continues the Office of Consumer Counsel but transfers the office from the Department of Law to the DORA. The bill creates the Utility Consumers' Board to provide policy guidance to the OCC. The bill makes an appropriation from the PUC's Fixed Utility Fund for the implementation of the legislation.

### **Board of Nursing Home Administrators - Bill 7**

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Amendments to the Federal Social Security Act of 1967 required that each state develop a board to license nursing home administrators. In response to these amendments, Colorado established the Board of Nursing Home Administrators in 1967. Responsibilities of the board include reviewing applications for licensure of nursing home administrators and approving administrator-in-training program applicants.

In its sunset report, DORA questioned the necessity of the board based on the relatively small number of disciplinary actions occurring since the board's inception. The agency reported that the board's response to disciplinary issues is weakened by the lack of statutory authority and the lack of clear communication with Department of Health (DOH) survey teams who provide evaluations of nursing homes. DORA recommended continuing the board since federal regulations mandate the licensure of

nursing home administrators, but also recommended completely revising the statutes governing nursing home administrators and organizing a better communication system with DOH.

Public testimony favored continuing the board. Concerns were raised that the board lacks statutory power to conduct disciplinary actions. Although a requirement for continuing education for administrators seemed agreeable, some raised concern with the recommendation requiring a four-year degree for an administrator. It was argued that a person with a two-year degree and nursing home experience could be a successful administrator. Testimony supported DORA's concern about the lack of communication between the board and DOH.

Based on concerns raised by DORA and public testimony, the committee recommends **Bill 7**, which continues the regulatory authority of the Board of Examiners of Nursing Home Administrators until 1999. The bill also repeals and reenacts the statutes that regulate nursing home administrators and decreases the membership of the board from nine members to seven members. In addition, the bill:

- clarifies the board's authority for disciplinary action, disciplinary hearing, and complaint procedures;
- clarifies the grounds for which the governor may remove a board member;
- eliminates the requirement that a complainant file a formal complaint, and requires only that the complaint be signed;
- requires that administrators report all judgments taken against them to the board;
- requires that the board develop rules and regulations concerning what activities warrant disciplinary action;
- decreases the period during which administrators who have had their licenses revoked must wait before applying for reinstatement;
- removes the requirement to prove that the actions which are grounds for discipline were wilful or negligent in the administrator's actions before a disciplinary action can occur, but provides that the board may consider these items in determining the sanctions to be imposed;
- authorizes the board to issue letters of admonition and to place licensees on probation for stated misdeeds;
- authorizes the mental and physical examination of licensees;
- authorizes the board to request immediate injunctive relief through the Attorney General's or District Attorney's office; and
- allows for an appropriation from the Division of Registrations' cash fund for the implementation of this legislation.

**A copy of the bill is available from the office of Legislative Council.**

## **Passenger Tramway Safety Board - Bill 8**

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In 1965, the General Assembly created the Passenger Tramway Safety Board as an alternative to regulation of tramways by the Public Utilities Commission. Current responsibilities of the board include inspecting and registering tramways, providing for the reporting of any tramway accident or failure, and issuing permits for new construction or major modification of tramways. Currently, the board regulates 270 tramways.

In its sunset report, DORA reported that ambiguities exist in the current law governing the board and recommended repealing and reenacting the existing statute. The agency also expressed concern with the lack of disciplinary action taken by the board.

DORA recommended the following changes to the tramway statute:

- include as grounds for disciplinary action reckless conduct in the operation or maintenance of the passenger tramway and failure to cooperate in any lawful board investigation;
- allow for confidentiality of records during an accident/incident investigation period;
- broaden the current composition of the board;
- add a provision for the continuous appropriation of funds for inspection; and
- request that the board review its reluctance to impose monetary penalties on area operations.

Members of the Colorado Passenger Tramway Safety Board testified in favor of continuing the board. Member testimony indicated that in order to regulate the industry effectively, the board adheres to the philosophy of encouraging cooperation from the ski industry rather than threatening discipline. In response to DORA's claim that the board did not discipline the industry properly, members stated that due to limited funds appropriated to the board, the board depends on members of the industry to report malfunctioning machinery, and that the industry may be reluctant to notify the board of malfunctions if threatened with punishment. Upon notification of malfunctioning equipment at one location, the board notifies all other areas using the same type of equipment. Members testified that cooperation exists between the board and the industry, with most lift shutdowns occurring voluntarily.

In response to testimony presented at the hearing, the committee recommends **Bill 8**, which continues the Passenger Tramway Safety Board and addresses some of the other DORA recommendations listed above. The committee rejected the agency's recommendation which would allow confidential investigations and which would require cooperation in a lawful investigation.

Bill 8 provides for the following modifications to the board:

- changes the composition of the board and allows removal for cause by the Governor;
- clarifies the investigation, disciplinary, and appeal powers of the board;
- provides that money collected by the board for costs related to safety and incident or accident investigation are continuously appropriated to the Division of Registrations for the board's normal operations;
- gives the board authority to enforce orders in relation to the modification, shutdown, or operation of tramways deemed hazardous;
- exempts portable aerial tramway devices from regulation;
- extends the board's jurisdiction to include initial construction and modification of private residence tramways;
- authorizes the board to investigate suspected violations;
- allows administrative law judges to conduct disciplinary hearings and grants subpoena power to the board; and
- amends annual inspection provisions to require at least two inspections per two thousand operating hours.

#### **Games of Chance - Concurrent Resolution 1 and Bill 9**

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In 1958, the citizens of Colorado approved an amendment to Article XVIII of the Colorado Constitution, which legalized charitable gaming in the state. Since that time, charitable gaming has grown into a multimillion-dollar business. Amendments to the statutes concerning bingo and raffle laws provided for increased authority of the Secretary of State in regulating charitable gaming, included regulation of persons involved in commercial aspects of charitable gaming and certified game managers, and addressed the issue of raffles.

Current law allows licensees to conduct bingo games, raffles, and pull tabs to raise revenue for charitable organization. Only members of charitable organizations may work bingo games, and they may not receive compensation. The Secretary of State requires that all games be conducted according to established rules and regulations. In addition, the Secretary of State may suspend or revoke for cause any license issued and may stop the operation of a game pending a hearing.

In its sunset report, DORA recommended continuing the regulation of bingo but removing the authority of bingo regulation from the constitution. The agency also recommended creating a task force to study the possibility of consolidating all gambling functions in one department of state government, such as the Department of Revenue. Other recommendations accepted by the committee are to:

- allow licensees to deduct allowable expenses from pull-tab proceeds;

- provide for the issuing of raffle-only licenses;
- limit the age for persons assisting in the conduct of bingo and pull tab operations to 16 or older;
- amend the disciplinary hearing process by requiring a hearing before an administrative law judge and requiring that appeals be taken directly to the court of appeals; and
- allow the use of braille bingo cards for blind players and allow the use of hard cards in lieu of disposable paper bingo cards for disabled persons.

Testimony by licensees generally supported the DORA recommendations. Licensees expressed concern with the amount of paperwork required by the Secretary of State. Licensees recommended placing an advocate for the bingo industry on the Secretary of State's bingo advisory committee. Other testimony revealed the reluctance of licensees to report "skimming" for fear of losing their licenses.

A representative from the Office of the Secretary of State stated that additional information obtained from the required paperwork will help eliminate corruption in the bingo industry. The Secretary of State requested that the committee not move the enforcement of bingo laws to the Department of Revenue because separation of licensing authority and enforcement authority allows for criminal activity to go undetected. Additional testimony pointed out that a hearing held by an administrative law judge may cost between \$5,000 and \$22,000.

In response to DORA's findings and public testimony, the committee expressed concern that the Secretary of State was not handling bingo complaints in a consistent manner. The committee discussed the possibility of consolidating all gaming activities in one department. The committee voted in favor of transferring bingo regulation to the Department of Revenue.

The transfer may only be implemented by constitutional amendment. Therefore, the committee recommends **Concurrent Resolution 1**. The resolution deletes specific references in the state constitution to the Secretary of State as the entity of state government regulating bingo and permits such regulatory authority to be designated by law. The resolution also authorizes the issuance of licenses to permit raffle operations.

In addition, the committee recommends **Bill 9**, which continues the Secretary of State's authority to issue licenses for games of chance but removes enforcement responsibilities from the Secretary of State's office and transfers those duties to the Department of Revenue. Additionally the bill will:

- create an advisory committee;
- provide for changes in the operation of bingo games;
- address the licensing powers and duties of the Secretary of State;
- clarify definitions;

- reduce from thirty days to ten days the period during which a licensee may have a license suspended, pending a hearing;
- allow the deduction of allowable expenses from pull tabs and raffle operations;
- limit the age of persons who may assist in bingo and pull tab operations to over 16 years old; and
- establish a sunset date of July 1, 1998.

### **Nurse Aides - Bill 10**

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In compliance with the federal Omnibus Budget Reconciliation Act of 1987, the Colorado General Assembly enacted the Nurse Aide Program during the 1989 legislative session (section 12-38.1-101, et seq., C.R.S.). The law provides for the certification of nurse aides employed in a nursing home which receives Medicare/Medicaid reimbursement and home health aides employed by home health agencies which receive Medicare/Medicaid reimbursement.

During the sunset hearing, DORA recommended continuing the program. The agency expressed the need for statutory changes to improve and clarify programmatic concerns. The recommendations include:

- increasing representation on the Advisory Committee on Nurse Aides;
- establishing a definite term of office for Advisory Committee members;
- requiring nurse aides to respond to letters of admonition;
- establishing the length of time that nurse aides must wait before reapplication after revocation;
- establishing a separate fund for the nurse aide program;
- continuing the oversight of home health aides through the nurse aide statute; and
- requiring that the Departments of Health and Social Services maintain regular communications with the federal government and DORA to ensure that the program is funded at an adequate level by Medicare and Medicaid payments.

Public testimony generally favored the DORA recommendations. Testimony suggested that the Advisory Committee on Nurse Aides include a representative from the home health care industry. The committee discussed requiring certification of nurse aides who work for agencies that do not receive Medicare/Medicaid funding.

The committee agreed to continue the nurse aide program through **Bill 10**. In addition to the agency's recommendations listed above, the committee adopted the balance of the DORA recommendations. The bill:

- provides for certification of all nurse aides regardless of whether or not the facility they work for receives Medicare/Medicaid reimbursement;
- provides for the revocation of certification;
- reorganizes the advisory committee;
- clarifies the State Board of Nursing's disciplinary powers; and
- makes an appropriation from the Division of Registrations' cash fund for administration of the program.

## **B. Sunrise Review of Occupations Requesting State Regulation**

During the 1992 interim, the committee reviewed five applications for licensure, registration, or other forms of state regulation submitted pursuant to section 24-34-104.1 (2), C.R.S. When considering whether or not to regulate a profession or occupation the committee must considering the following criteria:

1. Whether the practice of the unregulated profession or occupation clearly harms or endangers the health, welfare, or safety of the public.
2. Whether the potential for harm is easily recognizable rather than remote or dependent on tenuous argument.
3. Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence.
4. Whether the public can be adequately protected by other means in a more cost-effective manner.

## **Committee Recommendations**

### **Private Utilization Review Organizations - Bill 11**

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The committee reviewed an application for state regulation of private utilization review organizations (PUR) submitted by the Colorado Medical Society and the Colorado Prospective Payment Professionals. PUR manage utilization of health care services, review medical fees by evaluating service documentation, and review the utilization and necessity of health care services provided. The purpose of the PUR process is to save insurance companies money by determining whether health care



services were unnecessarily provided. Proponents cite a number of reasons for PUR regulation, including difficulties in:

- accessing reviewers;
- understanding criteria utilized in determining denials;
- establishing clear communication with reviewers who may not understand medical procedures;
- arbitrating differences of professional opinion; and
- ensuring protection of patient/physician confidentiality.

DORA reported that the extent of harm caused by unregulated PURs is indeterminate. The agency made three recommendations: 1) the PUR task force, comprised of representatives of PURs, physicians, insurers, businesses, hospitals, the Colorado Medical Society and the Colorado Hospital Association, should complete its task of creating voluntary guidelines; 2) the applicants and the Division of Insurance should explore the possibility of maintaining a list of entities conducting reviews in Colorado; and 3) members of PURs should identify themselves in writing before providers authorize the release of medical record information.

After reviewing the recommendations and hearing public testimony, the committee sent a letter to the Insurance Commissioner requesting clarification of the commission's authority over the regulation of PURs. In response to the committee letter, the commissioner stated that the division's jurisdiction extends over the claims settlement practice of health insurers and that the division can hold the insurer responsible for the actions of the PUR with whom they contract, to the extent that the actions of such firms result in a violation of the Colorado Unfair Claims Settlement Practice Act (section 10-3-1104 (1)(h), C.R.S.).

The committee recommends **Bill 11**, which provides that any PUR providing services to a health insurer, nonprofit hospital, health care service corporation, or health maintenance organization is the agent of such regulated entities. Therefore, making the insurer responsible for the activities and functions of private utilization review organizations operating within the scope of any contract.

#### **Colorado Seed Sellers - Bill 12**

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The committee conducted a sunrise review of seed dealers in response to an application for state regulation submitted by the Colorado Seedsmen's Association and the Colorado Growers' Association. Currently in Colorado, the seed industry is regulated by requiring truth in labeling for seed purity, weed seed content, other crops species content, germination and absence of noxious weed seed, but sellers in Colorado are not regulated. The applicants view registration of sellers as a system to identify

businesses that sell seed, facilitate the enforcement of the seed law, and fund the enforcement of the seed law.

In its sunset report, DORA stated that discontinuing proper administration and enforcement of the Colorado Seed Act may be potentially harmful to Colorado citizens. The agency recommended implementing a system of registration for Colorado seed sellers, and repealing and reenacting the Colorado Seed Act to broaden the scope of the existing laws governing seeds.

After brief public testimony in favor of the DORA recommendations, the committee voted to adopt the agency's recommendations. The committee recommends **Bill 12** to address the concerns of Colorado seed sellers and the Colorado Department of Agriculture. The bill repeals and reenacts the current law regulating seeds used for propagation. In addition, the bill:

- requires all persons in certain professions associated with the sale of seeds for propagation to register annually with the Department of Agriculture;
- clarifies the responsibilities of the Commissioner of Agriculture to oversee registration and to conduct disciplinary proceedings concerning registrants;
- allows the commissioner to develop a list of noxious weeds and weed seeds rather than have the list in statute;
- makes the sale of seeds containing noxious weed seeds in excess of allowable limits a civil violation and subject to civil penalties, and specifies how the penalties will be assessed;
- gives the commissioner the power to issue cease and desist orders for violations of the act;
- requires registrants to keep and maintain records concerning origin, sale, shipping, and disposition of seeds;
- creates an arbitration council and changes the membership of the advisory committee;
- adds actions that do not comply with the legislation or any rule or regulation to the list of prohibited conduct;
- creates a seed cash fund to supplement general fund appropriations; and
- establishes a sunset date of July 1, 1999.

**A copy of the bill is available from the office of Legislative Council.**

### **Direct-Entry Midwives - Bill 13**

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During the 1991 interim, the Sunrise Sunset Committee recommended a bill concerning the practice of direct-entry midwifery (lay midwifery) to the General Assembly. House Bill 1010 passed the House on third reading, but was postponed indefinitely by the Senate Judiciary Committee. In 1992, the Colorado Midwives

Association submitted another application to the committee proposing that the state create a registry of direct-entry midwives.

Colorado Midwives Association stated that regulation of direct-entry midwives addresses Colorado's shortage of maternity care providers, allows consumers to identify and investigate providers, and allows practicing direct-entry midwives to engage in their profession without risk of prosecution.

As in 1991, DORA recommended against regulation of direct-entry midwives. The agency argued that allowing an exemption from existing law for direct-entry midwives not only represents poor public policy but also unfairly favors one class of providers (by allowing them, in effect, to practice medicine without a license) and is therefore unconstitutional.

Testimony by midwives centered around the International Confederation of Midwifery's training program. Witnesses maintained that direct-entry midwives are well trained to assess the medical risks of a mother. Proponents of regulation reported the formation of an ad hoc committee of proponents and opponents charged with developing draft legislation for the licensure of direct-entry midwives.

The committee adopted a bill title and allowed the ad hoc committee to develop a bill for presentation to the Sunrise Sunset Committee. The committee accepted the bill proposed by the ad hoc committee. **Bill 13** provides for the registration and regulation of direct-entry midwives. The bill decriminalizes the unlicensed practice of direct-entry midwifery by excluding it from the definition of "practice of medicine." The bill does not immunize direct-entry midwives from other civil or criminal liability. In addition the bill:

- requires the midwife to disclose to patients the midwife's educational and experience;
- requires the midwife to file birth certificates and perform other tasks in relation to care for newborns, and to prepare and follow emergency procedures;
- authorizes the director of the Division of Registrations to develop and adopt initial examinations and approve education and training of applicants for registration;
- waives requirements for registration for those with at least fifteen years' experience;
- establishes standards of practice and sets minimum standards for education and training prior to registration;
- establishes civil and criminal penalties for violation of registration
- authorizes the charging of an annual fee to cover the cost of registration; and
- provides for a sunset date of July 1, 1999

## **Interpreters for the Deaf - Bill 14**

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During the 1991 interim, the committee conducted a sunrise hearing on interpreters for the deaf. At that time, the committee recommended creating a task force charged with studying and developing appropriate methods for the regulation of interpreters. Coordinated by DORA, the task force included representatives from the Department of Education, school districts, interpreters, and the deaf community. The task force, which convened numerous times over the year, developed legislation which required that all interpreters meet minimum standards of interpreting within five years. These standards specify that interpreters attain fluency in three areas: American Sign Language, SEE II (Signing Exact English), and Signed English.

The committee expressed concern about the fiscal impact of regulation, the need to draw a distinction between professional interpreters and family members who interpret, and the need for deaf children to have qualified interpreters in the mainstream classroom.

After considering the fiscal impact to the state and hearing testimony from the task force and other members of the public, the committee voted to regulate educational interpreters only. **Bill 14** creates the State Board of Examiners of Interpreters in the Department of Education with the authority to license interpreters who practice in schools. The bill:

- specifies that the board adopt, implement, and administer an examination for licensure of interpreters;
- sets criteria for the examination to include certain written provisions and certain skill tests;
- requires the use of licensed interpreters in public and private schools;
- requires persons currently practicing as interpreters to register with the board in order to continue practicing while preparing to meet the educational and performance standards outlined in the bill;
- provides for the repeal of the article on July 1, 1999 subject to review by the Sunrise Sunset Review Committee;
- creates an Interpreters Cash Fund to be appropriated to the Department of Education and the board; and
- gives disciplinary authority to the Department of Education.

## **Radon Service Providers - Bill 15**

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The sunrise hearing on radon service providers was initiated by Senate Bill 92-109. The bill, which proposed voluntary certification of radon service providers, was postponed indefinitely and the issue was referred to the Sunrise Sunset Committee and DORA for review.

DORA reported that the level of public harm which results from an unregulated radon service industry may not require regulation under the Colorado Sunrise Law. However, DORA made recommendations for legislation which would help prevent consumer harm and which would expand radon testing.

After brief public testimony concerning the dangers of radon, the committee agreed to endorse the DORA recommendations contained in **Bill 15**. The bill:

- declares any false representation of radon test results or the need for mitigation of radon as a deceptive trade practice;
- requires the addition of a clause to real estate contracts which discloses the fact that radon exists in high levels in Colorado and advises testing of property before purchase; and
- authorizes the Department of Health to set guidelines for mitigation of radon in schools.

### **Hemodialysis Technicians**

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In response to an application submitted by a hemodialysis patient, the committee conducted a sunrise review of hemodialysis technicians. Currently, regulation by state and federal government provides oversight and minimum standards in areas of infection control, patient safety, and staffing in dialysis units. However, existing regulations provide no basic training or competency standards for hemodialysis technicians. Approximately 1,200 hemodialysis patients live in Colorado.

The applicant suggested that the need for regulation exists in order to:

- promote safe and effective care of patients receiving hemodialysis;
- establish minimum standards for evaluation and certification of hemodialysis technicians;
- facilitate continued certification and improvement of certified hemodialysis technicians and registered nurse training programs; and
- grant recognition and verification that a hemodialysis technician and registered nurse training program meets the minimal standards and regulations as determined by a board.

DORA reported that little data exists indicating consumer harm from poorly trained technicians and that no complaints had been reported to the Department of Health (DOH) and the End Stage Renal Dialysis Network. However, patient and medical provider feedback indicated that patient care would benefit from a standardized training requirement. DORA concluded that the General Assembly should provide authority to DOH to promulgate regulations establishing standardized training requirements for all hemodialysis units in the state. In addition, the agency

recommended that the Colorado Board of Nursing create a policy statement that clarifies a nurse's delegation power in the area of hemodialysis. DOH testimony indicated that they already have the authority to promulgate regulations which standardize training requirements for hemodialysis units.

The committee voted to accept the two DORA recommendations with a modification. Since DOH already has the authority to promulgate regulations, the committee sent a letter to DOH requesting that the department promulgate regulations establishing standardized training requirements for all hemodialysis units in the state. In addition, the committee sent a letter to the Colorado Board of Nursing requesting that the board create a policy statement clarifying the role of a nurse's delegation power in the area of hemodialysis.

### **Consumer Electronics Service Technicians**

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Consumer electronics service technicians install and repair electronic equipment including televisions, radios, stereo equipment, video cassette recorders, and master antennas. Shops providing repair services generally employ from one to forty people. These repair shops render services directly to the consumer or by contract with a retail sales organization.

In its sunrise report, DORA stated that harm to the public caused by service technicians failed to meet the burden of proof required by Colorado Sunrise Law. DORA recommended against regulation of consumer electronics service technicians. There was no public testimony. The committee agreed with the DORA recommendation and voted not to regulate consumer electronics service technicians.

## **C. Sunset Review of Advisory Committees**

Section 2-3-1203, C.R.S., provides for the sunset review of advisory committees. The Sunrise Sunset Committee reviews the effectiveness of each advisory committee. Advisory committees involve private citizens in the daily operations of government thereby allowing government to utilize the expertise of its citizens. When reviewing information submitted by the advisory committees, the Sunrise Sunset Committee ascertains whether the advisory committees remain useful to government.

The following information submitted by the advisory committee helps the committee determine whether or not to continue the functions of the advisory committee:

- the names of the current members of the advisory committee;
- revenues and expenditures of the advisory committee, including per diem paid to members, and any travel expenses;
- the dates that the advisory committee held meetings and the number of members who attended;
- a listing of all advisory proposals made by the advisory committee together with an indication as to whether or not each proposal has been acted on, implemented, or enacted into statute; and
- the reasons why the advisory committee should be continued.

If an advisory committee remains useful, the Sunrise Sunset Committee recommends its continued existence no longer subject to sunset review. If an advisory committee no longer benefits government operations, it is allowed to terminate.

The committee conducted reviews of ten advisory committees and advisory boards. The committee recommends **Bill 16**, which continues the following:

- Advisory Committee on Factory-Built Housing
- Advisory Committee on Factory-Built Nonresidential Structures
- Advisory Committee to the State Housing Board Concerning Camper Trailers and Camper Coaches
- Colorado Board of Veterans Affairs
- Advisory Committee on Governmental Accounting
- Organic Certification Advisory Board
- Advisory Committee to the Auraria Board
- Advisory Committee to the Property Tax Administrator
- Colorado Economic Development Advisory Board
- Advisory Board on Hazardous Materials Responders

The committee recommends creating the Advisory Committee on Residential and Nonresidential Structures by combining the Advisory Committee on Factory-Built Nonresidential Structures and the Advisory Committee on Factory-Built Housing. The Division of Housing reported that these two advisory committees currently have the same membership.

In addition, **Bill 16** revises the membership of the Colorado Economic Development Advisory Board. The bill removes both the General Assembly members and the Governor, and instead requires that all members be from the private sector.

The Passenger Tramway Safety Advisory Committee and the Advisory Committee on Nurse Aides were scheduled for review this year. However, the Passenger Tramway Safety Advisory Committee does not exist in practice, and the Advisory Committee on Nurse Aides was addressed by **Bill 10**.

## **D. Additional Committee Reviews**

### **Manufactured Housing - Bill 17**

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During the 1992 legislative session, House Bill 1014 (Concerning the Manufactured Housing Board) was postponed indefinitely. Scheduled for termination on July 1, 1992, the board entered its wind-up phase and its enabling statute was allowed to expire as scheduled. In recognition of the need for the board to regulate the industry, the committee decided to recommend a bill for the 1993 session that would recreate and reenact the statute and reauthorize the board.

**Bill 17** revives the regulatory authority of the Colorado Manufactured Housing Licensing Board. The bill:

- amends the definitions of "manufactured home" and "manufacturer";
- clarifies the powers and duties of the board;
- exempts from dealer and salesperson requirements licensed real estate brokers who sell a manufactured home in connection with a sale of real estate;
- amends provisions relating to the Manufactured Housing Recovery Fund;
- exempts banks and certain persons from dealer and salesperson licensing requirements under certain circumstances; and
- amends dealers' and salespersons' licensing requirements.

The committee discussed two final issues: 1) correcting the repeal date for the Division of Gaming, making it consistent throughout statute; and 2) correcting the statutory authority of the Division of Insurance and the statutory authority for the regulation of acupuncturists by the Division of Registrations. The committee recommended that the Committee on Legislative Legal Services be asked to resolve these issues. **A copy of the bill is available from the office of Legislative Council.**



## Materials Available

The following materials relevant to the Joint Legislative Sunrise and Sunset Review Committee hearings are available from the Legislative Council office.

1. Summary of Meetings:

- |                   |  |
|-------------------|--|
| June 17, 1992     | — Advisory Committees, and Hemodialysis Technicians Sunrise, Consumer Electronics Technicians Sunrise, and Nursing Home Penalty Cash Fund Sunset |
| June 18, 1992     | — Outfitters Sunset  |
| July 1, 1992      | — Health Care Utilization Sunrise, Colorado Seed Sellers Sunrise, Bail Bonding Agents Sunset   |
| July 2, 1992      | — Racing Sunset  |
| July 8, 1992      | — Public Utilities Commission Sunset   |
| July 9, 1992      | — Public Utilities Commission Sunset and Office of Consumer Counsel Sunset   |
| July 22, 1992     | — Nursing Home Administrators Sunset, Passenger Tramways Sunset, Games of Chance Sunset  |
| July 23, 1992     | — Midwives Sunrise and Games of Chance Sunset  |
| August 12, 1992   | — Interpreters for the Deaf Sunrise, Radon Sunrise, Advisory Committee on Nurse Aides, Nurse Aides Sunset  |
| August 13, 1992   | — Public Utilities Commission Sunset and Office of Consumer Counsel Sunset   |
| August 26, 1992   | — Review of Proposed Bills   |
| August 27, 1992   | — Review of Proposed Bills   |
| September 9, 1992 | — Games of Chance  |

2. DORA Reports:

Detailed reports on all sunrise and sunset issues were prepared and submitted by the Office of Policy and Research, DORA. The Department of Law prepared the Office of Consumer Counsel report.

3. Advisory Committee Reports.

BY REPRESENTATIVE Fleming;  
also SENATOR Martinez.

A BILL FOR AN ACT

101 CONCERNING THE IMPOSITION OF SANCTIONS UPON A NURSING FACILITY WHEN  
102 SUCH A FACILITY VIOLATES A FEDERAL REGULATION FOR PARTICIPATION  
103 IN THE MEDICAID PROGRAM, AND CONTINUING THE STATUTORY  
104 AUTHORITY THEREFOR.

Bill Summary

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

Extends the sunset date for provisions that authorize the imposition of fines against certain nursing facilities which violate federal rules for the medicaid program. States that the dates and the range of penalties that may be assessed against a nursing facility shall be established by regulations issued by the department of health.

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

SECTION 1. 25-1-107.5 (2) (b) (I) and (4), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

25-1-107.5. Additional authority of the department - remedies against nursing facilities - criteria for recommending assessments for civil penalties - cooperation with the department of social services - nursing home penalty cash fund - repeal of section. (2) (b) Any rules and regulations promulgated by the

department with regard to the assessment of civil money penalties shall include:

(I) That the ~~penalty assessed against the facility shall accrue from the date the facility is found by the department of social services to be in violation of federal regulations and shall not be less than one hundred dollars nor more than ten thousand dollars, with the legal rate of interest, for each day the facility violates federal regulations for participation under Title XIX of the federal "Social Security Act", as amended; and~~ DATES ON WHICH PENALTIES MAY BE ASSESSED AGAINST FACILITIES AND THE RANGE OF PENALTIES THAT MAY BE ASSESSED AGAINST FACILITIES SHALL BE ESTABLISHED BY REGULATIONS PROMULGATED BY THE DEPARTMENT OF HEALTH; AND

(4) This section is repealed, effective July 1, ~~1993~~ 1996. Prior to such repeal, this section shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 2. 24-34-104 (22) (c) (I), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (22) (c) The following functions of the specified agencies shall terminate on July 1, 1993:

(I) ~~The imposition of sanctions, including civil money penalties, upon a nursing facility when such a facility violates a federal regulation for participation in the medicaid program by the department of health in accordance with section 25-1-107.5, C.R.S., and the department of social services in accordance with article 4 of title 26, C.R.S.;~~

SECTION 3. 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

1           **24-34-104. General assembly review of regulatory agencies and**  
2 **functions for termination, continuation, or reestablishment. (25.6) THE**  
3 **FOLLOWING FUNCTION OF THE SPECIFIED AGENCY SHALL TERMINATE ON JULY 1,**  
4 **1996: THE IMPOSITION OF SANCTIONS, INCLUDING CIVIL MONEY PENALTIES, UPON**  
5 **A NURSING FACILITY WHEN SUCH A FACILITY VIOLATES A FEDERAL REGULATION**  
6 **FOR PARTICIPATION IN THE MEDICAID PROGRAM BY THE DEPARTMENT OF HEALTH**  
7 **IN ACCORDANCE WITH SECTION 25-1-107.5, C.R.S., AND THE DEPARTMENT OF**  
8 **SOCIAL SERVICES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 26, C.R.S.**

9           **SECTION 4. Effective date. This act shall take effect July 1, 1993.**

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



1 12-55.5-102. Definitions. As used in this article, unless the context  
2 otherwise requires:

3 (2) "Director" means the director of the division of ~~registrations in the~~  
4 ~~department of regulatory agencies~~ WILDLIFE IN THE DEPARTMENT OF NATURAL  
5 RESOURCES.

6 (3) "Division" means the division of ~~registrations in the department of~~  
7 ~~regulatory agencies~~ WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES.

8 SECTION 3. 12-55.5-103, Colorado Revised Statutes, 1991 Repl. Vol.,  
9 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

10 12-55.5-103. Registration required - fees - effect of relocation of  
11 regulatory functions. (3) ALL OUTFITTER REGISTRATIONS ISSUED BY THE DIVISION  
12 OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES, WHICH  
13 REGISTRATIONS ARE IN FULL FORCE AND EFFECT ON JULY 1, 1993, SHALL  
14 CONTINUE TO BE VALID AND IN FULL FORCE AND EFFECT AS OUTFITTER  
15 REGISTRATIONS, SUBJECT TO THE PROVISIONS OF THIS ARTICLE, ON AND AFTER  
16 JULY 1, 1993.

17 SECTION 4. 12-55.5-105 (1), (2), and (3), Colorado Revised Statutes,  
18 1991 Repl. Vol., are amended to read:

19 12-55.5-105. Issuance of certificate of registration - violations.

20 (1) Except as otherwise provided in this article, the director shall issue an initial  
21 or renewed certificate of registration as an outfitter to any individual who pays the  
22 required fee and furnishes evidence satisfactory to the director that he SUCH  
23 INDIVIDUAL:

24 (a) Is ~~twenty-one~~ EIGHTEEN years of age or older;

1 (b) Holds a valid instructor's card in first aid or a standard first aid card  
2 issued by the American red cross or evidence of equivalent training;

3 (c) Possesses minimum liability insurance coverage in the amount of fifty  
4 thousand dollars for bodily injury to one person in any single accident and one  
5 hundred thousand dollars for bodily injury to all persons in any single accident; and

6 (d) Has submitted to the director a surety bond in the minimum sum of  
7 ten thousand dollars, executed by the applicant as principal and by a surety  
8 company qualified and authorized to do business in this state as surety. Such bond  
9 shall be conditioned upon compliance with the provisions of this article and with  
10 the rules and regulations promulgated under this article.

11 ~~(2) Any person who violates the provisions of this article is guilty of a~~  
12  ~~misdemeanor and, upon conviction thereof, shall be punished by a fine of not less~~  
13  ~~than one thousand dollars nor more than five thousand dollars, or by imprisonment~~  
14  ~~in the county jail for not more than one year, or by both such fine and~~  
15  ~~imprisonment. Upon a second or subsequent conviction, such person commits a~~  
16  ~~class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.~~  
17  ~~Notwithstanding any other provision of law to the contrary, all fines collected~~  
18  ~~pursuant to this section shall be distributed as provided in section 12-55.5-107(4).~~

19 ~~(3) All fines collected pursuant to this article shall be distributed as~~  
20  ~~follows:~~

21 ~~(a) Twenty five percent to any federal, state, or local law enforcement~~  
22  ~~agency assisting with an investigation;~~

23 ~~(b) Seventy five percent to the division for the cost of administering this~~  
24  ~~article.~~

1 SECTION 5. 12-55.5-106 (1) (i) and (1) (j), Colorado Revised Statutes,  
2 1991 Repl. Vol., are amended, and the said 12-55.5-106 (1) is further amended BY  
3 THE ADDITION OF A NEW PARAGRAPH, to read:

4 12-55.5-106. Disciplinary actions - grounds for discipline. (1) The  
5 director may deny, suspend, revoke, or place on probation an outfitter's  
6 registration if the applicant or holder:

7 (i) Has been convicted of second or third degree criminal trespass  
8 pursuant to section 18-4-503 ~~(2) (a)~~ or 18-4-504, ~~(2) (a)~~, C.R.S.; except that the  
9 director shall be governed by the provisions of section 24-5-101, C.R.S., in  
10 considering such conviction; ~~or~~

11 (j) Hires any person as a guide who fails to meet the requirements of  
12 section 12-55.5-108 (2); OR

13 (k) SERVES OR CONSUMES ALCOHOL WHILE ENGAGED IN THE ACTIVITIES  
14 OF AN OUTFITTER, IF THE APPLICANT OR HOLDER IS UNDER TWENTY-ONE YEARS  
15 OF AGE.

16 SECTION 6. The introductory portion to 12-55.5-107 (1) and  
17 12-55.5-107 (4), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

18 12-55.5-107. Penalties. (1) Any person who violates the provisions of  
19 this article ~~other than section 12-55.5-105~~ or the rules and regulations of the  
20 director promulgated under this article may be penalized by the director upon a  
21 finding of a violation pursuant to article 4 of title 24, C.R.S., as follows:

22 (4) ~~All fines collected pursuant to this article shall be distributed as~~  
23 ~~follows:~~

24 (a) ~~Twenty five percent to any federal, state, or local law enforcement~~

1 ~~agency assisting with an investigation;~~

2 ~~(b) Seventy five percent to the division for the cost of administering this~~  
3 ~~article.~~

4 SECTION 7. Article 55.5 of title 12, Colorado Revised Statutes, 1991  
5 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

6 12-55.5-107.5. Violations - penalties - distribution of fines collected.

7 (1) ANY PERSON WHO VIOLATES SECTION 12-55.5-103 (1) IS GUILTY OF A  
8 MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE  
9 OF NOT LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN FIVE THOUSAND  
10 DOLLARS, OR BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN ONE  
11 YEAR, OR BY BOTH SUCH FINE AND IMPRISONMENT. UPON A SECOND OR  
12 SUBSEQUENT CONVICTION, SUCH PERSON COMMITS A CLASS 5 FELONY AND SHALL  
13 BE PUNISHED AS PROVIDED IN SECTION 18-1-105, C.R.S.

14 (2) ALL FINES COLLECTED PURSUANT TO THIS ARTICLE SHALL BE  
15 DISTRIBUTED AS FOLLOWS:

16 (a) FIFTY PERCENT DIVIDED BY THE COURT BETWEEN ANY FEDERAL,  
17 STATE, OR LOCAL LAW ENFORCEMENT AGENCY ASSISTING WITH AN  
18 INVESTIGATION;

19 (b) FIFTY PERCENT TO THE DIVISION FOR THE COST OF ADMINISTERING  
20 THIS ARTICLE.

21 SECTION 8. 12-55.5-108, Colorado Revised Statutes, 1991 Repl. Vol.,  
22 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

23 12-55.5-108. Penalties - cease and desist orders. (3) IT IS A  
24 VIOLATION OF THIS ARTICLE FOR ANY PERSON WHOSE OUTFITTER REGISTRATION

1 HAS BEEN REVOKED OR SUSPENDED TO WORK AS A GUIDE.

2 SECTION 9. 12-55.5-109, Colorado Revised Statutes, 1991 Repl. Vol.,  
3 is amended to read:

4 12-55.5-109. Contracts for outfitting services - writing required.

5 (1) Prior to engaging in any activity as an outfitter, an outfitter shall provide a  
6 written contract to the client stating at least the following terms:

7 (a) Type of services to be provided;

8 (b) Dates of service;

9 (c) Transportation arrangements;

10 (d) Costs of the services;

11 (e) Ratio of clients to guides; and

12 (f) The outfitter's policy regarding cancellation of the contract AND  
13 REFUND OF ANY DEPOSIT;

14 (2) No action may be maintained by an outfitter for breach of a contract  
15 or agreement to provide outfitting services or for the recovery of compensation for  
16 services rendered under such contract or agreement if the outfitter has failed to  
17 comply with the provisions of this article.

18 (3) ANY WRITTEN CONTRACT PROVIDED PURSUANT TO THIS SECTION  
19 SHALL ALSO CONTAIN A WRITTEN STATEMENT THAT PURSUANT TO SECTION  
20 12-55.5-105 (1) (c) AND (1) (d) OUTFITTERS ARE BONDED AND REQUIRED TO  
21 POSSESS THE MINIMUM LEVEL OF LIABILITY INSURANCE AND THAT THE ACTIVITIES  
22 OF OUTFITTERS ARE REGULATED BY THE DIVISION OF WILDLIFE IN THE  
23 DEPARTMENT OF NATURAL RESOURCES. THE STATEMENT SHALL ALSO CONTAIN  
24 THE ADDRESS AND PHONE NUMBER WHERE COMPLAINTS MAY BE DIRECTED.

1 SECTION 10. 12-55.5-110 (2), Colorado Revised Statutes, 1991 Repl.

2 Vol., is amended to read:

3 12-55.5-110. Other remedies - contracts void - public nuisance -  
4 seizure of equipment. (2) (a) Every motor vehicle, trailer, vessel, firearm,  
5 weapon, trap, equipment, livestock, or other personal property used in outfitting  
6 services in violation of the provisions of this article is declared to be a CLASS 2  
7 public nuisance. ~~Every such item shall be subject to seizure, confiscation, and~~  
8 ~~forfeiture or destruction as provided in this section, unless the owner of said~~  
9 ~~property was not a party to the violation~~ UNLESS IN CONFLICT WITH THE SPECIFIC  
10 PROVISIONS OF THIS SECTION, THE PROVISIONS OF ARTICLE 13 OF TITLE 16,  
11 C.R.S., SHALL APPLY TO ANY ACTION TAKEN PURSUANT TO THIS SECTION.

12 ~~(b) The several district courts of this state shall have original jurisdiction~~  
13 ~~of proceedings under this subsection (2).~~

14 ~~(c) An action to abate a public nuisance under this subsection (2) shall~~  
15 ~~be brought in the judicial district in which the subject matter of the action, or some~~  
16 ~~part thereof, is located or found.~~

17 ~~(d) Except as otherwise provided in this subsection (2), the practice and~~  
18 ~~procedure to abate a public nuisance shall be governed by the Colorado rules of~~  
19 ~~civil procedure.~~

20 ~~(e) An action to abate a public nuisance under this subsection (2) may~~  
21 ~~be brought by a district attorney in the name of the people of the state of Colorado.~~

22 SECTION 11. 12-55.5-114, Colorado Revised Statutes, 1991 Repl.  
23 Vol., is amended to read:

24 12-55.5-114. Fees - cash fund. Except as otherwise provided in this

1 article and in section 12-55.5-109, all fees collected pursuant to this article shall  
2 be transmitted to the state treasurer, who shall credit the same to the ~~division of~~  
3 ~~registrations cash fund created pursuant to section 24-34-105 (2) (b), C.R.S.~~  
4 OUTFITTER REGISTRATION CASH FUND, WHICH FUND IS HEREBY CREATED IN THE  
5 STATE TREASURY. The general assembly shall make annual appropriations from  
6 the ~~division of registrations~~ OUTFITTER REGISTRATION cash fund for expenditures  
7 of the division incurred in the performance of its duties under this article.

8 SECTION 12. 12-55.5-117, Colorado Revised Statutes, 1991 Repl.  
9 Vol., is amended to read:

10 12-55.5-117. Repeal of article - review of functions. Unless continued  
11 by the general assembly, this article is repealed, effective July 1, 1993 2003, and  
12 those powers, duties, and functions of the division specified in this article are  
13 abolished. The provisions of section 24-34-104 (5) to (12), C.R.S., concerning a  
14 windup period, an analysis and evaluation, public hearings, and claims by or  
15 against an agency shall apply to the powers, duties, and functions of the division  
16 specified in this article.

17 SECTION 13. 24-34-104 (22) (d), Colorado Revised Statutes, 1988  
18 Repl. Vol., as amended, is amended, and the said 24-34-104 is further amended  
19 BY THE ADDITION OF A NEW SUBSECTION, to read:

20 24-34-104. General assembly review of regulatory agencies and  
21 functions for termination, continuation, or reestablishment. (22) (d) The  
22 following function of the director of the division of registrations shall terminate on  
23 July 1, 1993: ~~The regulation of outfitters pursuant to article 55.5 of title 12,~~  
24 C.R.S.

1 (32) THE FOLLOWING FUNCTION OF THE DIRECTOR OF THE DIVISION OF  
2 WILDLIFE SHALL TERMINATE ON JULY 1, 2003: THE REGULATION OF OUTFITTERS  
3 PURSUANT TO ARTICLE 55.5 OF TITLE 12, C.R.S.

4 SECTION 14. Appropriation. In addition to any other appropriation,  
5 there is hereby appropriated, out of any moneys in the outfitter registration cash  
6 fund not otherwise appropriated, to the department of natural resources for  
7 allocation to the division of wildlife, for the fiscal year beginning July 1, 1993, the  
8 sum of \_\_\_\_\_ dollars (\$ ), or so much thereof as may be necessary,  
9 for the implementation of this act.

10 SECTION 15. Effective date. This act shall take effect July 1, 1993.

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



BY REPRESENTATIVE Owen;  
also SENATOR Mutzebaugh.

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF BAIL BONDING AGENTS.

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 name of the profession regulated by this article from "professional bail bondsman" to "professional bonding agent". Establishes the maximum dollar value for any single bail bond issued by a professional bonding agent at the amount posted by an insurer for its professional bonding agent or the amount of the qualification bond that such bonding agent posts with the division of insurance. Changes the amount of a qualification bond from fifty thousand dollars to a minimum of such amount. Provides that the division of insurance shall have priority over all other claimants to a bond if a qualification bond is forfeited. Places in statute, rather than rules, the requirement that the division test all applicants for bonding agent licenses. Requires the test to be updated periodically by the division to ensure that new licensees have a minimum level of competency. Requires bonding agents to issue receipts for any collateral taken as security and specifies what information such receipts shall contain. Creates an advisory committee to assist the commissioner in matters concerning licensees and bail bonds. Mandates that certain records concerning the regulation of the bail bond industry be kept by the division. Requires bonding agents to include in their semiannual report to the division the names of their employees, partners, and associates and to keep the division updated concerning changes in the list of names.

Makes conforming amendments.

Provides for the repeal of the article on a certain date subject to review by the sunrise and sunset review committee.

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

SECTION 1. Article 7 of title 12, Colorado Revised Statutes, 1991

Repl. Vol., as amended, is amended to read:

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Bail Bonding Agent

12-7-101. Definitions. As used in this article, unless the context

otherwise requires:

(1) "Commissioner" means the commissioner of insurance.

(2) "Division" means the division of insurance.

(3) "Insurer" means any domestic or foreign corporation, association, partnership, or individual engaged in the business of insurance or suretyship which has qualified to transact surety or casualty business in this state.

(4) ~~"Professional bondsman"~~ "PROFESSIONAL BONDING AGENT" means any person who furnishes bail for compensation in any court or courts in this state and who is appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings and who is other than a full-time salaried officer or employee of an insurer or a person who pledges United States currency, A United States postal money order, A cashier's check, or other property as security for a bail bond in connection with a judicial proceeding, whether for compensation or otherwise.

(5) Repealed, L. 88, p. 484, § 11, effective July 1, 1988.

12-7-102. License required - qualifications - enforcement. (1) No person shall act in the capacity of a professional ~~bondsman~~ BONDING AGENT or perform any of the functions, duties, or powers of the same unless that person is qualified and licensed as provided in this article. The terms of this article shall not apply to insurers regulated under title 10 (except part 7 of article 4 and article 15) and article 14 of title 24, C.R.S.

1 (2) No license shall be issued except in compliance with this article, and  
2 none shall be issued except to an individual. No firm, partnership, association, or  
3 corporation, as such, shall be licensed. No person engaged as a law enforcement  
4 or judicial officer shall be licensed under this article. Every applicant shall provide  
5 satisfactory evidence to the commissioner that he SUCH APPLICANT:

- 6 (a) Is eighteen years of age or older;
- 7 (b) Is a resident of this state;
- 8 (c) Is a person of good moral character and has not been convicted of

9 a felony or any crime involving moral turpitude within the last ten years;

10 (d) Has not served a sentence upon a conviction of a felony or any crime  
11 involving moral turpitude in a correctional facility, a city or county jail, or  
12 community corrections or under the supervision of the state board of parole or any  
13 probation department within the last ten years;

14 (e) Has not had his A license revoked in the immediate past five years  
15 in this or any other state.

16 (3) The division is vested with the authority to enforce the provisions of  
17 this article. The division shall have authority to make investigations and  
18 promulgate such rules and regulations as may be necessary for the enforcement of  
19 this article.

20 (4) Each license issued under this article shall expire annually on January  
21 31 unless revoked or suspended prior thereto by the division or upon notice served  
22 upon the commissioner by the insurer or the employer or user of any licensee that  
23 such insurer, employer, or user has cancelled the licensee's authority to act for or  
24 in behalf of such insurer, employer, or user.

1 (5) The division shall prepare and deliver to each licensee a pocket card  
2 showing the name, address, and classification of such licensee and shall certify that  
3 such person is a licensed professional ~~bondsman~~ BONDING AGENT.

4 12-7-103. License requirements - application - qualification bond -  
5 forfeiture. (1) Any person desiring to engage in the business of professional  
6 ~~bondsman~~ BONDING AGENT in this state shall apply to the division for a license on  
7 forms prepared and furnished by the division. Such application for a license or  
8 renewal thereof shall set forth, under oath, the following information:

9 (a) Full name, age, residence during the previous twelve months,  
10 occupation, and business address of the applicant;

11 (b) Repealed, L. 81, p. 677, § 7, effective May 13, 1981.

12 (c) Whether the applicant has been convicted of a felony or a crime  
13 involving moral turpitude during the previous ten years;

14 (d) Such other information including but not limited to a complete set of  
15 fingerprints certified to by an authorized law enforcement official and a full-face  
16 photograph, as may be required by this article or by the division.

17 (e) Repealed, L. 81, p. 677, § 7, effective May 13, 1981.

18 (f) Repealed, L. 88, p. 484, § 11, effective July 1, 1988.

19 (2) Each applicant shall satisfy the division of his SUCH APPLICANT'S  
20 good moral character by furnishing references thereof.

21 (3) (a) Each applicant for professional ~~bondsman~~ BONDING AGENT shall  
22 be required to post a qualification bond in the AN amount of NOT LESS THAN fifty  
23 thousand dollars with the division. The qualification bond shall meet such  
24 specifications as may be required and approved by the division. Such bond shall

-42-

1 be conditioned upon the full and prompt payment on any bail bond issued by such  
2 professional ~~bondsman~~ BONDING AGENT into the court ordering such bond forfeited.  
3 NO PROFESSIONAL BONDING AGENT SHALL ISSUE ANY SINGLE BOND IN AN AMOUNT  
4 GREATER THAN THE AMOUNT POSTED BY AN INSURER WITH THE DIVISION FOR ITS  
5 PROFESSIONAL BONDING AGENT REPRESENTATIVE OR POSTED BY A PROFESSIONAL  
6 BONDING AGENT WITH THE DIVISION FOR SUCH BONDING AGENT'S QUALIFICATION  
7 BOND. The bond shall be to the people of the state of Colorado in favor of any  
8 court in this state, whether municipal, county, district, or other court. Any  
9 qualification bond for a professional ~~bondsman~~ BONDING AGENT shall also be to the  
10 commissioner and the division to fulfill the purposes of this section. IN THE EVENT  
11 OF A FORFEITURE OF A PROFESSIONAL BONDING AGENT'S QUALIFICATION BOND,  
12 THE DIVISION SHALL HAVE PRIORITY OVER ALL OTHER CLAIMANTS TO SUCH BOND.

13 (b) IF ANY BOND ISSUED BY A PROFESSIONAL BONDING AGENT IS  
14 DECLARED FORFEITED, AND JUDGMENT IS ENTERED THEREON BY A COURT OF  
15 PROPER JURISDICTION, AND THE AMOUNT OF THE BOND IS NOT PAID WITHIN A  
16 REASONABLE TIME TO BE DETERMINED BY THE COURT BUT NOT TO EXCEED NINETY  
17 DAYS, SUCH COURT SHALL ORDER THE DIVISION TO DECLARE THE QUALIFICATION  
18 BOND OF SUCH PROFESSIONAL BONDING AGENT TO BE FORFEITED AFTER A  
19 HEARING AS PROVIDED IN SECTION 12-7-106 (2). THE DIVISION SHALL THEN  
20 ORDER THE SURETY ON THE QUALIFICATION BOND TO DEPOSIT WITH THE COURT  
21 AN AMOUNT EQUAL TO THE AMOUNT OF THE BOND ISSUED BY SUCH PROFESSIONAL  
22 BONDING AGENT AND DECLARED FORFEITED BY THE COURT OR THE AMOUNT OF  
23 THE QUALIFICATION BOND, WHICHEVER IS THE SMALLER AMOUNT. THE DIVISION  
24 SHALL SUSPEND THE LICENSE OF SUCH PROFESSIONAL BONDING AGENT UNTIL SUCH

1 TIME AS ALL FORFEITURES AND JUDGMENTS ORDERED AND ENTERED AGAINST THE  
2 PROFESSIONAL BONDING AGENT HAVE BEEN CERTIFIED AS PAID OR VACATED BY  
3 ORDER OF A COURT OF RECORD AND ANOTHER QUALIFICATION BOND IN THE  
4 REQUIRED AMOUNT IS POSTED WITH THE DIVISION.

5 ~~(4) If any bond issued by a professional bondsman is declared forfeited~~  
6 ~~and judgment entered thereon by a court of proper jurisdiction and the amount of~~  
7 ~~the bond is not paid within a reasonable time, to be determined by the court but in~~  
8 ~~no event to exceed ninety days, such court shall order the division to declare the~~  
9 ~~qualification bond of such professional bondsman to be forfeited after a hearing as~~  
10 ~~provided in section 12-7-106 (2). The division shall then order the surety on the~~  
11 ~~qualification bond to deposit with the court an amount equal to the amount of the~~  
12 ~~bond issued by such professional bondsman and declared forfeited by the court or~~  
13 ~~the amount of the qualification bond, whichever is the smaller amount. The~~  
14 ~~division shall suspend the license of such professional bondsman until such time as~~  
15 ~~all forfeitures and judgments ordered and entered against the professional bondsman~~  
16 ~~have been certified as paid or vacated by order of a court of record and another~~  
17 ~~qualification bond in the required amount is posted with the division. PRIOR TO~~  
18 BEING LICENSED, EVERY PERSON APPLYING TO PRACTICE AS A PROFESSIONAL  
19 BONDING AGENT IN THIS STATE SHALL PASS AN EXAMINATION APPROVED AND  
20 ADOPTED BY THE DIVISION. THE PASSING SCORE ON SUCH EXAMINATION SHALL  
21 BE SET BY THE DIVISION AT SUCH LEVEL AS IS NECESSARY TO ASSURE THAT EACH  
22 PERSON PASSING SUCH EXAMINATION HAS THE MINIMUM NECESSARY LEVEL OF  
23 COMPETENCY TO PRACTICE AS A PROFESSIONAL BONDING AGENT IN THIS STATE.  
24 THE DIVISION SHALL PERIODICALLY UPDATE THE LICENSURE EXAMINATION AS

1 NECESSARY TO ENSURE THAT ALL PERSONS PASSING SUCH EXAMINATION HAVE THE  
2 MINIMUM NECESSARY LEVEL OF COMPETENCY TO PRACTICE AS PROFESSIONAL  
3 BONDING AGENTS IN THIS STATE.

4 (5) Upon receipt of the license application, the required fee, and an  
5 approved qualification bond in the required amount, PASSAGE OF THE  
6 EXAMINATION, and compliance with this article, the division shall issue to the  
7 applicant a license to do business as a professional ~~bondsman~~ BONDING AGENT.

8 (6) No licensed professional ~~bondsman~~ BONDING AGENT shall ~~have in his~~  
9 employ in ~~the~~ SUCH BONDING AGENT'S bail bond business any person who could  
10 not qualify for a license under this article, nor shall any licensed professional  
11 ~~bondsman~~ BONDING AGENT have as a partner or associate in such business any  
12 person who could not so qualify.

13 **12-7-104. License fees.** Each license application and application for  
14 license renewal to engage in the business of professional ~~bondsman~~ BONDING  
15 AGENT shall be accompanied by a fee of two hundred dollars.

16 **12-7-104.5. Advisory committee.** (1) THERE IS HEREBY CREATED AN  
17 ADVISORY COMMITTEE OF THREE PERSONS TO ADVISE THE COMMISSIONER ON  
18 ISSUES CONCERNING BAIL BONDS AND ON COMPLAINTS CONCERNING LICENSEES  
19 AND THE BAIL BOND INDUSTRY. THE COMMITTEE SHALL BE COMPOSED OF ONE  
20 PROFESSIONAL BONDING AGENT, ONE ATTORNEY, AND ONE PERSON REPRESENTING  
21 THE DIVISION. THE COMMITTEE MEMBERS SHALL SERVE WITHOUT COMPENSATION  
22 BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR ORDINARY AND NECESSARY  
23 EXPENSES. APPOINTMENTS SHALL BE MADE BY THE COMMISSIONER FOR TERMS OF  
24 ONE YEAR. VACANCIES WHICH OCCUR DURING ANY TERM SHALL BE FILLED BY

1 THE COMMISSIONER FOR THE REMAINDER OF SUCH TERM.

2 (2) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1996.

3 (b) PRIOR TO SAID REPEAL, THE ADVISORY COMMITTEE SHALL BE  
4 REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

5 **12-7-105. Reports and records required - professional bonding agents**

6 - division. (1) Each professional ~~bondsman~~ BONDING AGENT licensed under the  
7 provisions of this article shall, under oath, report semiannually to the division on  
8 forms prescribed by the division. The reports shall be made prior to January 31  
9 and July 31 of each year and shall contain the following detailed information for  
10 the preceding calendar year:

11 (a) The names of the persons for whom such professional ~~bondsman~~  
12 BONDING AGENT has become surety;

13 (b) The date and amount of the bonds issued by such ~~bondsman~~ BONDING  
14 AGENT and the court in which such bonds were posted;

15 (c) The fee for each bond charged by such professional ~~bondsman~~  
16 BONDING AGENT;

17 (d) The amount of collateral or security received from insured principals  
18 or persons acting on behalf of such principals by such professional ~~bondsman~~  
19 BONDING AGENT on each bond;

20 (e) ~~Such further information as the division may require including, but~~  
21 ~~not limited to, residence and business addresses, financial statements, and other~~  
22 ~~business activities of the professional bondsman~~ THE NAMES OF ALL PERSONS WHO  
23 ARE EMPLOYEES, PARTNERS, AND ASSOCIATES OF THE PROFESSIONAL BONDING  
24 AGENT. SUCH BONDING AGENT SHALL IMMEDIATELY REPORT ANY CHANGE IN THE

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1 LIST OF NAMES TO THE DIVISION.

2 (f) SUCH FURTHER INFORMATION AS THE DIVISION MAY REQUIRE  
3 INCLUDING, BUT NOT LIMITED TO, RESIDENCE AND BUSINESS ADDRESSES,  
4 FINANCIAL STATEMENTS, AND OTHER BUSINESS ACTIVITIES OF THE PROFESSIONAL  
5 BONDING AGENT.

6 (2) THE DIVISION SHALL KEEP RECORDS AS NECESSARY OF ALL MATTERS  
7 PERTAINING TO ITS REGULATION OF BAIL BONDING AGENTS. SUCH RECORDS SHALL  
8 BE KEPT IN COMPLIANCE WITH ARTICLE 17 OF TITLE 6, C.R.S., AND SHALL  
9 INCLUDE COPIES OF ALL APPLICATIONS, EXAMINATIONS, AND REPORTS FILED BY  
10 OR COMPLETED ON BEHALF OF ANY BONDING AGENT OR PERSON SEEKING  
11 LICENSURE AS A BONDING AGENT; COMPLAINTS REGARDING ANY FACET OF THE  
12 BAIL BOND INDUSTRY INCLUDING BUT NOT LIMITED TO COMPLAINTS INVOLVING  
13 ANY LICENSEE; AND SUMMARIES OF ACTIONS TAKEN BY THE DIVISION AGAINST OR  
14 ON BEHALF OF ANY SUCH BONDING AGENT.

15 **12-7-106. Denial, suspension, revocation, and refusal to renew license**  
16 **- hearing - alternative civil penalty.** (1) The division shall deny, suspend,  
17 revoke, or refuse to renew, as may be appropriate, the license of any person  
18 engaged in the business of professional bonding agent for any of the following  
19 reasons:

20 (a) Any cause for which the issuance of the license could have been  
21 refused had it then existed and been known to the division;

22 (b) Failure to post a qualified bond in the required amount with the  
23 division during the period such person is engaged in the business within this state  
24 or, if such bond has been posted, the forfeiture or cancellation of such bond;

1 (c) Material misstatement, misrepresentation, or fraud in obtaining the  
2 license;

3 (d) Misappropriation, conversion, or unlawful withholding of moneys  
4 belonging to insured principals or others and received in the conduct of business  
5 under the license;

6 (e) Fraudulent or dishonest practices in the conduct of the business under  
7 the license;

8 (f) Willful failure to comply with or willful violation of any provisions  
9 of this article or of any proper order, rule, or regulation of the division or any  
10 court of this state;

11 (g) Any activity prohibited in section 12-7-109 (1);

12 (h) Default in payment to the court if any bond issued by such ~~bondsman~~  
13 BONDING AGENT is forfeited by order of the court;

14 (i) Conviction of a felony OR ANY CRIME INVOLVING MORAL TURPITUDE  
15 within the last ten years, regardless of whether the conviction resulted from  
16 conduct in or conduct related to the bail bond business;

17 (j) Service of a sentence upon a conviction of a felony or any crime  
18 involving moral turpitude in a correctional facility, city or county jail, or  
19 community correctional facility or under the supervision of the state board of  
20 parole or any probation department within the last ten years;

21 (k) Revocation of a license as a professional ~~bondsman~~ BONDING AGENT  
22 in the immediate past five years in this or any other state;

23 (l) When in the judgment of the commissioner the licensee has in the  
24 conduct of his SUCH LICENSEE'S affairs under the license demonstrated

1 incompetency or untrustworthiness or that he SUCH LICENSEE is no longer in good  
2 faith carrying on the bail bond business;

3 (m) Failure to report, to preserve WITHOUT USE and retain separately,  
4 or to return collateral taken as security on any bond to the principal, indemnitor,  
5 or depositor of such collateral;

6 (n) ~~Conviction of an~~ Unlawful entry into a residence where the principal  
7 ~~is not located by any bail bondsman, his agents~~ PROFESSIONAL BONDING AGENT OR  
8 SUCH BONDING AGENT'S REPRESENTATIVE or his employees IN VIOLATION OF  
9 SECTION 16-3-201, C.R.S.;

10 (o) Soliciting business in or about any place where prisoners are  
11 confined, arraigned, or in custody.

12 (2) If the division denies, suspends, revokes, or refuses to renew any  
13 such license, the aggrieved person shall be given an opportunity for a hearing  
14 subject to judicial review as provided in article 4 of title 24, C.R.S.

15 (3) Except for the reasons listed in paragraphs (i) to (k) of subsection (1)  
16 of this section, the commissioner, in lieu of revoking or suspending a license, may  
17 in any one proceeding, by order, require the licensee to pay to the commissioner,  
18 to be deposited in the general fund of the state, a civil penalty in the sum of no less  
19 than three hundred dollars and no more than one thousand dollars for each offense.  
20 Upon failure of the licensee to pay the penalty within twenty days after the mailing  
21 of the order, postage prepaid, registered and addressed to the last-known place of  
22 business of the licensee, the commissioner may revoke the license of the licensee  
23 or may suspend the license for such period as he THE COMMISSIONER may  
24 determine, unless his THE COMMISSIONER'S order is stayed by an order of a court

1 of competent jurisdiction.

2 12-7-107. Notice to courts and surety. (1) The division shall furnish  
3 to all courts in this state, as specified in section 12-7-101 (4), the names of all  
4 professional ~~bondsmen~~ BONDING AGENTS licensed under the provisions of this  
5 article; shall forthwith notify such courts of the suspension, revocation, or  
6 reinstatement of any ~~bondsman's~~ BONDING AGENT'S license to engage in such  
7 business; and shall forthwith notify such courts of any surety company becoming  
8 insolvent, subject to an order for relief under the federal ~~bankruptcy code of 1978~~  
9 "BANKRUPTCY REFORM ACT OF 1978", Title 11 of the United States Code, or  
10 placed in receivership. No court shall accept bond from a professional ~~bondsman~~  
11 BONDING AGENT unless such ~~bondsman~~ BONDING AGENT is licensed under the  
12 provisions of this article and unless such ~~bondsman~~ BONDING AGENT exhibits to  
13 such court a valid pocket card or license issued by the division, which license of  
14 such ~~bondsman~~ BONDING AGENT has not been suspended or revoked.

15 (2) Repealed, L. 81, p. 677, § 7, effective May 13, 1981.

16 (3) The professional ~~bondsman~~ BONDING AGENT shall prepare a list of  
17 all collateral taken on his behalf for assurance of compliance with the bond issued  
18 and the fee paid therefor. The professional ~~bondsman~~ BONDING AGENT shall  
19 provide such list to the surety within ten days of taking the collateral. Failure to  
20 provide this written list to the surety or to keep a file of all such lists or to provide  
21 the list or a copy thereof to the commissioner on request is a violation of this  
22 section and shall be a ground for revocation of the professional ~~bondsman's~~  
23 BONDING AGENT'S license.

24 12-7-108. Maximum commission or fee. Except for a filing fee, no

1 professional ~~bondsman~~ BONDING AGENT shall charge for ~~his~~ SUCH BONDING  
2 AGENT'S premium, commission, or fee an amount more than fifteen percent of the  
3 amount of bail furnished by ~~him~~ SUCH BONDING AGENT or twenty dollars,  
4 whichever is more.

5 12-7-109. Prohibited activities - penalties. (1) It is unlawful for any  
6 licensee under this article to engage in any of the following activities:

7 (a) Specify, suggest, or advise the employment of any particular attorney  
8 to represent ~~his~~ SUCH LICENSEE'S principal;

9 (b) Pay a fee or rebate or give or promise to give anything of value to  
10 a jailer, ~~police~~ POLICE OFFICER, peace officer, clerk, deputy clerk, any other  
11 employee of any court, district attorney or any of ~~his~~ SUCH DISTRICT ATTORNEY'S  
12 employees, or any person who has power to arrest or to hold any person in  
13 custody;

14 (c) Pay a fee or rebate or give anything of value to an attorney in bail  
15 bond matters, except in defense of any action on a bond or as counsel to represent  
16 such ~~bondsman~~, ~~his agent~~ PROFESSIONAL BONDING AGENT OR SUCH BONDING  
17 AGENT'S REPRESENTATIVE or employees;

18 (d) Pay a fee or rebate or give or promise to give anything of value to  
19 the person on whose bond ~~he~~ SUCH LICENSEE is surety;

20 (d.5) Except for the fee received for the bond, to fail to return any  
21 collateral or security within ten working days after receipt of a copy of the court  
22 order that results in a release of the bond by the court. A copy of the court order  
23 shall be provided to the bonding agent in Colorado or the company, if any, for  
24 whom the bonding agent works whether in Colorado or out of state, or both, by

1 the person for whom the bond was written.

2 (e) Accept anything of value from a person on whose bond ~~he~~ SUCH  
3 LICENSEE is surety or from others on behalf of such person except the fee or  
4 premium on the bond, but the ~~bondsman~~ PROFESSIONAL BONDING AGENT may  
5 accept collateral security or other indemnity if:

6 (I) No collateral or security in tangible property is taken by pledge or  
7 debt instrument which allows retention, sale, or other disposition of such property  
8 upon default except in accordance with the provisions of article 9 of title 4,  
9 C.R.S.;

10 (II) No collateral or security interest in real property is taken by deed  
11 or any other instrument unless the professional ~~bondsman's~~ BONDING AGENT'S  
12 interest in the property is limited to the amount of the bond; ~~and~~

13 (III) The collateral or security taken by the professional ~~bondsman~~  
14 BONDING AGENT is not pledged directly to any court as security for any appearance  
15 bond; AND

16 (IV) THE PERSON FROM WHOM THE COLLATERAL OR SECURITY IS TAKEN  
17 IS ISSUED A RECEIPT DESCRIBING THE CONDITION OF THE COLLATERAL AT THE  
18 TIME IT IS TAKEN INTO THE CUSTODY OF THE PROFESSIONAL BONDING AGENT;

19 (f) Coerce, suggest, aid and abet, offer promise of favor, or threaten any  
20 person on whose bond ~~he~~ SUCH LICENSEE is surety or offers to become surety to  
21 induce that person to commit any crime;

22 (g) Act as a professional ~~bondsman~~ BONDING AGENT in any court of  
23 record in this state if ~~he~~ SUCH LICENSEE is in default in securing any person's  
24 bond;

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1 (h) Fail to apprise the court of known inaccuracies in any property value  
2 schedules of security being pledged directly under the provisions of section  
3 16-4-104, C.R.S., to any court in this state in combination with a bond  
4 underwritten by the professional ~~bondsman~~ BONDING AGENT;

5 (i) Pledge, or knowingly allow to be pledged, without informing the  
6 court, any property in any court in securance of appearance during any period  
7 where such property is currently pledged for another appearance bond;

8 (j) Post bond in any amount in the name of a corporate surety without  
9 authorization from the corporate surety;

10 (k) Accept anything of value from a person on whose bond ~~he~~ SUCH  
11 LICENSEE is indemnitor or from another on behalf of such principal except the  
12 premium; except that the professional ~~bondsman~~ BONDING AGENT may accept  
13 collateral security or other indemnity from the person on whose bond ~~he~~ SUCH  
14 BONDING AGENT is indemnitor or from another on behalf of such principal, which  
15 shall be returned within twenty days of final termination of liability on the bond.  
16 The professional ~~bondsman~~ BONDING AGENT shall preserve and separately retain  
17 such collateral and shall be responsible for the return of all such collateral taken  
18 within twenty days of final termination of liability on the bond and shall be liable  
19 for failure thereof as will also be the surety company. When a professional  
20 ~~bondsman~~ BONDING AGENT accepts collateral as security pursuant to this paragraph  
21 (k), ~~he~~ SUCH BONDING AGENT shall give a written receipt for such collateral to the  
22 person on whose bond ~~he~~ SUCH BONDING AGENT is indemnitor or to another on  
23 behalf of such principal and the surety, which shall provide in detail a full  
24 description of the collateral received. In the event of the failure of or inability for

1 any reason of a professional ~~bondsman~~ BONDING AGENT or ~~his~~ SUCH BONDING  
2 AGENT'S heirs or assignees to return collateral as required in this paragraph (k), the  
3 commissioner or ~~his~~ THE COMMISSIONER'S designee is authorized to take immediate  
4 possession of the collateral and take whatever actions are necessary and appropriate  
5 to assure compliance with the obligations of this article relating to the return of  
6 collateral. The commissioner is authorized to utilize any or all of the qualification  
7 bond required in section 12-7-103 (3) for any costs incurred. Any such payment  
8 received by the commissioner is hereby appropriated to the division of insurance  
9 in addition to any other funds appropriated for its normal operation.

10 (l) Sign or countersign blank bail bonds or execute a power of attorney  
11 or otherwise authorize anyone to countersign ~~his~~ SUCH LICENSEE'S name to bonds;

12 (m) For any one licensee to have more than one bond posted at any one  
13 time and, in any single case, on behalf of any one person;

14 (n) FAIL TO ISSUE TO THE PERSON FROM WHOM COLLATERAL OR  
15 SECURITY IS TAKEN A RECEIPT WHICH INCLUDES A DESCRIPTION OF THE  
16 COLLATERAL OR SECURITY AT THE TIME IT IS TAKEN INTO THE CUSTODY OF THE  
17 PROFESSIONAL BONDING AGENT.

18 (2) Any licensee who violates any provision of subsection (1) of this  
19 section is guilty of a misdemeanor and, upon conviction thereof, shall be punished  
20 by a fine of not more than one thousand dollars, or by imprisonment in the county  
21 jail for not more than one year, or by both such fine and imprisonment.

22 (3) Any person who acts or attempts to act as a professional ~~bondsman~~  
23 BONDING AGENT and who is not licensed as such under this article is guilty of a  
24 misdemeanor and, upon conviction thereof, shall be punished by a fine of not more



1 than one thousand dollars, or by imprisonment in the county jail for not more than  
2 one year, or by both such fine and imprisonment.

3 **12-7-110. Penalty for violation of bond conditions. (Repealed)**

4 Repealed, effective July 1, 1979.

5 **12-7-111. Tax on fees charged.** Each professional ~~bondsman~~ BONDING  
6 AGENT who furnishes bail in a form other than in the form of the bail bond of an  
7 insurer shall pay to the division a tax on the fees charged for bail by such  
8 professional ~~bondsman~~ BONDING AGENT. Such tax shall be the same as the tax  
9 levied on insurance companies by section 10-3-209 (1), C.R.S., and all applicable  
10 provisions of such section shall be applied to such professional ~~bondsman~~ BONDING  
11 AGENT in the same manner, amounts, and procedure as they are applied to  
12 insurance companies in such section.

13 **12-7-112. Repeal - review of functions.** This article is repealed,  
14 effective ~~July 1, 1993~~ JULY 1, 1996. Prior to such repeal, the licensing functions  
15 of the commissioner and the division shall be reviewed as provided for in section  
16 24-34-104, C.R.S.

17 **SECTION 2.** 2-3-1203 (3) (i), Colorado Revised Statutes, 1980 Repl.  
18 Vol., as amended, is amended BY THE ADDITION OF A NEW  
19 SUBPARAGRAPH to read:

20 **2-3-1203. Sunset review of advisory committees.** (3) The following  
21 dates are the dates for which the statutory authorization for the designated advisory  
22 committees is scheduled for repeal:

23 (i) July 1, 1996:

24 (VII) THE BAIL BONDING AGENTS' ADVISORY COMMITTEE, APPOINTED

1 PURSUANT TO SECTION 12-7-104.5, C.R.S.

2 **SECTION 3.** 24-34-104 (22.1) (b), Colorado Revised Statutes, 1988  
3 Repl. Vol., is repealed as follows:

4 **24-34-104. General assembly review of regulatory agencies and**  
5 **functions for termination, continuation, or reestablishment.** (22.1) The  
6 following boards and the functions of the specified agencies shall terminate on July  
7 1, 1993:

8 (b) ~~The licensing of professional bondsmen through the division of~~  
9 ~~insurance in accordance with article 7 of title 12, C.R.S.;~~

10 **SECTION 4.** 24-34-104 (25.1), Colorado Revised Statutes, 1988 Repl.  
11 Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH  
12 to read:

13 **24-34-104. General assembly review of regulatory agencies and**  
14 **functions for termination, continuation, or reestablishment.** (25.1) The  
15 following functions of the specified agencies shall terminate on July 1, 1996:

16 (h) THE LICENSING OF PROFESSIONAL BONDING AGENTS THROUGH THE  
17 DIVISION OF INSURANCE IN ACCORDANCE WITH ARTICLE 7 OF TITLE 12, C.R.S.

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

BY REPRESENTATIVE Owen;  
also SENATOR Wattenberg.

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF RACING, AND, IN CONNECTION THEREWITH,  
102 CONTINUING THE DIVISION OF RACING EVENTS AND THE COLORADO  
103 RACING COMMISSION.

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Bill Summary

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

Continues the division of racing events and the Colorado racing commission. Directs the commission to promulgate rules on licensing and registration of persons employed in the racing industry. Gives the commission subpoena powers and allows it to test animals for drugs not only randomly, as is currently authorized, but also when concerns are raised about a particular animal.

With regard to disciplinary proceedings against licensees, authorizes the issuance of letters of admonition in addition to the currently authorized fines, suspensions, and revocations of licenses. Adds to the list of grounds for disciplinary action the following: Out-of-state convictions or plea bargains involving misdemeanors or actions that would have been disciplinable if committed in Colorado, as well as felonies; out-of-state disciplinary actions, as well as license suspensions and revocations; and failure to pay fines within a specified period, rather than "in a timely manner". Eliminates the requirement of a "verified" complaint for commission action.

Allows appeals of commission action to be taken to the court of appeals. Makes exemption from licensee bond requirements permissive rather than mandatory. Defines violations of substantive prohibitions uniformly as a classified misdemeanor except in the case of conduct proscribed under the general criminal statutes. Repeals obsolete references to past dates; makes conforming amendments.

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

2 SECTION 1. 12-60-101 (4.8), Colorado Revised Statutes, 1991 Repl.

1 Vol., is amended to read:

2 **12-60-101. Definitions.** As used in this article, unless the context  
3 otherwise requires:

4 (4.8) "Licensee" means any person holding a current, valid race meet  
5 license issued pursuant to section 12-60-106 AND ANY PERSON HOLDING A  
6 CURRENT, VALID LICENSE OR REGISTRATION ISSUED BY THE COMMISSION  
7 PURSUANT TO SECTION 12-60-105. THE COMMISSION, BY RULE, SHALL DETERMINE  
8 WHICH OCCUPATIONAL CATEGORIES SHALL BE LICENSED AND WHICH SHALL BE  
9 REGISTERED.

10 **SECTION 2.** 12-60-103, Colorado Revised Statutes, 1991 Repl. Vol.,  
11 as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12 **12-60-103. Organization and officers - duties.** (6) THE COMMISSION  
13 SHALL HAVE THE POWER TO ISSUE SUBPOENAS FOR THE APPEARANCE OF PERSONS  
14 AND THE PRODUCTION OF DOCUMENTS AND OTHER THINGS IN CONNECTION WITH  
15 APPLICATIONS BEFORE THE COMMISSION OR IN THE CONDUCT OF INVESTIGATIONS.

16 **SECTION 3.** 12-60-104 (2), Colorado Revised Statutes, 1991 Repl.  
17 Vol., is amended to read:

18 **12-60-104. Commission to regulate race meets and in-state simulcast**  
19 **facilities.** (2) In particular, the commission shall, at its own expense, regulate the  
20 operations of pari-mutuel machines and equipment, the operations of all money  
21 rooms, accounting rooms, and sellers' and cashiers' windows, and the weighing of  
22 jockeys and of greyhounds, and shall take or cause to be taken saliva, urine, blood,  
23 or other body fluid samples or biopsy or necropsy specimens from horses and  
24 greyhounds selected by the commission or its employees on a random, statistically

1 valid basis at race meets provided for under this article OR WHEN CONCERNS ARE  
2 RAISED AS TO A PARTICULAR ANIMAL, INCLUDING BUT NOT LIMITED TO THE  
3 WINNER OF A RACE, and shall test and determine such samples or specimens or  
4 cause such samples or specimens to be tested and determined. For such purposes,  
5 the commission, at its expense and in addition to other employees, shall employ or  
6 contract with competent veterinary doctors, accountants, chemists, and other  
7 persons necessary to supervise the conduct of race meets and to ascertain that this  
8 article and the rules and regulations of the commission are strictly complied with.

9 **SECTION 4.** 12-60-105 (2) (b), Colorado Revised Statutes, 1991 Repl.  
10 Vol., is repealed as follows:

11 **12-60-105. Rules and regulations of the commission - licensing.**

12 ~~(2) (b) Notwithstanding any provision of this section to the contrary, in order to~~  
13 ~~encourage the reopening, as tracks, of facilities that previously were licensed to~~  
14 ~~hold race meets but which currently are not so licensed, a person who owns or~~  
15 ~~controls the possession of a facility which previously has been licensed to hold a~~  
16 ~~race meet may operate such facility as an in-state simulcast facility if such person~~  
17 ~~makes application for a race meet licence pursuant to section 12-60-106, provides~~  
18 ~~the commission with notice of intention to reopen and conduct race meets at the~~  
19 ~~facility, and provides evidence reasonably satisfactory to the commission that such~~  
20 ~~person, at the time of application, has the financial ability and management~~  
21 ~~expertise required to reopen and operate such facility as a track and if all other~~  
22 ~~requirements for operating an in-state simulcast facility, except the requirement that~~  
23 ~~the person be licensed within the year to hold a race meet, are met, except that~~  
24 ~~authorization to operate as an in-state simulcast facility under this paragraph (b)~~

1 ~~shall continue for only twelve months after the date on which written notice of such~~  
2 ~~authorization is issued by the commission, and the authorization shall not be~~  
3 ~~renewed. Such authorization may be granted by the commission only until and~~  
4 ~~including July 31, 1992. If a person has been granted authorization pursuant to~~  
5 ~~this paragraph (b) and is otherwise qualified to obtain a license, the commission~~  
6 ~~may assign race dates to such person upon such person's application to the~~  
7 ~~commission for race dates; however, the granting of a license to such person shall~~  
8 ~~be conditional upon such person having a facility which, on or before its first race~~  
9 ~~date, qualifies as a properly constructed racetrack pursuant to section 12-60-108 (1)~~

10 ~~(a).~~

11 SECTION 5. 12-60-105.5, Colorado Revised Statutes, 1991 Repl. Vol.,  
12 is amended BY THE ADDITION OF A NEW SUBSECTION to read:

13 12-60-105.5. Hearings - board of stewards or judges - review.

14 (7) THE COMMISSION MAY DIRECT THAT ANY HEARING BE CONDUCTED BEFORE  
15 AN ADMINISTRATIVE LAW JUDGE IN ACCORDANCE WITH ARTICLE 30 OF TITLE 24,  
16 C.R.S.

17 SECTION 6. The introductory portion to 12-60-105.6 (1) and  
18 12-60-105.6 (1) (c), (1) (m), and (2), Colorado Revised Statutes, 1991 Repl. Vol.,  
19 are amended, and the said 12-60-105.6 is further amended BY THE ADDITION  
20 OF A NEW SUBSECTION, to read:

21 12-60-105.6. Investigation - letters of admonition - denial, suspension,  
22 and revocation actions against licensees. (1) The commission or the board of  
23 stewards or judges of a race meet upon its own motion may, and upon verified  
24 complaint in writing of any person shall, investigate the activities of any licensee

1 within the state or any person upon the premises of a track, and the commission  
2 or board of stewards or judges may ISSUE A LETTER OF ADMONITION TO A  
3 LICENSEE, fine a licensee, suspend a license, or deny an application for a license,  
4 and the commission may revoke a license, if such person has committed any of the  
5 following violations:

6 (c) ~~Conviction of a felony under the laws of this or any other state or of~~  
7 ~~the United States, subject to the provisions of section 24-5-101, C.R.S. BEEN~~  
8 ~~CONVICTED OF, OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO, A~~  
9 ~~CRIMINAL CHARGE UNDER THE LAWS OF THIS OR ANY OTHER STATE OR OF THE~~  
10 ~~UNITED STATES, OR ENTERED INTO A PLEA BARGAIN FOR ACTS OR OMISSIONS~~  
11 ~~THAT, IF COMMITTED IN COLORADO, WOULD HAVE BEEN GROUNDS FOR DISCIPLINE~~  
12 ~~IN THIS STATE. A certified copy of the judgment of the court in which ANY such~~  
13 ~~conviction occurred shall be presumptive evidence of such conviction in any~~  
14 ~~hearing under this article. THIS PARAGRAPH SHALL BE APPLIED IN ACCORDANCE~~  
15 ~~WITH SECTION 24-5-101, C.R.S.~~

16 (m) Being currently under suspension or revocation of a racing license  
17 in another racing jurisdiction, OR HAVING BEEN SUBJECT TO DISCIPLINARY ACTION  
18 BY THE RACING COMMISSION OR EQUIVALENT AGENCY OF ANOTHER JURISDICTION  
19 FOR ACTS OR OMISSIONS THAT, IF COMMITTED IN COLORADO, WOULD HAVE BEEN  
20 GROUNDS FOR DISCIPLINE IN THIS STATE; EXCEPT THAT THIS PARAGRAPH SHALL  
21 NOT FURNISH THE BASIS FOR THE IMPOSITION OF FINES;

22 (2) Any person who fails to pay ~~in a timely manner~~ WITHIN THE TIME  
23 PERIOD ESTABLISHED BY RULE a fine imposed pursuant to this article shall pay, in  
24 addition to the fine due, a penalty amount equal to the fine. Any person who

1 submits to the commission a check in payment of a fine or license fee requirement  
2 imposed pursuant to this article, which check is not honored by the financial  
3 institution upon which it is drawn, shall pay, in addition to the fine or fee due, a  
4 penalty amount equal to the fine or fee. All moneys received pursuant to a penalty  
5 amount imposed by this subsection (2) shall be credited to the general fund of the  
6 state.

7 (3) ANY PERSON AGGRIEVED BY A FINAL ACTION OR ORDER OF THE  
8 COMMISSION MAY APPEAL SUCH ACTION TO THE COLORADO COURT OF APPEALS.

9 SECTION 7. 12-60-106 (3), Colorado Revised Statutes, 1991 Repl.  
10 Vol., is amended to read:

11 12-60-106. Meet licenses. (3) Except as otherwise limited by the  
12 provisions of this article, in considering an application for a license under this  
13 section, the commission may give consideration to the number of licenses already  
14 granted, and to the location of tracks previously licensed, and to the sentiments and  
15 character of the community in which the proposed race meets are to be conducted,  
16 and to the ability, character, and experience of each individual applicant or the  
17 officers and directors of each corporate applicant. The commission may require  
18 of every applicant for a license to hold a race meet, except a public nonprofit  
19 association, nonprofit corporation, or nonprofit fair, including the Colorado state  
20 fair and all county fairs, who has not, within five years prior to making an  
21 application for a license to hold a race meet, operated a race meet in the county,  
22 city, or city and county in which it is proposed to hold such race meet, a  
23 recommendation in writing of the board of county commissioners of said county  
24 in the event the race meet is to be held in unincorporated areas of said county or

1 of the governing board of a city or city and county if the proposed race meet is to  
2 be held within a city or city and county. ~~Beginning July 1, 1977,~~ The commission  
3 may deny a license to operate a new racetrack to a person who is already licensed  
4 to operate a racetrack within this or any other state if, in the opinion of the  
5 commission, the granting of such license would discourage legitimate competition  
6 from other qualified applicants.

7 SECTION 8. 12-60-106.5 (5) (b) (I), (5) (b) (II), and (7), Colorado  
8 Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

9 12-60-106.5. Simulcast facilities and simulcast races - unlawful acts  
10 - permissible acts. (5) (b) (I) (A) ~~On or after July 1, 1991,~~ and AN in-state  
11 simulcast facility which is located on the premises of a horse track which runs a  
12 horse race meet of at least fifty live race days or at least sixty live race days if  
13 such horse race meet is held during any portion of the track's third or subsequent  
14 year of operation may receive, each year, three days of simulcast horse races from  
15 an out-of-state host track for each day of live horse racing conducted at such horse  
16 track during such year.

17 (B) ~~On or after July 1, 1991,~~ A facility which is reopening as a track  
18 pursuant to section 12-60-105 (2) (b) may receive three days of simulcast horse  
19 races from an out-of-state host track for each day of live horse racing for which  
20 the commission has granted it a race date for the subsequent year. A day of  
21 simulcast horse races, for the purposes of this paragraph (b), shall not include a  
22 day on which live horse races are conducted at the horse track at which the  
23 simulcast facility is located or a day on which the simulcast facility receives only  
24 simulcast races of horses from a race meet conducted at an in-state host track.

1 (II) ~~On or after October 1, 1991,~~ An in-state simulcast facility which  
 2 is not located on the premises of a horse track which runs a horse race meet of at  
 3 least fifty live race days, or at least sixty live race days if such horse race meet is  
 4 held during any portion of the track's third or subsequent year of operation, may  
 5 only receive a broadcast signal of a simulcast horse race conducted at an  
 6 out-of-state host track through an in-state simulcast facility which is located on the  
 7 premises of a horse track which runs a horse race meet of at least fifty live race  
 8 days, or at least sixty live race days if such horse race meet is held during any  
 9 portion of the track's third or subsequent year of operation, or through a facility  
 10 which is reopening as a track pursuant to section 12-60-105 (2) (b), and which has  
 11 qualified to receive broadcasts of such simulcast horse race pursuant to the  
 12 provisions of subparagraph (I) of this paragraph (b).

13 (7) Notwithstanding any other provision of this article, ~~no simulcast race~~  
 14 ~~of horses may be received by any simulcast facility in the state of Colorado during~~  
 15 ~~calendar year 1993 unless at least one race meet of horses has been conducted~~  
 16 ~~within the state during calendar year 1992,~~ and no simulcast race of horses may be  
 17 received by any simulcast facility in the state of Colorado during calendar year  
 18 1994 unless at least one race meet of horses has been conducted within the state  
 19 during calendar year 1993.

20 SECTION 9. 12-60-107 (2), Colorado Revised Statutes, 1991 Repl.  
 21 Vol., is amended to read:

22 12-60-107. Duration of meets - acts - unlawful - lawful. (2) For the  
 23 operation of greyhound tracks, the state shall be divided into one north and one  
 24 south circuit, which consist, respectively, of the areas north and south of a

1 latitudinal line drawn through the location of the Douglas County courthouse in the  
 2 town of Castle Rock as of June 6, 1991. The commission shall license greyhound  
 3 tracks which are located in the north circuit for race meets of a duration of up to  
 4 one hundred twenty consecutive days, unless the license applicant, in its  
 5 application, requests nonconsecutive days or a shorter period. The commission  
 6 shall license greyhound tracks which are located in the south circuit for race meets  
 7 of a duration of up to one hundred eighty consecutive days, unless the license  
 8 applicant, in its application, requests nonconsecutive days or a shorter period.  
 9 ~~Beginning January 1, 1992,~~ Each greyhound track shall be licensed by the  
 10 commission to conduct only one race meet in any twelve-month period. Upon  
 11 approval by the commission, a licensed greyhound track shall be permitted to  
 12 contract with another licensed greyhound track within the same circuit to conduct  
 13 part or all of the race meet days granted it at such other greyhound track; except  
 14 that, unless the transferring greyhound track operates a race meet, without any  
 15 transfer of race days, at its home greyhound track during the twelve-month period  
 16 immediately following the last race meet day so transferred, such transferred race  
 17 dates in such following twelve-month period shall be assigned by the commission  
 18 to the transferee greyhound track, in addition to the race meet dates of the  
 19 transferee greyhound track which are otherwise authorized pursuant to this  
 20 subsection (2), upon application by the transferee greyhound track for such race  
 21 dates if the transferee greyhound track otherwise meets all requirements for  
 22 conducting a greyhound race meet. The commission shall schedule race meets of  
 23 greyhounds so that there is a race meet, but not more than one race meet, being  
 24 conducted at a greyhound track in both the north and the south circuits at all times;

1 except that race meets of greyhounds may be scheduled to run concurrently in the  
2 same circuit if the greyhound tracks running the concurrent meets are not closer  
3 to each other than one hundred miles.

4 SECTION 10. 12-60-112 (2.5) (a), Colorado Revised Statutes, 1991  
5 Repl. Vol., is amended to read:

6 12-60-112. Liability insurance - bond for horse races.  
7 (2.5) (a) Notwithstanding the provisions of subsection (2) of this section, every  
8 person licensed to conduct a race meet other than a horse race meet who has been  
9 licensed in this state for five consecutive years and who, during this period, has not  
10 had any actions on the bond or other evidence DEMONSTRATING A LACK of  
11 financial responsibility required in subsection (2) of this section ~~shall be exempt~~  
12 MAY BE EXEMPTED from the requirement to file such bond or other evidence of  
13 financial responsibility.

14 SECTION 11. 12-60-115, Colorado Revised Statutes, 1991 Repl. Vol.,  
15 is amended to read:

16 12-60-115. Penalty. Any person who ~~violates any of the provisions of~~  
17 ~~this article~~ COMMITS ANY OF THE ACTS ENUMERATED IN SECTION 12-60-105.6 (1)  
18 OTHER THAN THOSE WHICH ALSO CONSTITUTE CRIMES UNDER THE "COLORADO  
19 CRIMINAL CODE", TITLE 18, C.R.S., ~~upon conviction thereof, is guilty of~~ COMMITS  
20 a CLASS 2 misdemeanor and shall be punished as provided in section ~~48-4-109~~  
21 18-1-106, C.R.S.

22 SECTION 12. 12-60-121, Colorado Revised Statutes, 1991 Repl. Vol.,  
23 is amended to read:

24 12-60-121. Repeal of article. This article is repealed, effective July 1,

1 1993 1999. Prior to such repeal, the ~~committee~~ DIVISION and its licensing  
2 functions shall be reviewed as provided for in section 24-34-104, C.R.S.

3 SECTION 13. 13-4-102 (2), Colorado Revised Statutes, 1987 Repl.  
4 Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH  
5 to read:

6 13-4-102. Jurisdiction. (2) The court of appeals shall have initial  
7 jurisdiction to:

8 (ee) REVIEW FINAL ACTIONS AND ORDERS APPROPRIATE FOR JUDICIAL  
9 REVIEW OF THE COLORADO RACING COMMISSION, AS PROVIDED IN SECTION  
10 12-60-105.6 (3), C.R.S.

11 SECTION 14. 24-1-117 (4), Colorado Revised Statutes, 1988 Repl.  
12 Vol., as amended, is amended to read:

13 24-1-117. Department of revenue - creation. (4) (a) The department  
14 of revenue shall consist of the following divisions:

- 15 (I) Division of enforcement;
- 16 (II) Motor vehicle division;
- 17 (III) Ports of entry division;
- 18 (IV) Liquor enforcement division;
- 19 (V) State lottery division;
- 20 (VI) DIVISION OF RACING EVENTS, INCLUDING THE COLORADO RACING  
21 COMMISSION;
- 22 (VII) Division of gaming, including the Colorado limited gaming control  
23 commission; and
- 24 (VIII) Such other divisions, sections, and units as the executive director

1 of the department of revenue may create pursuant to section 24-35-103.

2 (b) The lottery division shall be headquartered in the city of Pueblo in  
3 facilities provided at lottery division expense at a location to be determined by the  
4 department of revenue. After 1992, the general assembly will review whether such  
5 headquarters should remain in the city of Pueblo in facilities provided at lottery  
6 division expense at a location to be determined by the department of revenue.

7 SECTION 15. 24-1-122 (2) (f), Colorado Revised Statutes, 1988 Repl.  
8 Vol., is repealed as follows:

9 24-1-122. Department of regulatory agencies - creation. (2) The  
10 department of regulatory agencies shall consist of the following divisions:

11 (f) ~~Division of racing events, the head of which shall be the director of~~  
12 ~~the division of racing events. The Colorado racing commission, the division of~~  
13 ~~racing events, and the office of the director of the division of racing events, created~~  
14 ~~by article 60 of title 12, C.R.S., and their powers, duties, and functions are~~  
15 ~~transferred by a type 1 transfer to the department of regulatory agencies as the~~  
16 ~~division of racing events.~~

17 SECTION 16. 24-34-104 (22) (a) (II), Colorado Revised Statutes, 1988  
18 Repl. Vol., is repealed as follows: 24-34-104. General assembly review of  
19 regulatory agencies and functions for termination, continuation, or  
20 reestablishment. (22) (a) The following divisions in the department of regulatory  
21 agencies shall terminate on July 1, 1993:

22 (II) ~~The division of racing events, including the Colorado racing~~  
23 ~~commission, created by article 60 of title 12, C.R.S.;~~

24 SECTION 17. 24-34-104 (28), Colorado Revised Statutes, 1988 Repl.

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

3 (28) (c) THE FOLLOWING DIVISION IN THE DEPARTMENT OF REVENUE  
4 SHALL TERMINATE ON JULY 1, 1999: THE DIVISION OF RACING EVENTS,  
5 INCLUDING THE COLORADO RACING COMMISSION, CREATED BY ARTICLE 60 OF  
6 TITLE 12, C.R.S.

7 SECTION 18. Effective date. This act shall take effect July 1, 1993.

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



BY REPRESENTATIVE Owen;  
also SENATORS Schaffer and Tebedo.

A BILL FOR AN ACT

101 CONCERNING THE OFFICE OF CONSUMER COUNSEL, AND, IN CONNECTION  
102 THEREWITH, PROVIDING FOR THE CONTINUATION OF SUCH OFFICE,  
103 TRANSFERRING SUCH OFFICE TO THE DEPARTMENT OF REGULATORY  
104 AGENCIES, AND MAKING AN APPROPRIATION.

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Bill Summary

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

Continues the office of consumer counsel until a certain date. Transfers the office of consumer counsel to the department of regulatory agencies as a division thereof. Creates the utility consumers' board to provide policy guidance to the office of consumer counsel and the consumer counsel. Provides for the appointment of members of such board.

Makes an appropriation from the public utilities commission fixed utility fund for the implementation of this act.

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

2 SECTION 1. 24-1-113 (3) (c), Colorado Revised Statutes, 1988 Repl.  
3 Vol., is repealed as follows:

4 24-1-113. Department of law - creation. (3) The department of law  
5 shall consist of the following divisions:

6 (c) ~~Office of consumer counsel, the head of which shall be the consumer~~  
7 ~~counsel, created by article 6.5 of title 40, C.R.S. The office of consumer counsel~~

1 ~~and the consumer counsel shall exercise their powers and perform their duties and~~  
2 ~~functions under the department of law as if the same were transferred by a type 2~~  
3 ~~transfer.~~

4 SECTION 2. 24-1-122 (2), Colorado Revised Statutes, 1988 Repl. Vol.,  
5 as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

6 24-1-122. Department of regulatory agencies - creation. (2) The  
7 department of regulatory agencies shall consist of the following divisions:

8 (a.5) THE OFFICE OF CONSUMER COUNSEL AND THE UTILITY  
9 CONSUMERS' BOARD, CREATED BY ARTICLE 6.5 OF TITLE 40, C.R.S. THE OFFICE  
10 OF CONSUMER COUNSEL AND ITS POWERS, DUTIES, AND FUNCTIONS ARE  
11 TRANSFERRED BY A TYPE 1 TRANSFER TO THE DEPARTMENT OF REGULATORY  
12 AGENCIES AS A DIVISION THEREOF. THE UTILITY CONSUMERS' BOARD SHALL  
13 EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS UNDER THE  
14 DEPARTMENT AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A  
15 TYPE 1 TRANSFER AND ALLOCATED TO THE OFFICE OF CONSUMER COUNSEL.

16 SECTION 3. 24-31-102 (1) (c), Colorado Revised Statutes, 1988 Repl.  
17 Vol., is repealed as follows:

18 24-31-102. Offices and divisions. (1) The department of law, the chief  
19 executive officer of which shall be the attorney general, shall consist of the  
20 following offices, boards, and divisions:

21 (c) ~~The office of consumer counsel, including the consumer counsel,~~  
22 ~~created by article 6.5 of title 40, C.R.S.~~

23 SECTION 4. 40-6.5-102, Colorado Revised Statutes, 1984 Repl. Vol.,  
24 is amended to read:

1 40-6.5-102. Office of consumer counsel - creation - appointment -  
2 attorney general to represent. (1) There is hereby created, as a division within  
3 the department of law REGULATORY AGENCIES, the office of consumer counsel, the  
4 head of which shall be the consumer counsel, who shall be appointed by the  
5 ~~attorney general~~ EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY  
6 AGENCIES pursuant to section 13 of article XII of the state constitution.

7 (2) The office of consumer counsel ~~and the consumer counsel~~ shall  
8 exercise ~~their~~ ITS powers and perform ~~their~~ ITS duties and functions specified in  
9 this article under the department of law ~~and the attorney general~~ REGULATORY  
10 AGENCIES as if the same were transferred to the department by a type 2 1 transfer,  
11 as such transfer is defined in the "Administrative Organization Act of 1968", article  
12 1 of title 24, C.R.S.

13 (3) (a) THE OFFICE OF CONSUMER COUNSEL SHALL BE UNDER THE  
14 POLICY GUIDANCE OF THE UTILITY CONSUMERS' BOARD, WHICH BOARD IS HEREBY  
15 CREATED. THE BOARD SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES  
16 AND FUNCTIONS SPECIFIED IN THIS ARTICLE UNDER THE DEPARTMENT OF  
17 REGULATORY AGENCIES AND THE EXECUTIVE DIRECTOR THEREOF AS IF THE SAME  
18 WERE TRANSFERRED TO THE DEPARTMENT BY A TYPE 1 TRANSFER, AS SUCH  
19 TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968",  
20 ARTICLE 1 OF TITLE 24, C.R.S.

21 (b) THE BOARD SHALL CONSIST OF ELEVEN MEMBERS APPOINTED BY THE  
22 GOVERNOR. SUCH MEMBERS SHALL BE APPOINTED TO REPRESENT RESIDENTIAL,  
23 SMALL BUSINESS, AND AGRICULTURAL UTILITY CONSUMERS. SUCH MEMBERS  
24 SHALL, TO THE EXTENT POSSIBLE, BE PERSONS WITH EXPERTISE AND EXPERIENCE

1 IN UTILITIES MANAGEMENT, ECONOMICS, ACCOUNTING, FINANCING, ENGINEERING,  
 2 PLANNING, AND UTILITIES LAW. IN MAKING APPOINTMENTS TO THE BOARD, THE  
 3 GOVERNOR SHALL ENSURE THAT THE MEMBERSHIP OF THE BOARD REPRESENTS THE  
 4 DIFFERENT GEOGRAPHIC AREAS OF THE STATE. OF THE MEMBERS OF THE BOARD  
 5 APPOINTED FOR TERMS BEGINNING JULY 1, 1993, FIVE OF SUCH MEMBERS SHALL  
 6 BE APPOINTED FOR TERMS OF ONE YEAR AND SIX SHALL BE APPOINTED FOR TERMS  
 7 OF TWO YEARS. THEREAFTER, MEMBERS OF THE BOARD SHALL BE APPOINTED FOR  
 8 TERMS OF TWO YEARS. THE GOVERNOR SHALL NOT APPOINT ANY MEMBER OF THE  
 9 BOARD IF SUCH PERSON HAS ANY CONFLICT OF INTEREST WITH SUCH PERSON'S  
 10 DUTIES AS A MEMBER OF THE BOARD. THE GOVERNOR MAY REMOVE ANY BOARD  
 11 MEMBER FOR MISCONDUCT, INCOMPETENCE, OR NEGLECT OF DUTY. BOARD  
 12 MEMBERS SHALL SERVE WITHOUT COMPENSATION, BUT MEMBERS WHO RESIDE  
 13 OUTSIDE THE COUNTIES OF DENVER, JEFFERSON, ADAMS, ARAPAHOE, BOULDER,  
 14 AND DOUGLAS SHALL BE ENTITLED TO REIMBURSEMENT FOR REASONABLE ACTUAL  
 15 EXPENSES TO ATTEND BOARD MEETINGS IN DENVER. THE BOARD SHALL MEET AT  
 16 LEAST ONCE EACH MONTH.

17 (c) IT IS THE DUTY OF THE BOARD TO REPRESENT THE PUBLIC INTEREST  
 18 OF COLORADO UTILITY USERS AND, SPECIFICALLY, THE INTERESTS OF  
 19 RESIDENTIAL, AGRICULTURAL, AND SMALL BUSINESS USERS, BY PROVIDING  
 20 GENERAL POLICY GUIDANCE AND OVERSIGHT FOR THE OFFICE OF CONSUMER  
 21 COUNSEL AND THE CONSUMER COUNSEL IN THE PERFORMANCE OF THEIR  
 22 STATUTORY DUTIES AND RESPONSIBILITIES AS SPECIFIED IN THIS ARTICLE. IN  
 23 CARRYING OUT ITS DUTIES UNDER THIS ARTICLE, THE BOARD MAY ADOPT RULES  
 24 AND REGULATIONS PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S. THE POWERS

1 AND DUTIES OF THE BOARD SHALL INCLUDE, BUT NOT BE LIMITED TO, THE  
 2 FOLLOWING:

3 (I) PROVIDING GENERAL POLICY GUIDANCE TO THE OFFICE OF  
 4 CONSUMER COUNSEL REGARDING RULE-MAKING MATTERS, LEGISLATIVE PROJECTS,  
 5 GENERAL ACTIVITIES, AND PRIORITIES OF THE OFFICE;

6 (II) GATHERING DATA AND INFORMATION AND FORMULATING POLICY  
 7 POSITIONS TO DIRECT THE OFFICE OF CONSUMER COUNSEL IN PREPARING ANALYSIS  
 8 AND TESTIMONY IN LEGISLATIVE HEARINGS ON PROPOSED LEGISLATION AFFECTING  
 9 THE INTERESTS OF RESIDENTIAL, SMALL BUSINESS, AND AGRICULTURAL UTILITY  
 10 USERS;

11 (III) REVIEWING THE PERFORMANCE OF THE OFFICE OF CONSUMER  
 12 COUNSEL ANNUALLY AND REPORTING EACH SUCH EVALUATION BY JANUARY 30 OF  
 13 EACH YEAR TO THE BUSINESS AFFAIRS AND LABOR COMMITTEES OF THE SENATE  
 14 AND HOUSE OF REPRESENTATIVES. EACH SUCH REPORT SHALL BE MADE  
 15 AVAILABLE TO ALL MEMBERS OF THE GENERAL ASSEMBLY.

16 (IV) CONFERRING WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT  
 17 OF REGULATORY AGENCIES ON THE HIRING OF THE CONSUMER COUNSEL AND  
 18 CONSULTING WITH SUCH EXECUTIVE DIRECTOR ON THE ANNUAL PERFORMANCE  
 19 EVALUATION OF THE OFFICE OF CONSUMER COUNSEL AND THE CONSUMER  
 20 COUNSEL.

21 (4) IT IS THE DUTY OF THE ATTORNEY GENERAL TO ADVISE THE OFFICE  
 22 OF CONSUMER COUNSEL AND THE BOARD IN ALL LEGAL MATTERS AND TO PROVIDE  
 23 REPRESENTATION IN PROCEEDINGS IN WHICH THE OFFICE OF CONSUMER COUNSEL  
 24 PARTICIPATES.

1 SECTION 5. 40-6.5-108, Colorado Revised Statutes, 1984 Repl. Vol.,  
2 as amended, is amended to read:

3 40-6.5-108. Office of consumer counsel subject to termination -  
4 repeal of article. (1) (a) Unless continued by the general assembly, the office of  
5 consumer counsel AND THE UTILITY CONSUMERS' BOARD shall terminate on July  
6 1, 1993 JULY 1, 1998.

7 (b) THIS ARTICLE IS REPEALED EFFECTIVE, JULY 1, 1998.

8 (2) The provisions of section 24-34-104 (5) to (12), C.R.S., concerning  
9 a wind-up period, an analysis and evaluation, public hearings, and claims by or  
10 against an agency shall apply to the office of consumer counsel; except that the  
11 attorney general shall perform the duties of the executive director of the department  
12 of regulatory agencies set forth under such section and the factors listed in section  
13 24-34-104 (9) (b), C.R.S., which are applicable only to regulatory agencies shall  
14 not be considered. THE TERMINATION SCHEDULE FOR REGULATORY BODIES OF THE  
15 STATE UNLESS EXTENDED AS PROVIDED IN THAT SECTION, ARE APPLICABLE TO THE  
16 OFFICE OF CONSUMER COUNSEL AND THE UTILITY CONSUMERS' BOARD.

17 SECTION 6. 40-6.5-109, Colorado Revised Statutes, 1984 Repl. Vol.,  
18 is repealed as follows:

19 40-6.5-109. Consumer counsel report. The consumer counsel shall  
20 report to the general assembly no later than July 1, 1987, all of the moneys which  
21 the existence of the counsel has saved consumers as defined herein due to the  
22 existence of the counsel between July 1, 1984, and July 1, 1987.

23 SECTION 7. 24-34-104 (27.5), Colorado Revised Statutes, 1988 Repl.  
24 Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH

1 to read:

2 24-34-104. General assembly review of regulatory agencies and  
3 functions for termination, continuation, or reestablishment. (27.5) (f) THE  
4 FOLLOWING DIVISION AND BOARD IN THE DEPARTMENT OF REGULATORY AGENCIES  
5 SHALL TERMINATE JULY 1, 1998: THE UTILITY CONSUMERS' BOARD AND THE  
6 OFFICE OF CONSUMER COUNSEL, CREATED IN ARTICLE 6.5 OF TITLE 40, C.R.S.

7 SECTION 8. Appropriation. In addition to any other appropriation,  
8 there is hereby appropriated, out of any moneys in the public utilities commission  
9 fixed utility fund not otherwise appropriated, to the department of regulatory  
10 agencies for allocation to the office of consumer counsel, for the fiscal year  
11 beginning July 1, 1993, the sum of \_\_\_\_\_ dollars (\$) and 2.0 FTE, or so  
12 much thereof as may be necessary, for the implementation of this act.

13 SECTION 9. Effective date. This act shall take effect July 1, 1993.

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

BY REPRESENTATIVE George;  
also SENATOR Hopper.

## A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF PASSENGER TRAMWAYS, AND, IN CONNECTION  
102 THEREWITH, CONTINUING THE PASSENGER TRAMWAY SAFETY BOARD.

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 Bill Summary

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

Continues the passenger tramway safety board. Rearranges existing statutory provisions for greater clarity. Allows some of the board's members to be appointed from industries related to, but not directly connected with, the design, manufacture, and operation of passenger tramways and adds provisions defining a quorum, requiring Colorado residency, and allowing removal for cause by the governor. Exempts portable aerial tramway devices (e.g., temporary ski lifts not used by the general public) from the jurisdiction of the board. Extends the board's jurisdiction to include initial construction and modification of private residence tramways.

Authorizes the board to investigate instances of suspected violations. Allows the board to appoint administrative law judges to conduct disciplinary hearings and grants subpoena power to the board and to the board's designated program administrator for such hearings. Provides for appeal of board actions to the Colorado court of appeals.

Continuously appropriates funds to the board for inspections, subject to an annual ceiling and with provision for charging costs to owners of the tramways being inspected. Gives the board authority to issue and enforce, by means of court injunctions and otherwise, orders relating to the modification, shutdown, or operation of tramways deemed hazardous.

Amends existing definitions and adds new terms. Amends annual inspection provisions to require two inspections at least every two thousand operating hours. Adds "reckless" operation and disobedience of board orders to the grounds for discipline of operators.

Makes conforming amendments.

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

2 **SECTION 1.** 13-4-102 (2), Colorado Revised Statutes, 1987 Repl. Vol.,  
3 as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **13-4-102. Jurisdiction.** (2) The court of appeals shall have initial  
5 jurisdiction to:

6 (ee) REVIEW FINAL ACTIONS AND ORDERS APPROPRIATE FOR JUDICIAL  
7 REVIEW OF THE COLORADO PASSENGER TRAMWAY SAFETY BOARD, AS PROVIDED  
8 IN SECTION 25-5-708, C.R.S.

9 **SECTION 2.** 24-34-104 (22) (b) (I) and (30) (b), Colorado Revised  
10 Statutes, 1988 Repl. Vol., as amended, are amended to read:

11 **24-34-104. General assembly review of regulatory agencies and**  
12 **functions for termination, continuation, or reestablishment.** (22) (b) The  
13 following boards and agencies in the division of registrations shall terminate on  
14 July 1, 1993:

15 (I) ~~The passenger tramway safety board, created by part 7 of article 5~~  
16 ~~of title 25, C.R.S.;~~

17 (30) (b) The following ~~board~~ **BOARDS** in the division of registrations shall  
18 terminate July 1, 2001:

19 (I) The state board of veterinary medicine created by article 64 of title  
20 12, C.R.S.;

21 (II) THE PASSENGER TRAMWAY SAFETY BOARD, CREATED BY PART 7 OF  
22 ARTICLE 5 OF TITLE 25, C.R.S.

23 **SECTION 3.** 25-5-701, Colorado Revised Statutes, 1989 Repl. Vol., is  
24 amended to read:

1 **25-5-701. Legislative declaration.** In order to assist in safeguarding life,  
2 health, property, and the welfare of this state, it is the policy of the state of  
3 Colorado to establish a board empowered to prevent unnecessary mechanical  
4 hazards in the operation of ~~ski-tows, lifts, and~~ PASSENGER tramways and to assure  
5 that reasonable design and construction are used for, that accepted safety devices  
6 and sufficient personnel are provided for, and that periodic inspections and  
7 adjustments are made which are deemed essential to the safe operation of, ~~ski-tows,~~  
8 ~~ski-lifts, and~~ passenger tramways.

9 **SECTION 4.** 25-5-702 (1), (3), and (4), Colorado Revised Statutes,  
10 1989 Repl. Vol., are amended, and the said 25-5-702 is further amended BY THE  
11 ADDITION OF A NEW SUBSECTION, to read:

12 **25-5-702. Definitions.** As used in this part 7, unless the context  
13 otherwise requires:

14 (1) ~~"Administrator" means the executive director of the department of~~  
15 ~~regulatory agencies.~~ "AREA OPERATOR" MEANS A PERSON WHO OWNS, MANAGES,  
16 OR DIRECTS THE OPERATION AND MAINTENANCE OF A PASSENGER TRAMWAY.  
17 "AREA OPERATOR" MAY APPLY TO THE STATE OR ANY POLITICAL SUBDIVISION OR  
18 INSTRUMENTALITY THEREOF.

19 (3) ~~"Operator" means a person who owns, manages, or directs the~~  
20 ~~operation of a passenger tramway. "Operator" may apply to the state or any~~  
21 ~~political subdivision or instrumentality thereof.~~ "LICENSE" MEANS THE FORMAL  
22 LEGAL PERMISSION OF THE BOARD TO OPERATE A PASSENGER TRAMWAY.

23 (4) "Passenger tramway" means a device used to transport passengers  
24 uphill on skis, or in cars on tracks, or suspended in the air by the use of steel

1 cables, chains, or belts, or by ropes, and usually supported by trestles or towers  
2 with one or more spans. "Passenger tramway" includes, BUT IS NOT LIMITED TO,  
3 the following devices:

4 ~~(a) Two-car aerial passenger tramway, a device used to transport~~  
5 ~~passengers in two open or enclosed cars attached to, and suspended from, a moving~~  
6 ~~wire rope or attached to a moving wire rope and supported on a standing wire~~  
7 ~~rope, or similar devices;~~ FIXED-GRIP LIFTS. "FIXED-GRIP LIFT" MEANS AN AERIAL  
8 LIFT ON WHICH CARRIERS REMAIN ATTACHED TO A HAUL ROPE. THE TRAMWAY  
9 SYSTEM MAY BE EITHER CONTINUOUSLY OR INTERMITTENTLY CIRCULATING, AND  
10 MAY BE EITHER MONOCABLE OR BICABLE.

11 ~~(b) Multi-car aerial passenger tramway, a device used to transport~~  
12 ~~passengers in several open or enclosed cars attached to, and suspended from, a~~  
13 ~~moving wire rope or attached to a moving wire rope and supported on a standing~~  
14 ~~wire rope, or similar devices;~~ DETACHABLE-GRIP LIFTS. "DETACHABLE-LIFT  
15 GRIP" MEANS AN AERIAL LIFT ON WHICH CARRIERS ALTERNATELY ATTACH TO AND  
16 DETACH FROM A MOVING HAUL ROPE. THE TRAMWAY SYSTEM MAY BE  
17 MONOCABLE OR BICABLE.

18 (c) FUNICULARS. "Funicular" MEANS a device in which a passenger car  
19 running on steel or wooden tracks is attached to and ~~pulled~~ PROPELLED by a steel  
20 cable, ~~or~~ AND ANY similar devices.

21 (d) CHAIR LIFTS. "Chair lift" MEANS a type of transportation on which  
22 passengers are carried on chairs suspended in the air and attached to a moving  
23 cable, chain, or link belt supported by trestles or towers with one or more spans,  
24 ~~or~~ AND ANY similar devices.

1 (e) SURFACE LIFTS. "SURFACE LIFT" MEANS A J-bar, T-bar, or platter  
2 pull ~~so-called~~ and ANY similar types of devices or means of transportation which  
3 pull skiers riding on skis by means of an attachment to a main overhead cable  
4 supported by trestles or towers with one or more spans.

5 (f) ROPE TOWS. "Rope tow" MEANS a type of transportation which pulls  
6 the skier riding on skis as the skier grasps the rope manually, ~~or~~ AND ANY similar  
7 devices.

8 (g) PORTABLE AERIAL TRAMWAY DEVICES. "PORTABLE AERIAL  
9 TRAMWAY DEVICE" MEANS ANY DEVICE DESIGNED FOR TEMPORARY USE AND  
10 OPERATION, WITHOUT PERMANENT FOUNDATIONS, IN CHANGING OR VARIABLE  
11 LOCATIONS, WITH A CAPACITY OF LESS THAN FIVE PERSONS, AND NOT USED OR  
12 INTENDED TO BE USED BY THE GENERAL PUBLIC.

13 (h) PORTABLE TRAMWAY DEVICES. "PORTABLE TRAMWAY DEVICE"  
14 MEANS ANY DEVICE DESIGNED TO BE USED AND OPERATED AS A ROPE TOW OR  
15 SURFACE LIFT WITHOUT PERMANENT FOUNDATIONS AND INTENDED FOR  
16 TEMPORARY USE IN CHANGING OR VARIABLE LOCATIONS, WHEN USED WITHIN THE  
17 BOUNDARY OF A RECOGNIZED SKI AREA.

18 (i) PRIVATE RESIDENCE TRAMWAYS. "PRIVATE RESIDENCE TRAMWAY"  
19 MEANS A DEVICE INSTALLED AT A PRIVATE RESIDENCE OR INSTALLED IN MULTIPLE  
20 DWELLINGS AS A MEANS OF ACCESS TO A PRIVATE RESIDENCE IN SUCH MULTIPLE  
21 DWELLING BUILDINGS, SO LONG AS THE TRAMWAY IS SO INSTALLED THAT IT IS  
22 NOT ACCESSIBLE TO THE GENERAL PUBLIC OR TO OTHER OCCUPANTS OF THE  
23 BUILDING.

24 (j) REVERSIBLE AERIAL TRAMWAYS. "REVERSIBLE AERIAL TRAMWAY"

1 MEANS A DEVICE ON WHICH PASSENGERS ARE TRANSPORTED IN CABLE-SUPPORTED  
2 CARRIERS AND ARE NOT IN CONTACT WITH THE GROUND OR SNOW SURFACE, AND  
3 IN WHICH THE CARRIERS RECIPROCATE BETWEEN TERMINALS.

4 (6) "REGISTRATION" MEANS FORMAL ACTION BY THE BOARD TO PERMIT  
5 A PARTICULAR PASSENGER TRAMWAY TO BE OPERATED AND TO MAKE AN OFFICIAL  
6 RECORD OF SUCH PERMISSION.

7 SECTION 5. 25-5-703, Colorado Revised Statutes, 1989 Repl. Vol., is  
8 amended to read:

9 25-5-703. Passenger tramway safety board - composition -  
10 termination. (1) There is hereby created a passenger tramway safety board of six  
11 appointive members and one member designated by the United States forest  
12 service. The appointive members shall be appointed by the governor from persons  
13 representing the following interests: Two members to represent the industry or  
14 AREA OPERATORS; two members to represent the public at large; and two members  
15 familiar with or ~~experienced in the tramway industry who may represent~~ HAVING  
16 EXPERIENCE RELATED TO TRAMWAYS OR SIMILAR DEVICES, WHICH MAY INCLUDE  
17 BUT NEED NOT BE LIMITED TO the passenger tramway manufacturing or design  
18 industry, ACADEMIA, THE INSURANCE INDUSTRY, OR THE TOURISM INDUSTRY;  
19 EXCEPT THAT THE TWO MEMBERS FAMILIAR WITH OR HAVING EXPERIENCE  
20 RELATED TO TRAMWAYS SHALL NOT CURRENTLY BE AREA OPERATORS OR  
21 OTHERWISE EMPLOYED IN THE PASSENGER TRAMWAY INDUSTRY. No person shall  
22 be so appointed or designated except those who, by reason of knowledge or  
23 experience, shall be deemed to be qualified. Such knowledge or experience shall  
24 be either from active involvement in the design, manufacture, or operation of

1 passenger tramways or as a result of extensive involvement in related activities.  
2 The governor, in making such appointments, shall consider recommendations made  
3 to him by the membership of the particular interest from which the appointments  
4 are to be made.

5 (2) EACH OF THE APPOINTED MEMBERS SHALL BE APPOINTED FOR A  
6 TERM OF FOUR YEARS AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIED AND  
7 NO BOARD MEMBER SHALL SERVE MORE THAN TWO CONSECUTIVE FOUR-YEAR  
8 TERMS. A BOARD MEMBER MAY BE REAPPOINTED TO THE BOARD AFTER HAVING  
9 VACATED THE BOARD FOR ONE FOUR-YEAR TERM. VACANCIES ON THE BOARD,  
10 FOR EITHER AN UNEXPIRED TERM OR FOR A NEW TERM, SHALL BE FILLED  
11 THROUGH PROMPT APPOINTMENT BY THE GOVERNOR. THE MEMBER OF THE BOARD  
12 DESIGNATED BY THE UNITED STATES FOREST SERVICE SHALL SERVE FOR SUCH  
13 PERIOD AS SUCH FEDERAL AGENCY SHALL DETERMINE AND SHALL SERVE WITHOUT  
14 COMPENSATION OR REIMBURSEMENT OF EXPENSES.

15 (4) THE GOVERNOR MAY REMOVE ANY MEMBER OF THE BOARD FOR  
16 MISCONDUCT, INCOMPETENCE, OR NEGLIGENCE OF DUTY.

17 (5) BOARD MEMBERS APPOINTED BY THE GOVERNOR SHALL HAVE BEEN  
18 RESIDENTS OF THIS STATE FOR AT LEAST ONE YEAR.

19 (6) NO MEMBER OF THE BOARD WHO HAS ANY FORM OF CONFLICT OF  
20 INTEREST OR THE POTENTIAL THEREOF SHALL PARTICIPATE IN CONSIDERATION OF  
21 THE DELIBERATIONS ON MATTERS TO WHICH SUCH CONFLICT MAY RELATE; SUCH  
22 CONFLICTS MAY INCLUDE, BUT ARE NOT LIMITED TO, A MEMBER OF THE BOARD  
23 HAVING ACTED IN ANY CONSULTING RELATIONSHIP OR BEING DIRECTLY OR  
24 INDIRECTLY INVOLVED IN THE OPERATION OF THE TRAMWAY IN QUESTION.



(7) A MAJORITY OF THE BOARD SHALL CONSTITUTE A QUORUM.

(8) THE PROVISIONS OF SECTION 24-34-104, C.R.S., CONCERNING THE TERMINATION SCHEDULE FOR REGULATORY BODIES OF THE STATE UNLESS EXTENDED AS PROVIDED IN THAT SECTION, ARE APPLICABLE TO THE PASSENGER TRAMWAY SAFETY BOARD CREATED BY THIS SECTION.

SECTION 6. 25-5-703.5, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is repealed as follows:

~~25-5-703.5. Board subject to termination - repeal of article. (1) The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state unless extended as provided in that section, are applicable to the passenger tramway safety board created by section 25-5-703.~~

~~(2) This article is repealed, effective July 1, 1993.~~

SECTION 7. 25-5-704, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

~~25-5-704. Powers and duties of the board. Each of the appointed members shall be appointed for a term of four years and until his successor is appointed and qualified; except that the additional member appointed to take office on July 1, 1977, shall be appointed for a one year term and until his successor is appointed and qualified. Board members shall be appointed for a four year term of service, and no board member shall serve more than two consecutive four year terms. A board member may be reappointed to the board after having vacated the board for one four year term. Vacancies in the board, for either an unexpired term or for a new term, shall be filled through prompt appointment by the governor. The member of the board designated by the United States forest service shall serve~~

~~for such period as such federal agency shall determine and shall serve without compensation or reimbursement of expense.~~ (1) THE BOARD HAS THE FOLLOWING POWERS AND DUTIES IN ADDITION TO THOSE OTHERWISE DESCRIBED BY THIS PART 7:

(a) TO PROMULGATE, AMEND, AND REPEAL SUCH RULES AND REGULATIONS AS MAY BE NECESSARY AND PROPER TO CARRY OUT THE PROVISIONS OF THIS ARTICLE. IN ADOPTING SUCH RULES AND REGULATIONS THE BOARD MAY USE AS GENERAL GUIDELINES THE STANDARDS CONTAINED IN THE "AMERICAN NATIONAL STANDARD FOR PASSENGER TRAMWAYS - AERIAL TRAMWAYS AND LIFTS, SURFACE LIFTS, AND TOWS - SAFETY REQUIREMENTS", AS ADOPTED BY THE AMERICAN NATIONAL STANDARDS INSTITUTE, INCORPORATED, AS AMENDED FROM TIME TO TIME. SUCH RULES AND REGULATIONS SHALL NOT BE DISCRIMINATORY IN THEIR APPLICATION TO AREA OPERATORS, AND PROCEDURES OF THE BOARD WITH RESPECT THERETO SHALL BE AS PROVIDED IN SECTION 24-4-103, C.R.S., WITH RESPECT TO RULE-MAKING.

(b) TO INVESTIGATE ALL MATTERS RELATING TO THE EXERCISE AND PERFORMANCE OF THE POWERS AND DUTIES OF THE BOARD;

(c) TO RECEIVE COMPLAINTS CONCERNING VIOLATIONS OF THIS PART 7;

(d) TO CONDUCT MEETINGS, HOLD HEARINGS, AND TAKE EVIDENCE IN ALL MATTERS RELATING TO THE EXERCISE AND PERFORMANCE OF THE POWERS AND DUTIES OF THE BOARD, SUBPOENA WITNESSES, ADMINISTER OATHS, AND COMPEL THE TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, AND RECORDS RELEVANT TO ANY INQUIRY. THE PROGRAM ADMINISTRATOR MAY ISSUE SUBPOENAS ON BEHALF OF THE BOARD. THE BOARD MAY APPOINT AN

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1 ADMINISTRATIVE LAW JUDGE PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24,  
2 C.R.S., TO TAKE EVIDENCE AND TO MAKE FINDINGS AND REPORT THEM TO THE  
3 BOARD. THE BOARD MAY ELECT TO HEAR THE MATTER ITSELF WITH THE  
4 ASSISTANCE OF AN ADMINISTRATIVE LAW JUDGE OR AN ADVISORY ATTORNEY FROM  
5 THE OFFICE OF THE ATTORNEY GENERAL, AND, IN SUCH CASE, THE ADVISOR OR  
6 ADMINISTRATIVE LAW JUDGE SHALL ADVISE THE BOARD ON LEGAL AND  
7 PROCEDURAL MATTERS, RULE ON EVIDENCE, AND OTHERWISE CONDUCT THE  
8 COURSE OF THE HEARING.

9 (e) TO DISCIPLINE AREA OPERATORS IN ACCORDANCE WITH THIS PART  
10 7;

11 (f) TO APPROVE AND RENEW REGISTRATIONS IN ACCORDANCE WITH THIS  
12 PART 7;

13 (g) TO ELECT OFFICERS;

14 (h) TO ESTABLISH STANDING OR TEMPORARY TECHNICAL AND SAFETY  
15 COMMITTEES COMPOSED OF PERSONS WITH EXPERTISE IN TRAMWAY-RELATED  
16 FIELDS TO REVIEW, AS THE BOARD DEEMS NECESSARY, THE DESIGN,  
17 CONSTRUCTION, MAINTENANCE, AND OPERATION OF PASSENGER TRAMWAYS AND  
18 TO MAKE RECOMMENDATIONS TO THE BOARD CONCERNING THEIR FINDINGS.  
19 COMMITTEES ESTABLISHED PURSUANT TO THIS PARAGRAPH (h) SHALL MEET AS  
20 DEEMED NECESSARY BY THE BOARD OR THE SUPERVISORY TRAMWAY ENGINEER.

21 (i) TO COLLECT FEES, ESTABLISHED PURSUANT TO SECTION 24-34-105,  
22 C.R.S., FOR ANY APPLICATION FOR NEW CONSTRUCTION OR MODIFICATION, FOR  
23 ANY APPLICATION FOR REGISTRATION OR SUPPLEMENTAL APPLICATION, AND FOR  
24 INSPECTIONS AND ACCIDENT INVESTIGATIONS;

1 (j) TO SEEK JUDICIAL RELIEF FOR VIOLATIONS OF THE PROVISIONS OF  
2 THIS PART 7, TO CAUSE THE PROSECUTION AND ENJOINER OF ALL PERSONS  
3 VIOLATING SUCH PROVISIONS, AND TO INCUR THE NECESSARY EXPENSES THEREOF;

4 (k) TO DELEGATE DUTIES TO THE PROGRAM ADMINISTRATOR;

5 (l) TO KEEP RECORDS OF ITS PROCEEDINGS AND OF ALL APPLICATIONS.

6 SECTION 8. 25-5-705 to 25-5-719, Colorado Revised Statutes, 1989  
7 Repl. Vol., as amended, are REPEALED AND REENACTED, WITH  
8 AMENDMENTS, to read:

9 25-5-705. Responsibilities of area operators. THE PRIMARY  
10 RESPONSIBILITY FOR DESIGN, CONSTRUCTION, MAINTENANCE, OPERATION, AND  
11 INSPECTION RESTS WITH THE AREA OPERATORS OF PASSENGER TRAMWAY DEVICES.

12 25-5-706. Disciplinary action - administrative sanctions - grounds.

13 (1) DISCIPLINARY ACTION OF THE BOARD PURSUANT TO THIS SECTION SHALL BE  
14 TAKEN IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT",  
15 ARTICLE 4 OF TITLE 24, C.R.S.

16 (2) DISCIPLINARY ACTION OF THE BOARD MAY BE IMPOSED AS AN  
17 ALTERNATIVE TO OR IN CONJUNCTION WITH THE ISSUANCE OF ORDERS OR THE  
18 PURSUIT OF OTHER REMEDIES PURSUANT TO SECTION 25-5-707 OR 25-5-716, AND  
19 MAY CONSIST OF ANY OF THE FOLLOWING:

20 (a) DENIAL, SUSPENSION, REVOCATION, OR REFUSAL TO RENEW  
21 REGISTRATION OF ANY PASSENGER TRAMWAY. SUSPENSION MAY INCLUDE  
22 SUMMARY SUSPENSION PURSUANT TO THIS PART 7 OR ARTICLE 4 OF TITLE 24,  
23 C.R.S.

24 (b) ISSUANCE OF A LETTER OF ADMONITION TO AN AREA OPERATOR;

1 (c) ASSESSMENT OF A FINE, NOT TO EXCEED TEN THOUSAND DOLLARS  
2 PER ACT OR OMISSION OR, IN THE CASE OF ACTS OR OMISSIONS FOUND TO BE  
3 WILLFUL, FIFTY THOUSAND DOLLARS PER ACT OR OMISSION, AGAINST ANY AREA  
4 OPERATOR;

5 (d) ISSUANCE OF A PUBLIC REPRIMAND TO AN AREA OPERATOR;

6 (e) IMPOSITION OF REASONABLE CONDITIONS UPON THE CONTINUED  
7 REGISTRATION OF A PASSENGER TRAMWAY OR UPON THE SUSPENSION OF FURTHER  
8 DISCIPLINARY ACTION AGAINST AN AREA OPERATOR.

9 (3) THE BOARD MAY TAKE DISCIPLINARY ACTION FOR ANY OF THE  
10 FOLLOWING ACTS OR OMISSIONS:

11 (a) ANY VIOLATION OF THE PROVISIONS OF THIS PART 7 OR OF ANY  
12 RULE OR REGULATION OF THE BOARD PROMULGATED PURSUANT TO SECTION  
13 25-5-704 WHEN THE ACT OR OMISSION UPON WHICH THE VIOLATION IS BASED WAS  
14 KNOWN TO, OR REASONABLY SHOULD HAVE BEEN KNOWN TO, THE AREA  
15 OPERATOR;

16 (b) VIOLATION OF ANY ORDER OF THE BOARD ISSUED PURSUANT TO  
17 PROVISIONS OF THIS PART 7;

18 (c) FAILURE TO REPORT ANY INCIDENT OR ACCIDENT TO THE BOARD AS  
19 REQUIRED BY ANY PROVISION OF THIS PART 7 OR ANY RULE OR REGULATION OF  
20 THE BOARD PROMULGATED PURSUANT TO SECTION 25-5-704 WHEN THE INCIDENT  
21 OR ACCIDENT WAS KNOWN TO, OR REASONABLY SHOULD HAVE BEEN KNOWN TO,  
22 THE AREA OPERATOR;

23 (d) RECKLESS CONDUCT IN THE OPERATION OR MAINTENANCE OF A  
24 PASSENGER TRAMWAY;

1 (e) OPERATION OF A PASSENGER TRAMWAY WHILE A CONDITION EXISTS  
2 IN THE DESIGN, CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE PASSENGER  
3 TRAMWAY WHICH ENDANGERS THE PUBLIC HEALTH, SAFETY, OR WELFARE, WHICH  
4 CONDITION WAS KNOWN OR REASONABLY SHOULD HAVE BEEN KNOWN BY THE  
5 AREA OPERATOR.

6 **25-5-707. Orders - enforcement.** (1) IF, AFTER INVESTIGATION, THE  
7 BOARD FINDS THAT A VIOLATION OF ANY OF ITS RULES OR REGULATIONS EXISTS  
8 OR THAT THERE IS A CONDITION IN PASSENGER TRAMWAY DESIGN, CONSTRUCTION,  
9 OPERATION, OR MAINTENANCE ENDANGERING THE SAFETY OF THE PUBLIC, IT  
10 SHALL FORTHWITH ISSUE ITS WRITTEN ORDER SETTING FORTH ITS FINDINGS AND  
11 THE CORRECTIVE ACTION TO BE TAKEN AND FIXING A REASONABLE TIME FOR  
12 COMPLIANCE THEREWITH. SUCH ORDER SHALL BE SERVED UPON THE AREA  
13 OPERATOR INVOLVED IN ACCORDANCE WITH THE COLORADO RULES OF CIVIL  
14 PROCEDURE OR THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF  
15 TITLE 24, C.R.S., AND SHALL BECOME FINAL UNLESS THE AREA OPERATOR  
16 APPLIES TO THE BOARD FOR A HEARING IN THE MANNER PROVIDED IN SECTION  
17 24-4-105, C.R.S.

18 (2) IF ANY AREA OPERATOR FAILS TO COMPLY WITH A LAWFUL ORDER  
19 OF THE BOARD ISSUED UNDER THIS SECTION WITHIN THE TIME FIXED THEREBY,  
20 THE BOARD MAY TAKE FURTHER ACTION AS PERMITTED BY SECTIONS 25-5-706 AND  
21 25-5-716 AND MAY COMMENCE AN ACTION SEEKING INJUNCTIVE RELIEF IN THE  
22 DISTRICT COURT OF THE JUDICIAL DISTRICT IN WHICH THE RELEVANT PASSENGER  
23 TRAMWAY IS LOCATED.

24 (3) ANY PERSON WHO VIOLATES AN ORDER ISSUED PURSUANT TO THIS

1 SECTION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN FIVE  
2 THOUSAND DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION OCCURS.

3 (4) ANY AREA OPERATOR WHO OPERATES A PASSENGER TRAMWAY  
4 WHICH HAS NOT BEEN REGISTERED BY THE BOARD OR THE REGISTRATION OF  
5 WHICH HAS BEEN SUSPENDED, OR WHO FAILS TO COMPLY WITH AN ORDER ISSUED  
6 UNDER THIS SECTION OR SECTION 25-5-716, COMMITS A CLASS 3 MISDEMEANOR  
7 AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S. FINES  
8 COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE GENERAL  
9 FUND OF THE STATE.

10 **25-5-708. Disciplinary proceedings.** (1) THE BOARD MAY INVESTIGATE  
11 ALL MATTERS WHICH PRESENT GROUNDS FOR DISCIPLINARY ACTION AS SPECIFIED  
12 IN THIS PART 7.

13 (2) DISCIPLINARY HEARINGS SHALL BE CONDUCTED BY THE BOARD OR  
14 BY AN ADMINISTRATIVE LAW JUDGE IN ACCORDANCE WITH SECTION 25-5-704 (1)  
15 (d).

16 (3) ANY PERSON AGGRIEVED BY A FINAL ACTION OR ORDER OF THE  
17 BOARD MAY APPEAL SUCH ACTION TO THE COLORADO COURT OF APPEALS IN  
18 ACCORDANCE WITH SECTION 24-4-106 (11), C.R.S.

19 **25-5-709. Passenger tramway registration required.** (1) THE STATE,  
20 THROUGH THE PASSENGER TRAMWAY SAFETY BOARD, SHALL REGISTER ALL  
21 PASSENGER TRAMWAYS, UNLESS SPECIFICALLY EXEMPTED BY LAW, ESTABLISH  
22 REASONABLE STANDARDS OF DESIGN AND OPERATIONAL PRACTICES, AND CAUSE  
23 TO BE MADE SUCH INSPECTIONS AS MAY BE NECESSARY IN CARRYING OUT THE  
24 PROVISIONS OF THIS SECTION.

1 (2) A PASSENGER TRAMWAY SHALL NOT BE OPERATED IN THIS STATE  
2 UNLESS IT HAS BEEN REGISTERED BY THE BOARD. NO NEW PASSENGER TRAMWAY  
3 SHALL BE INITIALLY REGISTERED IN THIS STATE UNLESS ITS DESIGN AND  
4 CONSTRUCTION HAVE BEEN CERTIFIED TO THIS STATE AS COMPLYING WITH THE  
5 RULES AND REGULATIONS OF THE BOARD PROMULGATED PURSUANT TO SECTION  
6 25-5-704. SUCH CERTIFICATION SHALL BE MADE BY A QUALIFIED TRAMWAY  
7 DESIGN ENGINEER OR A QUALIFIED TRAMWAY CONSTRUCTION ENGINEER,  
8 WHICHEVER THE CASE REQUIRES.

9 (3) ANY NEW CONSTRUCTION OF A PRIVATE RESIDENCE TRAMWAY OR  
10 ANY MODIFICATION OF AN EXISTING INSTALLATION SHALL NOT BE COMMENCED  
11 UNTIL AN APPLICATION TO BEGIN CONSTRUCTION OR MODIFICATION HAS BEEN  
12 SUBMITTED TO AND APPROVED BY THE BOARD. THE BOARD SHALL HAVE THE  
13 AUTHORITY TO PROMULGATE RULES AND REGULATIONS REGARDING CONSTRUCTION  
14 AND MODIFICATION OF PRIVATE RESIDENCE TRAMWAYS AS SET FORTH IN SECTION  
15 25-5-704. ANNUAL REGISTRATION OF PRIVATE RESIDENCE TRAMWAYS IS NOT  
16 REQUIRED.

17 (4) THE BOARD SHALL HAVE NO JURISDICTION OVER A PORTABLE AERIAL  
18 TRAMWAY DEVICE.

19 (5) THE BOARD SHALL HAVE NO JURISDICTION OVER A PORTABLE  
20 TRAMWAY DEVICE WHEN USED OUTSIDE THE BOUNDARY OF A RECOGNIZED  
21 RECREATIONAL AREA.

22 **25-5-710. Application for new construction or modification.** ANY NEW  
23 CONSTRUCTION OF A PASSENGER TRAMWAY OR ANY MODIFICATION TO AN  
24 EXISTING INSTALLATION SHALL NOT BE INITIATED UNLESS AN APPLICATION FOR

1 SUCH CONSTRUCTION OR MODIFICATION HAS BEEN MADE TO THE BOARD AND A  
2 PERMIT THEREFOR HAS BEEN ISSUED BY THE BOARD.

3 **25-5-711. Application for registration.** EACH YEAR, EVERY AREA  
4 OPERATOR OF A PASSENGER TRAMWAY SHALL APPLY TO THE BOARD, IN SUCH  
5 FORM AS THE BOARD SHALL DESIGNATE, FOR REGISTRATION OF THE PASSENGER  
6 TRAMWAYS WHICH SUCH AREA OPERATOR OWNS OR MANAGES OR THE OPERATION  
7 OF WHICH SUCH AREA OPERATOR DIRECTS. THE APPLICATION SHALL CONTAIN  
8 SUCH INFORMATION AS THE BOARD MAY REASONABLY REQUIRE IN ORDER FOR IT  
9 TO DETERMINE WHETHER THE PASSENGER TRAMWAY SOUGHT TO BE REGISTERED  
10 BY SUCH AREA OPERATOR COMPLIES WITH THE INTENT OF THIS PART 7 AS  
11 SPECIFIED IN SECTION 25-5-701 AND THE RULES AND REGULATIONS PROMULGATED  
12 BY THE BOARD PURSUANT TO SECTION 25-5-704.

13 **25-5-712. Registration of passenger tramways.** (1) THE BOARD SHALL  
14 ISSUE TO THE APPLYING AREA OPERATOR WITHOUT DELAY REGISTRATION  
15 CERTIFICATES FOR EACH PASSENGER TRAMWAY OWNED, MANAGED, OR THE  
16 OPERATION OF WHICH IS DIRECTED BY SUCH AREA OPERATOR WHEN THE BOARD  
17 IS SATISFIED:

18 (a) THAT THE FACTS STATED IN THE APPLICATION ARE SUFFICIENT TO  
19 ENABLE THE BOARD TO FULFILL ITS DUTIES UNDER THIS PART 7; AND

20 (b) THAT EACH SUCH PASSENGER TRAMWAY SOUGHT TO BE REGISTERED  
21 HAS BEEN INSPECTED BY AN INSPECTOR DESIGNATED BY THE BOARD ACCORDING  
22 TO PROCEDURES ESTABLISHED BY THE BOARD AND THAT SUCH INSPECTION  
23 DISCLOSED NO SAFETY HAZARD AND NO VIOLATIONS OF THE PROVISIONS OF THIS  
24 PART 7 OR THE RULES AND REGULATIONS OF THE BOARD PROMULGATED PURSUANT

1 TO SECTION 25-5-704.

2 (2) IN ORDER TO SATISFY ITSELF THAT THE CONDITIONS DESCRIBED IN  
3 SUBSECTION (1) OF THIS SECTION HAVE BEEN FULFILLED, THE BOARD MAY CAUSE  
4 TO BE MADE SUCH INSPECTIONS DESCRIBED IN SECTION 25-5-715 AS IT MAY  
5 REASONABLY DEEM NECESSARY.

6 (3) WHEN AN AREA OPERATOR INSTALLS A PASSENGER TRAMWAY  
7 SUBSEQUENT TO ANNUAL REGISTRATION DATES ESTABLISHED BY THE BOARD, SUCH  
8 AREA OPERATOR SHALL FILE A SUPPLEMENTAL APPLICATION FOR REGISTRATION  
9 OF SUCH PASSENGER TRAMWAY. UPON THE RECEIPT OF SUCH SUPPLEMENTAL  
10 APPLICATION, THE BOARD SHALL PROCEED IMMEDIATELY TO INITIATE  
11 PROCEEDINGS LEADING TO THE REGISTRATION OR REJECTION OF REGISTRATION OF  
12 SUCH PASSENGER TRAMWAY PURSUANT TO THE PROVISIONS OF THIS PART 7.

13 (4) REGISTRATIONS SHALL EXPIRE ON DATES ESTABLISHED BY THE  
14 BOARD.

15 (5) EACH AREA OPERATOR SHALL CAUSE THE REGISTRATION  
16 CERTIFICATE, OR A COPY THEREOF, FOR EACH PASSENGER TRAMWAY THUS  
17 REGISTERED TO BE DISPLAYED PROMINENTLY AT THE PLACE WHERE PASSENGERS  
18 ARE LOADED THEREON.

19 **25-5-713. Registration and certification fees.** THE APPLICATION FOR  
20 NEW CONSTRUCTION OR MODIFICATION AND THE APPLICATION FOR REGISTRATION  
21 OR ANY SUPPLEMENTAL APPLICATION SHALL BE ACCOMPANIED BY A FEE  
22 ESTABLISHED PURSUANT TO SECTION 24-34-105, C.R.S.

23 **25-5-714. Disposition of fees.** ALL FEES COLLECTED BY THE BOARD  
24 UNDER THE PROVISIONS OF THIS PART 7 SHALL BE TRANSMITTED TO THE STATE

1     TREASURER, WHO SHALL CREDIT THE SAME PURSUANT TO SECTION 24-34-105,  
 2     C.R.S., AND THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS  
 3     PURSUANT TO SAID SECTION FOR EXPENDITURES OF THE BOARD INCURRED IN THE  
 4     PERFORMANCE OF ITS DUTIES UNDER THIS PART 7, WHICH EXPENDITURES SHALL  
 5     BE MADE FROM SUCH APPROPRIATIONS UPON VOUCHERS AND WARRANTS DRAWN  
 6     PURSUANT TO LAW. ANY MONEYS COLLECTED BY THE BOARD FOR COSTS  
 7     RELATED TO SAFETY AND INCIDENT OR ACCIDENT INSPECTIONS ARE HEREBY  
 8     CONTINUOUSLY APPROPRIATED TO THE DIVISION OF REGISTRATIONS IN ADDITION  
 9     TO ANY OTHER MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY FOR THE  
 10    BOARD'S NORMAL OPERATIONS.

11           **25-5-715. Inspections and investigations - costs - reports.** (1) THE  
 12    BOARD MAY CAUSE TO BE MADE SUCH INSPECTION OF THE DESIGN,  
 13    CONSTRUCTION, OPERATION, AND MAINTENANCE OF PASSENGER TRAMWAYS AS  
 14    THE BOARD MAY REASONABLY REQUIRE.

15           (2) SUCH INSPECTIONS SHALL INCLUDE, AT A MINIMUM, TWO  
 16    INSPECTIONS PER YEAR OR PER TWO THOUSAND HOURS OF OPERATION, WHICHEVER  
 17    OCCURS FIRST, OF EACH PASSENGER TRAMWAY, ONE OF WHICH INSPECTIONS SHALL  
 18    BE DURING THE HIGH USE SEASON AND SHALL BE UNANNOUNCED, AND SHALL BE  
 19    CARRIED OUT UNDER CONTRACT WITH PERSONS SELECTED BY THE BOARD OR BY  
 20    THE SUPERVISORY TRAMWAY ENGINEER. ADDITIONAL INSPECTIONS MAY BE  
 21    REQUIRED IF THE INITIAL INSPECTIONS ARE NOT COMPLETED TO THE SATISFACTION  
 22    OF THE BOARD. THE BOARD SHALL PROVIDE IN ITS RULES AND REGULATIONS  
 23    THAT NO FACILITY SHALL BE SHUT DOWN FOR THE PURPOSES OF A REGULAR  
 24    INSPECTION DURING NORMAL OPERATING HOURS UNLESS SUFFICIENT DAYLIGHT IS

1     NOT AVAILABLE FOR THE INSPECTION.

2           (3) THE BOARD MAY EMPLOY INDEPENDENT CONTRACTORS TO MAKE  
 3    SUCH INSPECTIONS FOR REASONABLE FEES PLUS EXPENSES. THE EXPENSES  
 4    INCURRED BY THE BOARD IN CONNECTION WITH THE CONDUCT OF INSPECTIONS  
 5    PROVIDED FOR IN THIS PART 7 SHALL BE PAID IN THE FIRST INSTANCE BY THE  
 6    BOARD, BUT EACH AREA OPERATOR OF THE PASSENGER TRAMWAY WHICH WAS THE  
 7    SUBJECT OF SUCH INSPECTION SHALL, UPON NOTIFICATION BY THE BOARD OF THE  
 8    AMOUNT DUE, REIMBURSE THE BOARD FOR ANY CHARGES MADE BY SUCH  
 9    PERSONNEL FOR SUCH SERVICES AND FOR THE ACTUAL EXPENSES OF EACH  
 10   INSPECTION.

11           (4) THE BOARD MAY CAUSE AN INVESTIGATION TO BE MADE IN  
 12    RESPONSE TO AN ACCIDENT OR INCIDENT INVOLVING A PASSENGER TRAMWAY, AS  
 13    THE BOARD MAY REASONABLY REQUIRE. THE BOARD MAY EMPLOY INDEPENDENT  
 14    CONTRACTORS TO MAKE SUCH INVESTIGATIONS FOR REASONABLE FEES PLUS  
 15    EXPENSES. THE EXPENSES INCURRED BY THE BOARD IN CONNECTION WITH THE  
 16    CONDUCT OF INVESTIGATIONS PROVIDED FOR IN THIS PART 7 SHALL BE PAID IN  
 17    THE FIRST INSTANCE BY THE BOARD, AND EACH AREA OPERATOR MAY BE BILLED  
 18    FOR ANY CHARGES MADE BY SUCH PERSONNEL FOR SUCH SERVICES AND FOR THE  
 19    ACTUAL EXPENSES OF EACH INVESTIGATION, EXCEPT THAT THE BOARD SHALL NOT  
 20    EXPEND MORE THAN THIRTY THOUSAND DOLLARS, IN THE AGGREGATE, ON SUCH  
 21    INVESTIGATIONS IN ANY FISCAL YEAR WITHOUT A SUPPLEMENTAL APPROPRIATION  
 22    BY THE GENERAL ASSEMBLY.

23           (5) IF, AS THE RESULT OF AN INSPECTION, IT IS FOUND THAT A  
 24    VIOLATION OF THE BOARD'S RULES AND REGULATIONS EXISTS, OR A CONDITION

1 IN PASSENGER TRAMWAY DESIGN, CONSTRUCTION, OPERATION, OR MAINTENANCE  
2 EXISTS, ENDANGERING THE SAFETY OF THE PUBLIC, AN IMMEDIATE REPORT SHALL  
3 BE MADE TO THE BOARD FOR APPROPRIATE INVESTIGATION AND ORDER.

4 **25-5-716. Emergency shutdown.** WHEN FACTS ARE PRESENTED  
5 TENDING TO SHOW THAT A HAZARD EXISTS IN THE CONTINUED OPERATION OF A  
6 PASSENGER TRAMWAY, AFTER SUCH VERIFICATION OF SAID FACTS AS IS PRACTICAL  
7 UNDER THE CIRCUMSTANCES AND CONSISTENT WITH THE PUBLIC SAFETY, THE  
8 BOARD, ANY MEMBER THEREOF, OR THE SUPERVISORY TRAMWAY ENGINEER MAY,  
9 BY AN EMERGENCY ORDER, REQUIRE THE AREA OPERATOR OF SAID TRAMWAY  
10 FORTHWITH TO CEASE USING THE SAME FOR THE TRANSPORTATION OF  
11 PASSENGERS. SUCH EMERGENCY ORDER SHALL BE IN WRITING AND SIGNED BY A  
12 MEMBER OF THE BOARD OR THE SUPERVISORY TRAMWAY ENGINEER, AND NOTICE  
13 THEREOF MAY BE SERVED BY THE SUPERVISORY TRAMWAY ENGINEER, ANY  
14 MEMBER OF THE BOARD, OR AS PROVIDED BY THE COLORADO RULES OF CIVIL  
15 PROCEDURE OR THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF  
16 TITLE 24, C.R.S. SUCH SERVICE SHALL BE MADE UPON THE AREA OPERATOR OR  
17 THE AREA OPERATOR'S AGENT IMMEDIATELY IN CONTROL OF SAID TRAMWAY.  
18 SUCH EMERGENCY SHUTDOWN SHALL BE EFFECTIVE FOR A PERIOD NOT TO EXCEED  
19 SEVENTY-TWO HOURS FROM THE TIME OF SERVICE. THE BOARD SHALL CONDUCT  
20 AN INVESTIGATION INTO THE FACTS OF THE CASE AND SHALL TAKE SUCH ACTION  
21 UNDER THIS PART 7 AS MAY BE APPROPRIATE.

22 **25-5-717. Provisions in lieu of others.** THE PROVISIONS FOR  
23 REGULATION, REGISTRATION, AND LICENSING OF PASSENGER TRAMWAYS AND THE  
24 AREA OPERATORS THEREOF UNDER THIS PART 7 SHALL BE IN LIEU OF ALL OTHER

1 REGULATIONS OR REGISTRATION, OR LICENSING REQUIREMENTS, AND PASSENGER  
2 TRAMWAYS SHALL NOT BE CONSTRUED TO BE COMMON CARRIERS WITHIN THE  
3 MEANING OF THE LAWS OF THIS STATE.

4 **25-5-718. Governmental immunity - limitations on liability.** THE  
5 BOARD, ANY MEMBER OF THE BOARD, ANY PERSON ON THE STAFF OF THE BOARD,  
6 ANY TECHNICAL ADVISOR APPOINTED BY THE BOARD, ANY MEMBER OF AN  
7 ADVISORY COMMITTEE APPOINTED BY THE BOARD, AND ANY INDEPENDENT  
8 CONTRACTORS WITH WHOM THE BOARD CONTRACTS FOR ASSISTANCE SHALL BE  
9 PROVIDED ALL PROTECTIONS OF GOVERNMENTAL IMMUNITY PROVIDED TO PUBLIC  
10 EMPLOYEES BY ARTICLE 10 OF TITLE 24, C.R.S., INCLUDING BUT NOT LIMITED TO  
11 THE PAYMENT OF JUDGMENTS AND SETTLEMENTS, THE PROVISION OF LEGAL  
12 DEFENSE, AND THE PAYMENT OF COSTS INCURRED IN COURT ACTIONS. THESE  
13 PROTECTIONS SHALL BE PROVIDED TO THE BOARD, BOARD MEMBERS, STAFF,  
14 TECHNICAL ADVISORS, COMMITTEE MEMBERS, AND INDEPENDENT CONTRACTORS  
15 ONLY WITH REGARD TO ACTIONS BROUGHT BECAUSE OF ACTS OR OMISSIONS  
16 COMMITTED BY SUCH PERSONS IN THE COURSE OF OFFICIAL BOARD DUTIES.

17 **25-5-719. Independent contractors - no general immunity.** THE  
18 PROVISIONS OF SECTION 25-5-718 SHALL BE CONSTRUED AS A SPECIFIC EXCEPTION  
19 TO THE GENERAL EXCLUSION OF INDEPENDENT CONTRACTORS FROM THE  
20 PROTECTIONS OF GOVERNMENTAL IMMUNITY PROVIDED IN ARTICLE 10 OF TITLE  
21 24, C.R.S.

22 **SECTION 9.** Part 7 of article 5 of title 25, Colorado Revised Statutes,  
23 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
24 SECTION to read:

1           **25-5-720. Repeal of part.** (1) THIS PART 7 IS REPEALED, EFFECTIVE  
2 JULY 1, 2001.

3           (2) PRIOR TO SUCH REPEAL, THE PASSENGER TRAMWAY SAFETY BOARD  
4 SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

5           **SECTION 10. Effective date.** This act shall take effect July 1, 1993.

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



Sunrise and Sunset Review Committee  
August 10, 1992

\_\_\_\_\_ CONCURRENT RESOLUTION 93-

101 SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AN  
102 AMENDMENT TO SECTION 2 OF ARTICLE XVIII OF THE CONSTITUTION OF  
103 THE STATE OF COLORADO, DELETING THE SPECIFIC REFERENCES TO THE  
104 SECRETARY OF STATE AS THE ENTITY OF STATE GOVERNMENT  
105 REGULATING GAMES OF CHANCE, ALLOWING SUCH REGULATORY  
106 AUTHORITY TO BE DESIGNATED BY LAW, AND AUTHORIZING THE  
107 ISSUANCE OF LICENSES TO CONDUCT RAFFLE OPERATIONS ONLY.

Resolution Summary

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

Deletes specific references in the state constitution to the secretary of state as the entity of state government regulating games of chance and permits such regulatory authority to be designated by law. Specifically authorizes the issuance of licenses to permit raffle operations only.

1 *Be It Resolved by the \_\_\_\_\_ of the Fifty-ninth General Assembly of the State of*  
2 *Colorado, the \_\_\_\_\_ concurring herein:*

3 SECTION 1. At the next general election for members of the general  
4 assembly, there shall be submitted to the registered electors of the state of  
5 Colorado, for their approval or rejection, the following amendment to the

1 constitution of the state of Colorado, to wit:

2 Section 2 (2) and (3) of article XVIII of the constitution of the state of  
3 Colorado are amended to read:

4 Section 2. Lotteries prohibited - exceptions. (2) No game of chance  
5 pursuant to this subsection (2) and subsections (3) and (4) of this section shall be  
6 conducted by any person, firm, or organization, unless a license as provided for  
7 in this subsection (2) has been issued to the firm or organization conducting such  
8 games of chance. The ~~secretary of state~~ LICENSING AUTHORITY AS PRESCRIBED BY  
9 LAW shall, upon application therefor on such forms as shall be prescribed by the  
10 ~~secretary of state~~ LICENSING AUTHORITY and upon the payment of an annual fee as  
11 determined by the general assembly, issue a license for the conducting of such  
12 games of chance to any bona fide chartered branch or lodge or chapter of a  
13 national or state organization or to any bona fide religious, charitable, labor,  
14 fraternal, educational, voluntary firemen's or veterans' organization which operates  
15 without profit to its members and which has been in existence continuously for a  
16 period of five years immediately prior to the making of said application for such  
17 license and has had during the entire five-year period a dues-paying membership  
18 engaged in carrying out the objects of said corporation or organization, such  
19 license to expire at the end of each calendar year in which it was issued.

20 (3) The license issued by the ~~secretary of state~~ LICENSING AUTHORITY  
21 shall authorize and permit the licensee to conduct games of chance, restricted to  
22 the selling of rights to participate and the awarding of prizes in the specific kind  
23 of game of chance commonly known as bingo or lotto, in which prizes are awarded  
24 on the basis of designated numbers or symbols on a card conforming to numbers

1 or symbols selected at random and in the specific game of chance commonly  
2 known as raffles, conducted by the drawing of prizes or by the allotment of prizes  
3 by chance. THE LICENSING AUTHORITY MAY ALSO ISSUE A LICENSE THAT  
4 AUTHORIZES AND PERMITS THE LICENSEE TO CONDUCT RAFFLE OPERATIONS ONLY.

5 SECTION 2. Each elector voting at said election and desirous of voting  
6 for or against said amendment shall cast a vote as provided by law either "Yes" or  
7 "No" on the proposition: "An amendment to section 2 of article XVIII of the  
8 constitution of the state of Colorado, deleting the specific references to the  
9 secretary of state as the entity of state government regulating games of chance,  
10 allowing such regulatory authority to be designated by law, and authorizing the  
11 issuance of licenses to conduct raffle operations only."

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

Sunrise and Sunset Review Committee  
September 11, 1992

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF GAMES OF CHANCE, AND, IN CONNECTION  
102 THEREWITH, CONTINUING THE AUTHORITY OF THE SECRETARY OF STATE  
103 TO LICENSE SUCH ACTIVITIES, CREATING THE DIVISION OF GAMES OF  
104 CHANCE IN THE DEPARTMENT OF REVENUE TO ENFORCE THE  
105 REGULATORY PROVISIONS FOR GAMES OF CHANCE, AND MAKING AN  
106 APPROPRIATION.

Bill Summary

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

Continues the regulation of games of chance. Removes enforcement responsibilities from the secretary of state's office and places it instead with the department of revenue. Adds provisions for a raffles only license. Reduces the period during which a licensee may have his or her license suspended, pending a hearing. Amends current law which provides that disciplinary hearings shall be held by the secretary of state and requires instead that an administrative law judge conduct such proceedings. Provides that appeals must be taken directly to the court of appeals and not a district court.

Reorganizes the section concerning the powers and duties of the licensing authority and deletes provisions that are no longer applicable because of the removal of hearings from that agency. Authorizes the secretary of state to create an advisory committee to make recommendations to it concerning the bingo and raffles laws. Allows licensees to deduct allowable expenses which formerly were not deductible from pull tab and raffle operations, as well as bingo. Clarifies the definition of the term "raffle" and adds a definition for the term "bingo". Revises references to "net profits" to read "net proceeds", to reflect the intent of the statute.

Limits the age of persons who may assist in bingo and pull tab operations. Provides that games managers can never have been convicted of a

felony or a crime involving gambling. Includes a provision that allows the use of braille bingo cards for legally blind players, and allows disabled persons to use hard cards in lieu of disposable paper bingo cards.

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

2 SECTION 1. 2-3-1203 (3) (k), Colorado Revised Statutes, 1980 Repl.  
3 Vol., as amended, is amended BY THE ADDITION OF A NEW  
4 SUBPARAGRAPH to read:

5 2-3-1203. Sunset review of advisory committees. (3) The following  
6 dates are the dates for which the statutory authorization for the designated advisory  
7 committees is scheduled for repeal:

8 (k) July 1, 1998:

9 (IV) THE GAMES OF CHANCE ADVISORY COMMITTEE, APPOINTED  
10 PURSUANT TO SECTION 12-9-103.7, C.R.S.

11 SECTION 2. 12-9-102 (1) and (7), Colorado Revised Statutes, 1991  
12 Repl. Vol., are amended, and the said 12-9-102 is further amended BY THE  
13 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

14 12-9-102. Definitions. As used in this article, unless the context  
15 otherwise requires:

16 (1) ~~"Bingo raffle licensee" means any qualified organization to which a~~  
17 ~~bingo raffle license has been issued by the licensing authority.~~ "BINGO" MEANS A  
18 GAME OF CHANCE PLAYED FOR PRIZES USING CARDS OR SHEETS CONTAINING FIVE  
19 ROWS OF FIVE SQUARES BEARING NUMBERS, EXCEPT FOR THE CENTER SQUARE  
20 WHICH IS A FREE SPACE. TRADITIONAL BINGO ALSO REQUIRES THAT THE LETTERS  
21 "B I N G O" APPEAR IN ORDER OVER EACH COLUMN. THE HOLDER OF A CARD

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SUNRISE/SUNSET BILL 9

OR SHEET COVERS THE NUMBERS ON SUCH CARD OR SHEET WHEN OBJECTS SIMILARLY NUMBERED ARE RANDOMLY DRAWN. THE GAME IS WON WHEN A PREVIOUSLY DESIGNATED ARRANGEMENT OF NUMBERS ON SUCH CARD OR SHEET IS COVERED.

(1.2) "BINGO-RAFFLE LICENSEE" MEANS ANY QUALIFIED ORGANIZATION TO WHICH A BINGO-RAFFLE LICENSE HAS BEEN ISSUED BY THE LICENSING AUTHORITY.

(2.8) "DIVISION" MEANS THE DIVISION OF GAMES OF CHANCE IN THE DEPARTMENT OF REVENUE, CREATED IN SECTION 12-9-103.2.

(2.9) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF GAMES OF CHANCE.

(7) "Game of chance" means ~~that specific kind of game of chance commonly known as bingo or lotto in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and that specific kind of game of chance commonly known as raffles which is conducted by drawing for prizes or the allotment of prizes by chance, by the selling of shares or tickets or rights to participate in such a game.~~

THOSE SPECIFIC KINDS OF GAMES COMMONLY KNOWN AS BINGO, RAFFLES, AND PULL TABS.

(19.3) "RAFFLE" MEANS A GAME IN WHICH A PARTICIPANT BUYS A TICKET FOR A CHANCE AT A PRIZE WITH THE WINNER DETERMINED BY A RANDOM DRAWING TO TAKE PLACE AT A LOCATION AND ON A DATE PRINTED UPON THE TICKET OR A PULL TAB TICKET AS DEFINED IN SUBSECTION (18.1) OF THIS SECTION. THE TERM "RAFFLE" DOES NOT MEAN AND SHALL NOT BE INTERPRETED

TO INCLUDE ANY ACTIVITY WHICH IS AUTHORIZED OR REGULATED BY THE STATE LOTTERY DIVISION PURSUANT TO PART 2 OF ARTICLE 35 OF TITLE 24, C.R.S., OR THE "LIMITED GAMING ACT OF 1991", ARTICLE 47.1 OF TITLE 12, C.R.S.

(19.5) "RAFFLE LICENSEE" MEANS ANY QUALIFIED ORGANIZATION TO WHICH A RAFFLE LICENSE HAS BEEN ISSUED BY THE LICENSING AUTHORITY.

SECTION 3. 12-9-103, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-9-103. Licensing authority - powers - duties - license suspension or revocation proceedings. (1) The secretary of state is hereby designated as the "licensing authority" of this article. ~~The secretary of state is the executive in charge of enforcement of the terms and provisions of this article and~~ As state licensing authority, ~~his~~ THE SECRETARY OF STATE'S powers and duties are as follows:

(a) To grant or refuse licenses under this article. In addition, the licensing authority has the power AND THE RESPONSIBILITY, ~~on his own motion based on reasonable grounds or on complaint made and after investigation and public hearing BEFORE AN ADMINISTRATIVE LAW JUDGE, at which the licensee shall be afforded an opportunity to be heard to suspend or revoke any license issued by the licensing authority, and to assess civil penalties in the form of fines against any landlord licensee for any violation by the licensee or any officer, director, agent, member, or employee of such licensee of the provisions of this article or any rule or regulation authorized under this article. Notice of license suspension or revocation or of fines assessed, as well as notice of any hearing, shall be given by certified mail of same to the licensee at the address contained in such license. IN~~

1 ACCORDANCE WITH ANY ORDER OF SUCH ADMINISTRATIVE LAW JUDGE. WHEN A  
 2 LICENSE IS ORDERED SUSPENDED OR REVOKED, THE LICENSEE SHALL SURRENDER  
 3 THE LICENSE TO THE LICENSING AUTHORITY ON OR BEFORE THE EFFECTIVE DATE  
 4 OF THE SUSPENSION OR REVOCATION. NO LICENSE IS VALID BEYOND THE  
 5 EFFECTIVE DATE OF THE SUSPENSION OR REVOCATION, WHETHER SURRENDERED  
 6 OR NOT. Any bingo-raffle OR RAFFLE license may be temporarily suspended for  
 7 a period not to exceed ~~thirty~~ TEN days pending any prosecution, investigation, or  
 8 public hearing.

9 (b) To supervise the administration of this article and to adopt, amend,  
 10 and repeal rules and regulations governing the holding, operating, and conducting  
 11 of games of chance, the rental of premises, and the purchase of equipment to the  
 12 end that games of chance shall be held, operated, and conducted only by licensees  
 13 for the purposes and in conformity with the state constitution and the provisions of  
 14 this article;

15 ~~(c) To hear and determine at public hearing all complaints against any~~  
 16 ~~licensee and to administer oaths and issue subpoenas to require the presence of~~  
 17 ~~persons and production of papers, books, and records necessary to the~~  
 18 ~~determination of any hearing so held;~~

19 (d) To keep records of all actions and transactions of the licensing  
 20 authority;

21 (e) To prepare and transmit annually, in the form and manner prescribed  
 22 by the heads of the principal departments pursuant to the provisions of section  
 23 24-1-136, C.R.S., a report accounting to the governor and the general assembly  
 24 for the efficient discharge of all responsibilities assigned by law or directive to the

1 authority, and to issue publications of the authority intended for circulation in  
 2 quantity outside the executive branch in accordance with the provisions of section  
 3 24-1-136, C.R.S. IN ADDITION, THE LICENSING AUTHORITY SHALL PREPARE AND  
 4 REPORT TO THE GOVERNOR AND GENERAL ASSEMBLY ON AN ANNUAL BASIS,  
 5 STATISTICAL DATA THAT REFLECTS THE DISTRIBUTION OF GAMING DOLLARS TO  
 6 BINGO-RAFFLE LICENSEES, RAFFLE LICENSEES, THE GAMING PUBLIC, BINGO HALL  
 7 LANDLORDS, AND GAMING SUPPLIERS AND MANUFACTURERS.

8 (2) ~~(a) Proceedings to suspend or to revoke a license shall be brought by~~  
 9 ~~The licensing authority by serving in the manner provided in the Colorado rules~~  
 10 ~~of civil procedure, a complaint upon the licensee and notifying the licensee of the~~  
 11 ~~place and date, not less than twenty days after the date of service, at which a~~  
 12 ~~hearing thereon shall be held. The complaint shall set forth, in the manner of~~  
 13 ~~complaints in civil action, the violations of this article or the rules and regulations~~  
 14 ~~of the licensing authority which the licensing authority alleges the licensee has~~  
 15 ~~committed. The licensing authority may stop the operation of a game pending~~  
 16 ~~hearing, in which case the hearing must be held within ten days after such notice~~  
 17 MAY SUSPEND OR REVOKE A LICENSE PURSUANT TO THE PROVISIONS OF SECTION  
 18 24-4-104, C.R.S. HEARINGS THAT ARE HELD FOR THE PURPOSE OF DETERMINING  
 19 WHETHER A LICENSEE'S LICENSE SHOULD BE REVOKED OR SUSPENDED SHALL BE  
 20 CONDUCTED BY AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO PART  
 21 10 OF ARTICLE 30 OF TITLE 24, C.R.S., AND SHALL BE HELD IN THE MANNER AND  
 22 PURSUANT TO THE RULES AND PROCEDURES DESCRIBED IN SECTIONS 24-4-104,  
 23 24-4-105, AND 24-4-106, C.R.S. HEARINGS SHALL BE HELD AND CONCLUDED, IN  
 24 ACCORDANCE WITH SUCH RULES, WITH REASONABLE DISPATCH AND WITHOUT

1 UNNECESSARY DELAY.

2 ~~(b) The licensing authority shall cause the notice of hearing to be served~~  
3 ~~personally upon an officer of the licensee or the member in charge of the conduct~~  
4 ~~of the game of chance or to be sent by registered or certified mail to the licensee~~  
5 ~~at the address shown in the license.~~

6 ~~(c) When the suspension or revocation proceedings are begun before the~~  
7 ~~licensing authority, it shall hear the matter and make written findings in support of~~  
8 ~~its decision. The licensee shall be informed immediately of the decision and in the~~  
9 ~~event of a suspension or revocation the effective date of the suspension or~~  
10 ~~revocation.~~

11 ~~(d) When a license is ordered suspended or revoked, the licensee shall~~  
12 ~~surrender the license to the licensing authority on or before the effective date of the~~  
13 ~~suspension or revocation. No license is valid beyond the effective date of the~~  
14 ~~suspension or revocation, whether surrendered or not.~~

15 (3) (a) Upon the A finding BY AN ADMINISTRATIVE LAW JUDGE of a  
16 violation of this article or the rules and regulations, or both, such as would warrant  
17 the suspension or revocation of a license, the licensing authority, in addition to any  
18 other penalties which may be imposed BY THE ADMINISTRATIVE LAW JUDGE, may  
19 declare the violator ineligible to conduct a game of bingo and to apply for a license  
20 under said laws for a period not exceeding twelve months thereafter. Such  
21 declaration of ineligibility may be extended to include, in addition to the violator,  
22 any of its subsidiary organizations, its parent organization, or otherwise, affiliated  
23 with the violator when, in the opinion of the licensing authority, the circumstances  
24 of the violation warrant such action.

1 (b) THE DECISION OF THE ADMINISTRATIVE LAW JUDGE IN SUSPENDING  
2 OR REVOKING ANY LICENSE UNDER THIS ARTICLE SHALL BE FINAL AND SUBJECT  
3 TO REVIEW BY THE COURT OF APPEALS, PURSUANT TO THE PROVISIONS OF SECTION  
4 24-4-106 (11), C.R.S.

5 ~~(4) (a) Upon receipt by a licensee of a complaint signed by the licensing~~  
6 ~~authority and notice of a hearing, the licensee shall answer, in the manner of civil~~  
7 ~~actions, said complaint and inform the licensing authority whether oral argument~~  
8 ~~is desired and whether the licensee desires to produce witnesses.~~

9 ~~(b) At the request of any party and for good cause shown the licensing~~  
10 ~~authority shall issue subpoenas for the attendance of witnesses and the production~~  
11 ~~of books, records, and other documents.~~

12 ~~(c) Repealed, L. 86, p. 611, 1, effective March 20, 1986.~~

13 ~~(5) (a) Hearings may be adjourned by the licensing authority from time~~  
14 ~~to time at the request of any party, but only for good cause shown. Hearings shall~~  
15 ~~be held and concluded with reasonable dispatch and without unnecessary delay.~~

16 ~~(b) The licensing authority shall decide any matter within thirty days of~~  
17 ~~the hearing.~~

18 ~~(c) Upon the determination of any matter heard, the licensing authority~~  
19 ~~shall state its findings. All parties shall be notified by the licensing authority of the~~  
20 ~~action of the licensing authority and shall be furnished a copy of the findings.~~

21 ~~(6) (a) Applicants for a license or the licensee may be represented by~~  
22 ~~counsel.~~

23 ~~(b) Any person appearing before the licensing authority in a~~  
24 ~~representative capacity shall be required to show his authority to act in such~~

1 capacity.

2 (7) (a) No person may be excused from testifying or producing any book  
3 or document in any investigation or hearing when ordered so to do by the licensing  
4 authority upon the ground that testimony or documentary evidence required of him  
5 may tend to incriminate or subject him to penalty or forfeiture, but no person may  
6 be prosecuted, punished, or subjected to any penalty or forfeiture on account of  
7 any matter or thing concerning which he, under oath, shall have testified or  
8 produced documentary evidence; except that he shall not be exempt from  
9 prosecution or punishment for any perjury in the first or second degree committed  
10 by him in his testimony.

11 (b) If a person subpoenaed to attend in any such investigation or hearing  
12 fails to obey the command of the subpoena without reasonable cause or if a person  
13 in attendance in any such investigation or hearing refuses, without lawful cause,  
14 to be examined or to answer a legal or pertinent question or to exhibit any book,  
15 account, record, or other document when ordered so to do by the representative of  
16 the licensing authority holding such investigation or hearing, the licensing authority  
17 may apply to any judge of the district court, upon proof by affidavit of the facts,  
18 for an order returnable in not less than two nor more than ten days directing such  
19 person to show cause before the judge why he should not comply with such  
20 subpoena or order.

21 (c) Upon return of the order, the judge before whom the matter comes  
22 on for hearing shall examine such person under oath, and if the judge determines,  
23 after giving such person an opportunity to be heard, that he refused without legal  
24 excuse to comply with such subpoena or such order of the licensing authority

1 holding such investigation, the judge may order such person to comply therewith  
2 forthwith, and any failure to obey the order of the judge may be punished as a  
3 contempt of the district court.

4 (d) Every witness is entitled to be paid for attendance or attendance and  
5 travel by the party on whose behalf he is subpoenaed, at the rates prescribed by  
6 law, before being required to testify.

7 (8) (a) The decision of the licensing authority in suspending or revoking  
8 any license under this article shall be subject to review. Any licensee aggrieved  
9 by such decision, within thirty days after receipt of a copy of the order of the  
10 licensing authority may file a petition in the district court in the county in which  
11 the licensee is located, and said court has jurisdiction, after notice to the licensing  
12 authority, to hear and determine said petition and to affirm, reverse, vacate, or  
13 modify the order of the licensing authority complained of if, upon consideration of  
14 the record, such court is of the opinion that such order was unlawful or  
15 unreasonable.

16 (b) Upon any such petition being filed, a copy of the same shall be  
17 served upon the licensing authority forthwith by delivery of a copy to the licensing  
18 authority. In such petition, the petitioner shall be denominated as petitioner, and  
19 the licensing authority shall be denominated as respondent. The petition shall set  
20 forth the errors complained of.

21 (c) Upon such service of a petition being made, the licensing authority,  
22 within twenty days thereafter or within such further time as the court may grant,  
23 shall file an answer to the petition in the office of the clerk of the court. With its  
24 answer, the licensing authority shall file a transcript of the records and orders of

~~the licensing authority and a transcript of all papers and of all evidence adduced upon the hearing before the licensing authority in the proceedings complained of, and the court shall hear and determine the matter upon the petition, answer, and transcripts.~~

~~(d) No proceeding to vacate, reverse, or modify any final order rendered by the licensing authority shall operate to stay the execution or effect of such final order unless the district court, on application and three days' notice to the licensing authority, allows such stay. In the event a stay is ordered, the petitioner shall be required to execute his bond in such sum as the court may prescribe, with sufficient surety to be approved by the judge or clerk of the court, which bond shall be conditioned upon the faithful performance by such petitioner of his obligation as a licensee and upon the prompt payment of all damages arising from or caused by the delay in the taking effect or enforcement of the order complained of and for all costs that may be assessed or required to be paid in connection with such proceedings.~~

**SECTION 4.** Article 9 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**12-9-103.2. Division of games of chance - creation.** EFFECTIVE JANUARY 1, 1994, THERE IS HEREBY CREATED, IN THE DEPARTMENT OF REVENUE, THE DIVISION OF GAMES OF CHANCE, THE HEAD OF WHICH SHALL BE THE DIRECTOR OF THE DIVISION OF GAMES OF CHANCE. THE DIRECTOR SHALL BE APPOINTED BY, AND SHALL BE SUBJECT TO REMOVAL BY, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE. THE DIRECTOR OF THE DIVISION

SHALL EXERCISE AND PERFORM SUCH DIRECTOR'S POWERS AND DUTIES AS SPECIFIED IN THIS ARTICLE UNDER THE DEPARTMENT OF REVENUE AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A TYPE 2 TRANSFER, AS SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S.

**12-9-103.5. Director - qualifications - powers and duties.** (1) THE DIRECTOR SHALL BE QUALIFIED BY TRAINING AND EXPERIENCE TO DIRECT THE WORK OF THE DIVISION; AND, NOTWITHSTANDING THE PROVISIONS OF SECTION 24-5-101, C.R.S., SHALL BE OF GOOD CHARACTER AND SHALL NOT HAVE BEEN CONVICTED OF ANY FELONY OR GAMBLING-RELATED OFFENSE.

(2) THE DIRECTOR SHALL DEVOTE SUCH PERSON'S ENTIRE TIME AND ATTENTION TO THE DUTIES OF THE OFFICE AND SHALL NOT BE ENGAGED IN ANY OTHER PROFESSION OR OCCUPATION.

(3) THE DIRECTOR, AS ADMINISTRATIVE HEAD OF THE DIVISION, SHALL BE RESPONSIBLE FOR ENFORCING THE PROVISIONS OF THIS ARTICLE. IN ADDITION, IT SHALL BE THE RESPONSIBILITY OF THE DIRECTOR TO EMPLOY AND DIRECT SUCH PERSONNEL AS MAY BE NECESSARY TO CARRY OUT THE PURPOSES OF THE ENFORCEMENT PROVISIONS OF THIS ARTICLE, BUT NO PERSON SHALL BE EMPLOYED WHO HAS BEEN CONVICTED OF A FELONY OR GAMBLING-RELATED OFFENSE, NOTWITHSTANDING THE PROVISIONS OF SECTION 24-5-101, C.R.S.

(4) THE DIRECTOR SHALL MAKE AVAILABLE FOR INSPECTION BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE, UPON REQUEST, ALL BOOKS, RECORDS, FILES, AND OTHER INFORMATION AND DOCUMENTS OF THE DIRECTOR'S OFFICE.



1 (5) THE DIRECTOR SHALL PREPARE AND SUBMIT ANNUALLY TO THE  
2 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE FOR APPROVAL A  
3 PROPOSED BUDGET FOR THE ENSUING FISCAL YEAR. SUCH BUDGET SHALL PRESENT  
4 A COMPLETE FINANCIAL PLAN SETTING FORTH ALL PROPOSED EXPENDITURES AND  
5 ANTICIPATED REVENUES, IF ANY, OF THE DIVISION. THE FISCAL YEAR OF THE  
6 DIVISION SHALL COMMENCE ON JULY 1 AND END ON JUNE 30 OF EACH YEAR.

7 (6) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT ANY  
8 PERSON IS ENGAGING IN AN ACTIVITY THAT IS A DANGER TO THE PUBLIC AND IS  
9 IN VIOLATION OF THE PROVISIONS OF THIS ARTICLE OR ANY LAWFUL RULE OR  
10 REGULATION ISSUED UNDER THIS ARTICLE, THE DIRECTOR MAY ENTER A WRITTEN  
11 ORDER REQUIRING SUCH PERSON TO CEASE AND DESIST FROM SUCH ACTIVITY.

12 THE ORDER SHALL SET FORTH THE STATUTES AND RULES AND REGULATIONS  
13 ALLEGED TO HAVE BEEN VIOLATED, THE FACTS ALLEGED TO HAVE CONSTITUTED  
14 THE VIOLATION, AND THE REQUIREMENT THAT ALL UNLAWFUL ACTS IMMEDIATELY  
15 CEASE. NO STAY OF A CEASE AND DESIST ORDER SHALL BE ISSUED BEFORE A  
16 HEARING HAS BEEN HELD AT WHICH BOTH PARTIES HAVE HAD AN OPPORTUNITY  
17 TO APPEAR. MATTERS BROUGHT BEFORE A COURT PURSUANT TO THIS SUBSECTION

18 (6) SHALL HAVE PREFERENCE OVER OTHER MATTERS ON THE CALENDAR OF THE  
19 COURT.

20 (7) THE DIRECTOR SHALL HAVE THE RESPONSIBILITY TO PERFORM ANY  
21 OTHER LAWFUL ACTS WHICH THE DIRECTOR DEEMS NECESSARY TO CARRY OUT THE  
22 PURPOSES AND PROVISIONS OF THIS ARTICLE, AND SHALL HAVE THE AUTHORITY  
23 TO ADOPT, AMEND, AND REPEAL RULES AND REGULATIONS GOVERNING THE  
24 ENFORCEMENT OF THE PROVISIONS OF THIS ARTICLE.

1 **12-9-103.7. Advisory committee established - sunset review.**

2 (1) THERE IS HEREBY CREATED A GAMES OF CHANCE ADVISORY COMMITTEE,  
3 REFERRED TO IN THIS ARTICLE AS THE "ADVISORY COMMITTEE", CONSISTING OF  
4 SIX MEMBERS. THE MEMBERS OF THE ADVISORY COMMITTEE SHALL BE APPOINTED  
5 BY THE SECRETARY OF STATE AND SHALL BE CHOSEN TO REPRESENT THE VARIOUS  
6 AREAS OF GAMING. SPECIFICALLY INCLUDED SHALL BE A LANDLORD LICENSEE,  
7 A MANUFACTURER OR SUPPLIER LICENSEE, TWO BINGO-RAFFLE LICENSEES, A BINGO  
8 PLAYER, AND A LEVEL I PEACE OFFICER AS DEFINED IN SECTION 18-1-901 (3) (I)  
9 (I), C.R.S. MEMBERS SHALL SERVE AT THE PLEASURE OF THE SECRETARY OF  
10 STATE AND SHALL RECEIVE NO COMPENSATION BUT SHALL BE REIMBURSED FOR  
11 THEIR ACTUAL AND NECESSARY EXPENSES. THE ADVISORY COMMITTEE SHALL  
12 ADVISE THE SECRETARY OF STATE ON GAMING POLICY AND DISCIPLINE ISSUES.

13 (2) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1999.

14 (b) PRIOR TO SAID REPEAL, THE ADVISORY COMMITTEE SHALL BE  
15 REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

16 **SECTION 5.** 12-9-104, Colorado Revised Statutes, 1991 Repl. Vol., is  
17 amended to read:

18 **12-9-104. Bingo-affle and raffle licenses - fees.** (1) Any bona fide  
19 chartered branch, lodge, or chapter of a national or state organization or any bona  
20 fide religious, charitable, labor, fraternal, educational, voluntary firemen's, or  
21 veterans' organization or any association, successor, or combination of association  
22 and successor of any of the said organizations which operates without profit to its  
23 members and which has been in existence continuously for a period of five years  
24 immediately prior to the making of application for a bingo-affle license OR A

1 RAFFLE LICENSE under this article and has had during the entire five-year period  
2 dues-paying members engaged in carrying out the objects of said corporation or  
3 organization is eligible for a ~~bingo-raffle~~ SUCH license to be issued by the licensing  
4 authority under this article. In the event any license is revoked, the bingo-raffle  
5 OR RAFFLE licensee and holder thereof is not eligible to apply for another license  
6 under subsection (2) of this section until after the expiration of the period of one  
7 year from the date of such revocation.

8 (2) The bingo-raffle licenses provided by this article shall be issued by  
9 the licensing authority to applicants qualified under this article upon payment of a  
10 fee of sixty-two dollars and fifty cents, AND THE RAFFLE LICENSES PROVIDED BY  
11 THIS ARTICLE SHALL BE ISSUED BY THE LICENSING AUTHORITY TO QUALIFIED  
12 APPLICANTS UPON THE PAYMENT OF THE FEE ESTABLISHED BY THE LICENSING  
13 AUTHORITY. The licenses shall expire at the end of the calendar year in which they  
14 were issued by the licensing authority and may be renewed by the licensing  
15 authority upon the filing of an application for renewal thereof provided by the  
16 licensing authority and the payment of the fee of sixty-two dollars and fifty cents  
17 for such renewal, IN THE CASE OF A BINGO-RAFFLE LICENSE, OR IN THE CASE OF  
18 THE RENEWAL OF A RAFFLE LICENSE, THE PAYMENT OF THE FEE ESTABLISHED BY  
19 THE LICENSING AUTHORITY. No license granted under this article or any renewal  
20 thereof shall be transferable. The fees required to be paid for a new or renewal  
21 license shall be deposited in the department of state cash fund.

22 SECTION 6. 12-9-104.5 (6), Colorado Revised Statutes, 1991 Repl.  
23 Vol., is amended to read:

24 12-9-104.5. Landlord licensees - stipulations. (6) No landlord licensee

1 or any employee or agent of a landlord licensee shall be a party responsible for or  
2 assisting with the conduct, management, or operation of any game of chance within  
3 Colorado; except that a landlord licensee which is also a bingo-raffle licensee OR  
4 A RAFFLE LICENSEE may conduct such activities as its ~~bingo-raffle~~ license allows  
5 exclusively on its own behalf.

6 SECTION 7. The introductory portion to 12-9-105 (1) and 12-9-105 (1)  
7 (d), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

8 12-9-105. Application for bingo-raffle or raffle license. (1) Each  
9 applicant for a bingo-raffle license OR A RAFFLE LICENSE to be issued under the  
10 provisions of this section shall file with the licensing authority a written application  
11 in the form prescribed by the licensing authority, duly executed and verified, and  
12 in which shall be stated:

13 (d) The specific kind of games of chance intended to be held, operated,  
14 and conducted by the applicant; THIS REQUIREMENT SHALL BE FOR BINGO-RAFFLE  
15 LICENSEES ONLY;

16 SECTION 8. 12-9-106, Colorado Revised Statutes, 1991 Repl. Vol., is  
17 amended to read:

18 12-9-106. Form of bingo-raffle and raffle licenses - display. Each  
19 bingo-raffle license AND EACH RAFFLE LICENSE shall contain a statement of the  
20 name and address of the ~~bingo-raffle~~ licensee and the place where such bingo or  
21 lotto games or the drawing of the raffles is to be held. ~~The bingo-raffle~~ ANY SUCH  
22 license ISSUED for an exempt organization shall provide for the inclusion of the  
23 place or places where drawings are to be held. Each bingo-raffle AND RAFFLE  
24 license issued for the conduct of any such games of chance shall be conspicuously

1 displayed at the place where the same is to be conducted or the drawings held at  
 2 all times during the conduct thereof. An exempt organization may comply with the  
 3 requirements of this section by providing written notice of such a license to all  
 4 employees of a participating private business or government agency holding a  
 5 fund-raising drive which includes a drawing on behalf of such organization. Such  
 6 notice shall state that the exempt organization shall make such license available for  
 7 public inspection during reasonable business hours and shall specify where such  
 8 license shall be maintained for inspection.

9 SECTION 9. 12-9-107 (1), (2) (a), (3), (11), (12), (13), and (21),  
 10 Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-9-107  
 11 is further amended BY THE ADDITION OF THE FOLLOWING NEW  
 12 SUBSECTIONS, to read:

13 12-9-107. Persons permitted to conduct games of chance - premises  
 14 - equipment - expenses. (1) No games of chance shall be conducted by any  
 15 person, firm, or organization within this state, unless a bingo-raffle OR RAFFLE  
 16 license as provided in this article has been issued by the licensing authority. No  
 17 person shall hold, operate, or conduct any games of chance under any  
 18 BINGO-RAFFLE OR RAFFLE license issued under this article except an active member  
 19 of the organization to which ~~the bingo-raffle~~ SUCH license is issued, and no person  
 20 shall assist in the holding, operating, or conducting of any games of chance under  
 21 such license, except such an active member or a member of an organization or  
 22 association which is an auxiliary to the licensee, a member of an organization or  
 23 association of which such licensee is an auxiliary, or a member of an organization  
 24 or association which is affiliated with the licensee by being, with it, auxiliary to

1 another organization or association and except bookkeepers or accountants as  
 2 provided in this section. No item of expense shall be incurred or paid in  
 3 connection with the holding, operating, or conducting of any game of chance held,  
 4 operated, or conducted pursuant to any BINGO-RAFFLE OR RAFFLE license issued  
 5 under this article, except bona fide expenses in reasonable amount for goods,  
 6 wares, and merchandise furnished or services rendered, reasonably necessary for  
 7 the holding, operating, or conducting thereof. No such games of chance shall be  
 8 conducted with any equipment unless it is owned by a bingo-raffle OR RAFFLE  
 9 licensee or any landlord licensee.

10 (2) (a) The officers of a bingo-raffle licensee OR A RAFFLE LICENSEE  
 11 shall designate a bona fide, active member of the licensee to be in charge and  
 12 primarily responsible for the conduct of the games of ~~bingo or lotto~~ CHANCE on  
 13 each occasion. The member in charge shall supervise all activities on the occasion  
 14 for which ~~he~~ SUCH MEMBER is in charge and is responsible for the making of the  
 15 required report thereof. The member in charge shall be familiar with the  
 16 provisions of the state laws, ~~the~~ ANY rules and regulations of the licensing  
 17 authority, and the provisions of the BINGO-RAFFLE OR RAFFLE license, AND ~~He~~  
 18 shall be present on the premises continuously during the games and for a period of  
 19 at least thirty minutes after the last game.

20 (3) The officers of a bingo-raffle licensee OR A RAFFLE LICENSEE shall  
 21 designate an officer to be in full charge and primarily responsible for the proper  
 22 utilization of the entire net proceeds of any game in accordance with the state law.

23 (11) The net ~~profits~~ PROCEEDS derived from the holding of games of  
 24 chance must be devoted, within one year, to the lawful purposes of the organization

1 permitted to conduct the same. Any organization desiring to hold the net profits  
2 PROCEEDS of games of chance for a period longer than one year must apply to the  
3 licensing authority for special permission and, upon good cause shown, the  
4 authority may grant the request.

5 (12) Any licensee which does not report, during any one-year period, net  
6 profits PROCEEDS will be required to show cause before the licensing authority why  
7 its right to conduct games of bingo CHANCE should not be revoked.

8 (13) ~~No person shall assist in the holding, operating, or conducting of  
9 a bingo game under any license except bona fide, active members of the licensee,  
10 active members of any organization which is an auxiliary to the licensee, active  
11 members of an organization of which the licensee is an auxiliary, or active  
12 members of an organization which is affiliated with the licensee by being, with it,  
13 auxiliary to another organization.~~

14 (21) (a) No person shall act as a caller or assistant to the caller in the  
15 conduct of any game of bingo unless he SUCH PERSON has been a member in good  
16 standing of the bingo-affle licensee conducting such game or one of its licensed  
17 auxiliaries for at least three months immediately prior to the date of such game, is  
18 of good moral character, and never has been convicted of a felony.

19 (b) NO PERSON SHALL ACT AS GAMES MANAGER IN THE CONDUCT OF  
20 ANY GAME OF CHANCE IF SUCH PERSON HAS BEEN CONVICTED OF A FELONY OR  
21 A CRIME INVOLVING GAMBLING.

22 (28) NO PERSON OR LICENSEE SHALL PERMIT ANY PERSON WHO HAS NOT  
23 ATTAINED THE AGE OF SIXTEEN YEARS TO ASSIST IN THE CONDUCT OF BINGO OR  
24 PULL TABS.

1 (29) NO OPERATOR SHALL RESERVE OR ALLOW TO BE RESERVED ANY  
2 BINGO CARDS FOR USE BY PLAYERS EXCEPT BRAILLE CARDS OR OTHER CARDS FOR  
3 USE BY LEGALLY BLIND PLAYERS. LEGALLY BLIND PLAYERS MAY USE THEIR  
4 PERSONAL BRAILLE CARDS WHEN A LICENSED ORGANIZATION DOES NOT PROVIDE  
5 SUCH CARDS. A LICENSED ORGANIZATION HAS THE RIGHT TO INSPECT AND TO  
6 REJECT ANY PERSONAL BRAILLE CARD. A LEGALLY BLIND OR DISABLED PERSON  
7 MAY USE A BRAILLE CARD OR HARD CARD IN PLACE OF A PURCHASED DISPOSABLE  
8 PAPER BINGO CARD.

9 SECTION 10. 12-9-108 (1) (a), (2) (a), (4), and (5), Colorado Revised  
10 Statutes, 1991 Repl. Vol., are amended to read:

11 12-9-108. Bingo-affle and raffle licensee's statement of receipts -  
12 expenses. (1) (a) On or before April 15, July 15, October 15, and January 15 of  
13 each year, every bingo-affle AND EVERY RAFFLE licensee shall file with the  
14 licensing authority upon forms prescribed by the licensing authority a duly verified  
15 statement covering the preceding calendar quarter showing the amount of the gross  
16 receipts derived during said periods from games of chance, the expenses incurred  
17 or paid, and a brief description of the classification of such expenses, the name and  
18 address of each person to whom has been paid three hundred dollars or more and  
19 the purpose of such expenditure, the net proceeds derived from each such game of  
20 chance, and the uses to which such net proceeds have been or are to be applied,  
21 and it is the duty of each licensee to maintain and keep such books and records as  
22 may be necessary to substantiate the particulars of each such report.

23 (2) (a) If a bingo-affle OR RAFFLE licensee fails to file reports within the  
24 time required or if reports are not properly verified or not fully, accurately, and

1 truthfully completed, any existing license may be suspended until such time as the  
2 default has been corrected.

3 (4) No part of the net profits PROCEEDS, after they have been given over  
4 to another organization, shall be used by the donee organization to pay any person  
5 for services rendered or materials purchased in connection with the conducting of  
6 bingo by the donor organization.

7 (5) No item of expense shall be incurred or paid in connection with  
8 holding, operating, or conducting any game of chance pursuant to any  
9 BINGO-RAFFLE OR RAFFLE license except bona fide expenses of a reasonable  
10 amount. SUCH expenses ~~may be incurred only~~ INCLUDE THOSE INCURRED IN  
11 CONNECTION WITH ALL GAMES OF CHANCE, for the following purposes: The  
12 purchase of goods, wares, and merchandise furnished; payment for services  
13 rendered which are reasonably necessary for repairs of equipment AND operating  
14 or conducting ~~the game of bingo~~ GAMES OF CHANCE; for rent if the premises are  
15 rented or for janitorial services if not rented; for accountant's fees; AND license  
16 fees.

17 SECTION 11. 12-9-113, Colorado Revised Statutes, 1991 Repl. Vol,  
18 is repealed as follows:

19 12-9-113. Repeal - review of functions. This article is repealed,  
20 effective ~~July 1, 1993~~ JULY 1, 1998. Prior to such repeal, the licensing functions  
21 of the secretary of state AND THE ENFORCEMENT OF THE PROVISIONS OF THIS  
22 ARTICLE BY THE DIVISION OF GAMES OF CHANCE shall be reviewed as provided for  
23 in section 24-34-104, C.R.S.

24 SECTION 12. 24-1-117 (4), Colorado Revised Statutes, 1988 Repl.

1 Vol., as amended, is amended to read:

2 24-1-117. Department of revenue - creation. (4) The department of  
3 revenue shall consist of the following divisions: Division of enforcement, motor  
4 vehicle division, ports of entry division, liquor enforcement division, state lottery  
5 division, division of gaming, including the Colorado limited gaming control  
6 commission, THE DIVISION OF GAMES OF CHANCE, and such other divisions,  
7 sections, and units as the executive director of the department of revenue may  
8 create pursuant to section 24-35-103. The lottery division shall be headquartered  
9 in the city of Pueblo in facilities provided at lottery division expense at a location  
10 to be determined by the department of revenue. After 1992, the general assembly  
11 will review whether such headquarters should remain in the city of Pueblo in  
12 facilities provided at lottery division expense at a location to be determined by the  
13 department of revenue.

14 SECTION 13. 24-34-104 (22.1) (a), Colorado Revised Statutes, 1988  
15 Repl. Vol., as amended, is repealed as follows:

16 24-34-104. General assembly review of regulatory agencies and  
17 functions for termination, continuation, or reestablishment. (22.1) The  
18 following boards and the functions of the specified agencies shall terminate on July  
19 1, 1993:

20 (a) ~~The licensing of bingo and other games of chance through the~~  
21 ~~secretary of state in accordance with article 9 of title 12, C.R.S.;~~

22 SECTION 14. 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol.,  
23 as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24 24-34-104. General assembly review of regulatory agencies and

1 functions for termination, continuation, or reestablishment. (27.1) THE  
2 FUNCTION OF LICENSING OF BINGO AND OTHER GAMES OF CHANCE THROUGH THE  
3 SECRETARY OF STATE AND THE ENFORCEMENT THEREOF THROUGH THE DIVISION  
4 OF GAMES OF CHANCE IN THE DEPARTMENT OF REVENUE IN ACCORDANCE WITH  
5 ARTICLE 9 OF TITLE 12, C.R.S., SHALL TERMINATE JULY 1, 1998.

6 **SECTION 15. Appropriation.** In addition to any other appropriation,  
7 there is hereby appropriated, out of any moneys in the department of state cash  
8 fund not otherwise appropriated, to the department of revenue for allocation to the  
9 division of games of chance, for the fiscal year beginning July 1, 1993, the sum  
10 of \_\_\_\_ dollars (\$ ), or so much thereof as may be necessary, for the  
11 implementation of this act.

12 **SECTION 16. Effective date.** This act shall take effect July 1, 1993.

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

Sunrise and Sunset Review Committee  
August 27, 1992

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF NURSE AIDES, AND, IN CONNECTION  
102 THEREWITH, CONTINUING THE AUTHORITY FOR SUCH REGULATION BY  
103 THE STATE BOARD OF NURSING AND MAKING AN APPROPRIATION.

Bill Summary

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

Continues the certification program for nurse aides by the state board of nursing. Requires that individuals be certified to use the title of certified nurse aide, or any abbreviation of that title. Clarifies that the term "medical facility" includes a home health agency certified to receive medicare or medicaid funds pursuant to the federal "Social Security Act", and home health entities engaged in nurse aid practices. Clarifies that certain nonhospital facilities are exempt from the definition of a medical facility.

Requires any aide whose license is surrendered or revoked to wait for a certain period of time before applying for recertification and repeating the training and competency evaluation requirements.

Continues the advisory committee on nurse aides, and increases the number of representatives on the committee. Makes the representative of the department of health an ex officio member. Adds to the committee a representative of home health agency professional associations, a representative of professional associations composed of nursing homes, a representative of training programs, and two certified nurse aides, one employed by a nursing home and one by a home health agency. Eliminates the position of a representative of professional associations composed of medical facilities.

Authorizes the state board of nursing to issue letters of admonition to nurse aides. Adds as a ground for discipline the misappropriation of facility property. Requires a certificate holder who surrenders a certificate to wait for a certain period of time before reapplying. Increases the penalty for practicing as a certified nurse aide without the required certification.

Requires that the department of health ensure that the nurse aide program is funded adequately by medicare payments and that the department of social

services ensure that such program is funded adequately by medicaid payments. Authorizes health care providers who perform certain services that constitute the equivalent of "nurse aide services" to renew their certification based on such services. Extends the period during which an aide may complete training and still receive credit for recertification purposes.

Provides that the article shall not apply to anyone who performs services under a delegation of responsibility, administers fluids through gastrostomy tubes, or administers medication.

Makes an appropriation from the division of registrations cash fund for the implementation of this act.

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

SECTION 1. 2-3-1203 (3) (f) (XV), Colorado Revised Statutes, 1980

Repl. Vol., as amended, is amended to read:

2-3-1203. Sunset review of advisory committees. (3) The following

dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(f) July 1, 1993:

(XV) ~~The advisory committee on nurse aides appointed pursuant to section 12-38.1-110, C.R.S.;~~

SECTION 2. 12-38.1-102 (3) and (4), Colorado Revised Statutes, 1991

Repl. Vol., are amended to read:

12-38.1-102. Definitions. As used in this article, unless the context

otherwise requires:

(3) "Certified nurse aide" means a person who meets the qualifications

specified in this article and who is currently certified by the board. ONLY A

PERSON WHO HOLDS A CERTIFICATE TO PRACTICE AS A NURSE AIDE IN THIS STATE

PURSUANT TO THE PROVISIONS OF THIS ARTICLE SHALL HAVE THE RIGHT TO USE

THE TITLE "CERTIFIED NURSE AIDE" AND ITS ABBREVIATION, "C.N.A.".

(4) "Medical facility" means a nursing facility licensed by the department of health or HOME HEALTH AGENCIES certified by the department of health to receive medicare or medicaid funds, PURSUANT TO THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, distinct part nursing facilities, or home health agencies OR ENTITIES ENGAGED IN NURSE AIDE PRACTICES AS SUCH PRACTICES ARE DEFINED IN SUBSECTION (5) OF THIS SECTION. ~~certified by the department of health to receive medicare funds.~~ "Medical facility" does not include a ~~licensed hospital engaged primarily in providing acute care to patients, except to the extent that federal law or regulation requires such hospital to be included in the definition of~~ "medical facility." HOSPITALS AND OTHER FACILITIES LICENSED PURSUANT TO SECTION 25-1-107 (1) (I), C.R.S.

**SECTION 3.** 12-38.1-103, Colorado Revised Statutes, 1991 Repl. Vol., is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

**12-38.1-103. Certification - state board of nursing.** (5) (a) THE BOARD SHALL NOT ISSUE A CERTIFICATE TO A FORMER HOLDER OF A CERTIFICATE WHOSE CERTIFICATE WAS REVOKED UNLESS THE APPLICANT MEETS THE REQUIREMENTS OF THIS ARTICLE, HAS SUCCESSFULLY REPEATED AN APPROVED EDUCATION PROGRAM AS REQUIRED BY THE BOARD, AND HAS REPEATED AND PASSED A COMPETENCY EVALUATION.

(b) NO NURSE AIDE CERTIFICATE HOLDER WHO HAS HAD A CERTIFICATE REVOKED MAY APPLY FOR RECERTIFICATION BEFORE A ONE-YEAR WAITING PERIOD AFTER SUCH REVOCATION.

(6) THE DEPARTMENT OF SOCIAL SERVICES SHALL MAINTAIN REGULAR

COMMUNICATIONS WITH THE FEDERAL GOVERNMENT AND THE DEPARTMENT OF REGULATORY AGENCIES TO ENSURE THAT THE NURSE AIDE PROGRAM IS FUNDED AT AN ADEQUATE LEVEL BY MEDICAID PAYMENTS.

(7) THE DEPARTMENT OF HEALTH SHALL MAINTAIN REGULAR COMMUNICATIONS WITH THE FEDERAL GOVERNMENT AND THE DEPARTMENT OF REGULATORY AGENCIES TO ENSURE THAT THE NURSE AIDE PROGRAM IS FUNDED AT AN ADEQUATE LEVEL BY MEDICARE PAYMENTS.

**SECTION 4.** 12-38.1-109, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-38.1-109. Renewal of certification.** Each certificate to practice as a nurse aide shall be renewed biennially upon payment of a specified renewal fee established pursuant to section 24-34-105, C.R.S. The board may reduce such fee if federal funds are available. Such fee shall not be subject to the provisions of section 24-34-104.4, C.R.S. At the time of such renewal, the nurse aide shall submit proof to the board, as required by federal law or regulation, ~~that he has performed~~ OF EITHER HAVING PERFORMED nurse aide services, OR THE EQUIVALENT, AS DEFINED IN RULES AND REGULATIONS, for pay during the preceding twenty-four-month period ~~and shall attest that he has completed the required ongoing training or that he has completed~~ OR HAVING COMPLETED a new training program approved under the provisions of this article during the preceding ~~four~~ TWENTY-FOUR months.

**SECTION 5.** 12-38.1-110 (1) and (2), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

**12-38.1-110. Advisory committee.** (1) To assist in the performance of



1 its duties under this article, the board may designate an advisory committee. Such  
 2 committee shall be composed of ~~five~~ SEVEN members. One member shall be a  
 3 certified nurse aide EMPLOYED BY A NURSING HOME, ONE MEMBER SHALL BE A  
 4 CERTIFIED NURSE AIDE EMPLOYED BY A HOME HEALTH AGENCY, one member shall  
 5 be a member of the state board of nursing, ~~one member shall be a department of~~  
 6 ~~health employee~~ ONE MEMBER SHALL REPRESENT PROFESSIONAL ASSOCIATIONS  
 7 COMPOSED OF HOME HEALTH AGENCIES, one member shall be from a group  
 8 representing the concerns of senior citizens, ~~and~~ one member shall represent  
 9 professional associations composed of ~~medical facilities~~ NURSING HOMES, AND ONE  
 10 MEMBER SHALL REPRESENT TRAINING PROGRAMS. A DEPARTMENT OF HEALTH  
 11 EMPLOYEE SHALL SERVE AS AN EX OFFICIO MEMBER. Committee members shall  
 12 be compensated for their services in accordance with the provisions of section  
 13 24-34-102 (13), C.R.S.

14 (2) (a) ~~This section is repealed, effective July 1, 1993.~~

15 (b) ~~Prior to said repeal, the advisory committee shall be reviewed as~~  
 16 ~~provided for in section 2-3-1203, C.R.S.~~

17 SECTION 6. 12-38.1-111 (1) (m), Colorado Revised Statutes, 1991  
 18 Repl. Vol., is amended, and the said 12-38.1-111 is further amended BY THE  
 19 ADDITION OF A NEW SUBSECTION, to read:

20 12-38.1-111. Grounds for discipline. (1) The board may suspend,  
 21 revoke, or deny any certification to practice as a nurse aide or issue a letter of  
 22 admonition to a certified nurse aide upon proof that such person:

23 (m) Has misappropriated patient OR FACILITY property.

24 (3) WHENEVER A COMPLAINT OR INVESTIGATION DISCLOSES AN

1 INSTANCE OF MISCONDUCT WHICH, IN THE OPINION OF THE BOARD DOES NOT  
 2 WARRANT FORMAL ACTION BY THE BOARD BUT WHICH SHOULD NOT BE DISMISSED  
 3 AS BEING WITHOUT MERIT, A LETTER OF ADMONITION MAY BE SENT BY CERTIFIED  
 4 MAIL TO THE NURSE AIDE AGAINST WHOM A COMPLAINT WAS MADE AND A COPY  
 5 THEREOF TO THE PERSON MAKING THE COMPLAINT. WHEN THE LETTER OF  
 6 ADMONITION IS SENT BY CERTIFIED MAIL BY THE BOARD TO A NURSE AIDE  
 7 COMPLAINED AGAINST, SUCH NURSE AIDE SHALL BE ADVISED THAT SUCH PERSON  
 8 HAS THE RIGHT TO REQUEST IN WRITING WITHIN TWENTY DAYS AFTER PROVEN  
 9 RECEIPT OF THE LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED  
 10 TO ADJUDICATE THE PROPRIETY OF THE COMPLAINT ON WHICH THE LETTER OF  
 11 ADMONITION IS BASED. IF SUCH REQUEST IS TIMELY MADE, THE LETTER OF  
 12 ADMONITION SHALL BE DEEMED VACATED AND THE MATTER SHALL BE HEARD AS  
 13 A FORMAL DISCIPLINARY PROCEEDING.

14 SECTION 7. 12-38.1-115 (3), Colorado Revised Statutes, 1991 Repl.  
 15 Vol., is amended to read:

16 12-38.1-115. Surrender of certificate. (3) The board shall not issue a  
 17 certificate to a former holder of a certificate whose certificate has been surrendered  
 18 unless a ONE-YEAR WAITING PERIOD HAS PASSED SINCE THE DATE OF THE  
 19 SURRENDER, the applicant ~~meets~~ HAS MET the requirements of this article, has  
 20 successfully repeated an approved education program, and has REPEATED AND  
 21 passed a competency evaluation.

22 SECTION 8. 12-38.1-117 (1), Colorado Revised Statutes, 1991 Repl.  
 23 Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24 12-38.1-117. Exclusions. (1) This article shall not be construed to affect

1 or apply to:

2 (f) ANY PERSON PERFORMING SERVICES PURSUANT TO SECTIONS  
3 12-38-132, 25-1-107 (1) (ee), AND 27-10.5-103 (2) (k), C.R.S.

4 SECTION 9. 12-38.1-118 (2), Colorado Revised Statutes, 1991 Repl.  
5 Vol., is amended to read:

6 ~~12-38.1-118. Unlawful acts.~~ (2) Any person who violates the provisions  
7 of subsection (1) of this section commits a class ~~3~~ 2 misdemeanor and shall be  
8 punished as provided in section 18-1-106, C.R.S., ~~Any person who subsequently~~  
9 ~~violates any provision of subsection (1) of this section within three years after the~~  
10 ~~date of the first conviction under this section commits a class 5 felony and shall be~~  
11 ~~punished as provided in section 18-1-105, C.R.S.~~ AND ANY PERSON COMMITTING  
12 A SUBSEQUENT OFFENSE COMMITS A CLASS 6 FELONY AND SHALL BE PUNISHED AS  
13 PROVIDED IN SECTION 18-1-105, C.R.S.

14 SECTION 10. 12-38.1-120, Colorado Revised Statutes, 1991 Repl.  
15 Vol., is amended to read:

16 ~~12-38.1-120. Repeal of article.~~ This article is repealed, effective July  
17 ~~1, 1993~~ JULY 1, 2003. Prior to such repeal, the certification functions of the state  
18 board of nursing shall be reviewed as provided for in section 24-34-104, C.R.S.

19 SECTION 11. 24-34-104 (22) (c) (II), Colorado Revised Statutes, 1988  
20 Repl. Vol., as amended, is amended, and the said 24-34-104 is further amended  
21 BY THE ADDITION OF A NEW SUBSECTION, to read:

22 24-34-104. General assembly review of regulatory agencies and  
23 functions for termination, continuation, or reestablishment. (22) (c) The  
24 following functions of the specified agencies shall terminate on July 1, 1993:

1 (II) ~~The certification of nurse aides by the state board of nursing in~~  
2 ~~accordance with article 38.1 of title 12, C.R.S.~~

3 (32) THE FOLLOWING FUNCTION OF THE SPECIFIED AGENCY SHALL  
4 TERMINATE ON JULY 1, 2003: THE CERTIFICATION OF NURSE AIDES BY THE STATE  
5 BOARD OF NURSING IN ACCORDANCE WITH ARTICLE 38.1 OF TITLE 12, C.R.S.

6 SECTION 12. Appropriation. In addition to any other appropriation,  
7 there is hereby appropriated, out of any moneys in the division of registrations cash  
8 fund not otherwise appropriated, to the department of regulatory agencies for  
9 allocation to the state board of nursing, for the fiscal year beginning July 1, 1993,  
10 the sum of \_\_\_\_\_ dollars (\$ ), or so much thereof as may be necessary,  
11 for the implementation of this act.

12 SECTION 13. Effective date - applicability. This act shall take effect  
13 July 1, 1993, and shall apply to acts committed on or after said date.

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

BY SENATOR Tebedo

A BILL FOR AN ACT

101 CONCERNING THE RESPONSIBILITY OF HEALTH CARE COVERAGE ENTITIES FOR THE
102 ACTIVITIES OF PRIVATE UTILIZATION REVIEW ORGANIZATIONS ACTING ON
103 BEHALF OF SUCH HEALTH CARE COVERAGE ENTITIES.

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 any private utilization review entity providing services to a health insurer, nonprofit hospital and health care service corporation, or health maintenance organization is the direct agent of such regulated entity. Makes the health insurer, nonprofit hospital and health care service corporation, or health maintenance organization responsible for the activities and functions of private utilization review organizations operating within the scope of any contract and on behalf of any such regulated entity, including specifically actions which result in any violation of rules and regulations of the commissioner of insurance related to the payment of benefits.

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

SECTION 1. Part 1 of article 16 of title 10, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

10-16-112. Private utilization review - health care coverage entity responsibility. ANY PRIVATE UTILIZATION REVIEW ORGANIZATION PROVIDING SERVICES TO AN INSURANCE CARRIER, NONPROFIT HOSPITAL AND HEALTH CARE

1 SERVICE CORPORATION, OR HEALTH MAINTENANCE ORGANIZATION REGULATED
2 PURSUANT TO THE PROVISIONS OF THIS ARTICLE IS THE DIRECT AGENT OF THE
3 INSURANCE CARRIER, NONPROFIT HOSPITAL AND HEALTH CARE SERVICE
4 CORPORATION, OR HEALTH MAINTENANCE ORGANIZATION. ANY INSURANCE
5 CARRIER, NONPROFIT HOSPITAL AND HEALTH CARE SERVICE CORPORATION, OR
6 HEALTH MAINTENANCE ORGANIZATION IS RESPONSIBLE FOR THE FUNCTIONS AND
7 ACTIVITIES OF ANY PRIVATE UTILIZATION REVIEW ORGANIZATION ACTING WITHIN
8 THE SCOPE OF ANY CONTRACT AND ON BEHALF OF THE INSURANCE CARRIER,
9 NONPROFIT HOSPITAL AND HEALTH CARE SERVICE CORPORATION, OR HEALTH
10 MAINTENANCE ORGANIZATION, INCLUDING SPECIFICALLY ANY ACTIONS OF THE
11 PRIVATE UTILIZATION REVIEW ORGANIZATION WHICH RESULT IN ANY VIOLATION
12 OF RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER WITH RESPECT
13 TO THE PAYMENT OF BENEFITS PURSUANT TO THE PROVISIONS OF SECTION
14 10-3-1110 (2).

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

BY REPRESENTATIVE Owen.

A BILL FOR AN ACT

101 CONCERNING THE PRACTICE OF MIDWIFERY.

Bill Summary

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

Decriminalizes the unlicensed practice of direct-entry ("lay") midwifery, by excluding it from the definition of the practice of medicine, while expressly not immunizing direct-entry midwives from other civil or criminal liability. Requires registration of direct-entry midwives with the division of registrations in the department of regulatory agencies. Requires a direct-entry midwife to disclose to patients the midwife's education and experience, to obtain informed consent, to maintain records, file birth certificates and perform other tasks in relation to care of newborns, and to prepare and follow emergency procedures.

Authorizes the director to develop or adopt initial examinations and approve education and training of applicants for registration. Waives such requirements for registration for those with at least fifteen years' experience. Establishes standards of practice and sets minimum standards for education and training prior to registration. Authorizes the charging of an annual fee to cover the cost of registration. Establishes civil and criminal penalties for violation of registration and disclosure requirements and allows the director of the division of registrations to seek injunctions against persons violating the act's substantive provisions. Contains "sunset" provisions.

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

2 SECTION 1. 12-36-106 (1) (f), Colorado Revised Statutes, 1991 Repl.  
3 Vol., is amended to read:

4 12-36-106. Practice of medicine defined - exemptions from licensing  
5 requirements. (1) For the purpose of this article "practice of medicine" means:

- 1 (f) The practice of midwifery, except:
- 2 (I) Services rendered by nurse-midwives licensed pursuant to article 38
- 3 of this title and certified by the American college of nurse midwives; OR
- 4 (II) SERVICES RENDERED BY A PERSON PROPERLY REGISTERED AS A
- 5 DIRECT-ENTRY MIDWIFE AND PRACTICING IN ACCORDANCE WITH THE PROVISIONS
- 6 OF ARTICLE 37 OF THIS TITLE.

7 SECTION 2. Article 37 of title 12, Colorado Revised Statutes, 1991  
8 Repl. Vol., is RECREATED AND REENACTED, WITH AMENDMENTS, to  
9 read:

10 ARTICLE 37

11 Midwives

12 12-37-101. Scope of article - exemptions. (1) THE PROVISIONS OF THIS  
13 ARTICLE SHALL APPLY ONLY TO DIRECT-ENTRY MIDWIVES, ALSO KNOWN AS "LAY"  
14 MIDWIVES, AND SHALL NOT APPLY TO THOSE PERSONS WHO ARE OTHERWISE  
15 LICENSED BY THE STATE OF COLORADO UNDER THIS TITLE IF THE PRACTICE OF  
16 MIDWIFERY IS WITHIN THE SCOPE OF SUCH LICENSURE.

17 (2) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT, OR  
18 TO REQUIRE REGISTRATION UNDER THIS ARTICLE, WITH REGARD TO:

- 19 (a) THE GRATUITOUS RENDERING OF SERVICES IN AN EMERGENCY;
- 20 (b) THE RENDERING OF SERVICES BY A PHYSICIAN LICENSED PURSUANT
- 21 TO ARTICLE 36 OF THIS TITLE OR OTHERWISE LEGALLY AUTHORIZED TO PRACTICE
- 22 IN THIS STATE;
- 23 (c) THE RENDERING OF SERVICES BY A NURSE-MIDWIFE CERTIFIED BY
- 24 THE AMERICAN COLLEGE OF NURSE-MIDWIVES; OR

(d) THE PRACTICE BY PERSONS LICENSED OR REGISTERED UNDER ANY LAW OF THIS STATE, IN ACCORDANCE WITH SUCH LAW, TO PRACTICE A LIMITED FIELD OF THE HEALING ARTS NOT SPECIFICALLY DESIGNATED IN THIS SECTION.

12-37-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DIRECT-ENTRY MIDWIFE" MEANS A PERSON WHO PRACTICES DIRECT-ENTRY MIDWIFERY AS DEFINED IN SUBSECTION (2) OF THIS SECTION FOR MONETARY COMPENSATION.

(2) "DIRECT-ENTRY MIDWIFERY" OR "PRACTICE OF DIRECT-ENTRY MIDWIFERY" MEANS THE ADVISING, ATTENDING, OR ASSISTING OF A WOMAN DURING PREGNANCY, LABOR AND NATURAL CHILDBIRTH AT HOME, AND THE POSTPARTUM PERIOD IN ACCORDANCE WITH THIS ARTICLE.

(3) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES.

(4) "NATURAL CHILDBIRTH" MEANS THE BIRTH OF A CHILD WITHOUT THE USE OF PRESCRIPTION DRUGS, INSTRUMENTS, OR SURGICAL PROCEDURES.

(5) "POSTPARTUM PERIOD" MEANS THE PERIOD OF SIX WEEKS AFTER BIRTH.

(6) "REGISTRANT" MEANS A DIRECT-ENTRY MIDWIFE REGISTERED PURSUANT TO SECTION 12-37-103.

12-37-103. Requirement for registration with the division of registrations - annual fee - grounds for revocation. (1) EVERY DIRECT-ENTRY MIDWIFE SHALL REGISTER WITH THE DIVISION OF REGISTRATIONS BY PROVIDING AN APPLICATION TO THE DIRECTOR IN THE FORM THE DIRECTOR SHALL REQUIRE. SAID

APPLICATION SHALL INCLUDE THE INFORMATION SPECIFIED IN SECTION 12-37-104.

(2) ANY CHANGES IN THE INFORMATION REQUIRED BY SUBSECTION (1) OF THIS SECTION SHALL BE REPORTED WITHIN THIRTY DAYS OF SAID CHANGE TO THE DIVISION OF REGISTRATIONS IN THE MANNER PRESCRIBED BY THE DIRECTOR.

(3) EVERY APPLICANT FOR REGISTRATION SHALL PAY AN ANNUAL REGISTRATION FEE TO BE ESTABLISHED BY THE DIRECTOR IN THE MANNER AUTHORIZED BY SECTION 24-34-105, C.R.S.

(4) THE DIRECTOR MAY DENY REGISTRATION TO OR REVOKE THE REGISTRATION OF A DIRECT-ENTRY MIDWIFE PURSUANT TO SECTION 24-4-104, C.R.S., IF THE DIRECTOR FINDS THAT THE DIRECT-ENTRY MIDWIFE HAS:

(a) FAILED TO PROVIDE ANY INFORMATION REQUIRED, OR TO PAY ANY FEE ASSESSED, IN ACCORDANCE WITH THIS SECTION, OR PROVIDED FALSE, DECEPTIVE, OR MISLEADING INFORMATION TO THE DIVISION OF REGISTRATIONS WHEN THE DIRECT-ENTRY MIDWIFE KNEW OR SHOULD REASONABLY HAVE KNOWN THAT THE INFORMATION WAS FALSE, DECEPTIVE, OR MISLEADING;

(b) BEEN RESPONSIBLE FOR ANY ACT OR OMISSION WHICH DOES NOT MEET THE GENERALLY ACCEPTED STANDARDS OF THE PRACTICE OF DIRECT-ENTRY MIDWIFERY, WHETHER OR NOT ACTUAL INJURY TO A PATIENT IS ESTABLISHED;

(c) VIOLATED ANY PROVISION OF SECTION 12-37-105;

(d) HABITUAL INTEMPERANCE WITH REGARD TO OR EXCESSIVE USE OF ANY HABIT-FORMING DRUG, AS DEFINED IN SECTION 12-22-102 (13), ANY CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), OR ANY ALCOHOLIC BEVERAGE; OR

(e) VIOLATED ANY RULE OF THE DIRECTOR PROMULGATED UNDER THIS

1 ARTICLE.

2 (5) TO QUALIFY TO REGISTER, A DIRECT-ENTRY MIDWIFE SHALL HAVE  
3 EITHER BEEN ACTIVELY ENGAGED IN THE PRACTICE OF DIRECT-ENTRY MIDWIFERY  
4 FOR AT LEAST FIFTEEN YEARS, OR SUCCESSFULLY COMPLETED AN EXAMINATION  
5 PREPARED OR ADOPTED BY THE DIRECTOR IN ACCORDANCE WITH SECTION  
6 12-37-106 AND:

- 7 (a) ATTAINED THE AGE OF EIGHTEEN YEARS;
  - 8 (b) EARNED AT LEAST A HIGH-SCHOOL DIPLOMA OR THE EQUIVALENT;
  - 9 (c) SUCCESSFULLY COMPLETED TRAINING APPROVED BY THE DIRECTOR
- 10 IN:

11 (I) THE PROVISION OF CARE DURING LABOR AND DELIVERY AND DURING  
12 THE ANTEPARTUM AND POSTPARTUM PERIODS;

13 (II) PARENTING EDUCATION FOR PREPARED CHILDBIRTH;

14 (III) ASEPTIC TECHNIQUES AND UNIVERSAL PRECAUTIONS;

15 (IV) MANAGEMENT OF BIRTH AND IMMEDIATE CARE OF THE MOTHER  
16 AND THE NEWBORN;

17 (V) RECOGNITION OF EARLY SIGNS OF POSSIBLE ABNORMALITIES;

18 (VI) RECOGNITION AND MANAGEMENT OF EMERGENCY SITUATIONS;

19 (VII) SPECIAL REQUIREMENTS FOR HOME BIRTH; AND

20 (VIII) RECOGNITION OF COMMUNICABLE DISEASES AFFECTING THE  
21 PREGNANCY, BIRTH, NEWBORN, AND POSTPARTUM PERIODS;

22 (d) ACQUIRED PRACTICAL EXPERIENCE IN A HOME SETTING, INCLUDING,  
23 AT A MINIMUM, APPRENTICESHIP PROVIDING EXPERIENCE WITH THE CONDUCT OF  
24 ONE HUNDRED PRENATAL EXAMINATIONS AND OBSERVATION OF THIRTY BIRTHS;

1 (e) FOLLOWING COMPLETION OF THE EDUCATION, TRAINING, AND  
2 EXPERIENCE ENUMERATED IN PARAGRAPHS (a) TO (d) OF THIS SUBSECTION (5),  
3 SUPERVISED PARTICIPATION AS THE PRIMARY BIRTH ATTENDANT, INCLUDING  
4 RENDERING CARE FROM THE PRENATAL PERIOD THROUGH THE POSTPARTUM  
5 PERIOD, IN CONNECTION WITH NO LESS THAN THIRTY BIRTHS; AND

6 (f) FILED DOCUMENTATION WITH THE DIRECTOR THAT THE  
7 DIRECT-ENTRY MIDWIFE IS CURRENTLY CERTIFIED BY THE AMERICAN HEART  
8 ASSOCIATION OR THE AMERICAN RED CROSS TO PERFORM ADULT AND INFANT  
9 CARDIOPULMONARY RESUSCITATION ("CPR").

10 **12-37-104. Mandatory disclosure of information to patients.**

11 (1) EVERY DIRECT-ENTRY MIDWIFE SHALL PROVIDE THE FOLLOWING INFORMATION  
12 IN WRITING TO EACH PATIENT DURING THE INITIAL PATIENT CONTACT:

13 (a) THE NAME, BUSINESS ADDRESS, AND BUSINESS PHONE NUMBER OF  
14 THE DIRECT-ENTRY MIDWIFE;

15 (b) A LISTING OF THE DIRECT-ENTRY MIDWIFE'S EDUCATION,  
16 EXPERIENCE, DEGREES, MEMBERSHIP IN ANY PROFESSIONAL ORGANIZATION WHOSE  
17 MEMBERSHIP INCLUDES NOT LESS THAN ONE-THIRD OF ALL REGISTRANTS,  
18 CERTIFICATES OR CREDENTIALS RELATED TO DIRECT-ENTRY MIDWIFERY AWARDED  
19 BY ANY SUCH ORGANIZATION, AND THE LENGTH OF TIME REQUIRED TO OBTAIN  
20 SAID DEGREES, CERTIFICATES, OR CREDENTIALS;

21 (c) A STATEMENT INDICATING WHETHER OR NOT THE DIRECT-ENTRY  
22 MIDWIFE IS COVERED UNDER A POLICY OF PROFESSIONAL LIABILITY INSURANCE  
23 FOR THE PRACTICE OF DIRECT-ENTRY MIDWIFERY;

24 (d) A LISTING OF ANY LICENSE, CERTIFICATE, OR REGISTRATION IN THE

1 HEALTH CARE FIELD PREVIOUSLY HELD BY THE DIRECT-ENTRY MIDWIFE AND  
2 REVOKED BY ANY LOCAL, STATE, OR NATIONAL HEALTH CARE AGENCY; AND

3 (e) A STATEMENT THAT THE PRACTICE OF DIRECT-ENTRY MIDWIFERY IS  
4 REGULATED BY THE DEPARTMENT OF REGULATORY AGENCIES. THE STATEMENT  
5 SHALL PROVIDE THE ADDRESS AND TELEPHONE NUMBER OF THE COMPLAINTS AND  
6 INVESTIGATIONS SECTION OF THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT  
7 OF REGULATORY AGENCIES AND SHALL STATE THAT VIOLATION OF THE PROVISIONS  
8 OF THIS ARTICLE MAY RESULT IN REVOCATION OF REGISTRATION AND OF THE  
9 AUTHORITY TO PRACTICE DIRECT-ENTRY MIDWIFERY IN THE STATE OF COLORADO.

10 (2) ANY CHANGES IN THE INFORMATION REQUIRED BY SUBSECTION (1)  
11 OF THIS SECTION SHALL BE REFLECTED IN THE MANDATORY DISCLOSURE WITHIN  
12 FIVE DAYS OF THE SAID CHANGE.

13 (3) FOR PURPOSES OF REGISTRATION UNDER THIS ARTICLE, NO  
14 CREDENTIALS, LICENSURE, OR CERTIFICATION ISSUED BY ANY OTHER STATE SHALL  
15 CONSTITUTE OR BE DEEMED TO MEET THE REQUIREMENTS OF THIS ARTICLE, AND  
16 TO THAT EXTENT THERE SHALL BE NO RECIPROcity WITH OTHER STATES.

17 **12-37-105. Prohibited acts - practice standards - informed consent -**  
18 **emergency plan - risk assessment - referral.** (1) A DIRECT-ENTRY MIDWIFE  
19 SHALL NOT DISPENSE OR ADMINISTER ANY MEDICATION OR DRUGS EXCEPT FOR  
20 REQUIRED EYE PROPHYLACTIC THERAPY.

21 (2) A DIRECT-ENTRY MIDWIFE SHALL NOT PERFORM ANY OPERATIVE OR  
22 SURGICAL PROCEDURE.

23 (3) A DIRECT-ENTRY MIDWIFE SHALL NOT PROVIDE CARE TO A  
24 PREGNANT WOMAN WHO, ACCORDING TO GENERALLY ACCEPTED MEDICAL

1 STANDARDS, EXHIBITS SIGNS OR SYMPTOMS OF INCREASED RISK OF MEDICAL OR  
2 OBSTETRIC COMPLICATIONS OR PROBLEMS DURING THE COMPLETION OF HER  
3 PREGNANCY, LABOR, DELIVERY, OR THE POSTPARTUM PERIOD; AND, IN  
4 PARTICULAR, A DIRECT-ENTRY MIDWIFE SHALL NOT PROVIDE CARE TO A WOMAN  
5 WHO EXHIBITS SIGNS OR SYMPTOMS OF DIABETES, MULTIPLE GESTATION,  
6 HYPERTENSIVE DISORDER, OR ABNORMAL PRESENTATION OF THE FETUS.

7 (4) A DIRECT-ENTRY MIDWIFE SHALL NOT PROVIDE CARE TO A  
8 PREGNANT WOMAN WHO, ACCORDING TO GENERALLY ACCEPTED MEDICAL  
9 STANDARDS, EXHIBITS SIGNS OR SYMPTOMS OF INCREASED RISK THAT HER CHILD  
10 MAY DEVELOP COMPLICATIONS OR PROBLEMS DURING THE FIRST SIX WEEKS OF  
11 LIFE.

12 (5) A DIRECT-ENTRY MIDWIFE SHALL KEEP APPROPRIATE RECORDS OF  
13 PROFESSIONAL ACTIVITY, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

14 (a) THE DIRECT-ENTRY MIDWIFE SHALL COMPLETE AND FILE A BIRTH  
15 CERTIFICATE FOR EVERY DELIVERY IN ACCORDANCE WITH SECTION 25-2-112,  
16 C.R.S.

17 (b) THE DIRECT-ENTRY MIDWIFE SHALL COMPLETE AND MAINTAIN  
18 APPROPRIATE CLIENT RECORDS FOR EVERY CLIENT.

19 (c) PRIOR TO ACCEPTING A CLIENT FOR CARE, THE DIRECT-ENTRY  
20 MIDWIFE SHALL OBTAIN THE CLIENT'S INFORMED CONSENT, WHICH SHALL BE  
21 EVIDENCED BY A WRITTEN STATEMENT IN A FORM PRESCRIBED BY THE DIRECTOR  
22 AND SIGNED BY BOTH THE DIRECT-ENTRY MIDWIFE AND THE CLIENT. THE FORM  
23 SHALL CERTIFY THAT FULL DISCLOSURE HAS BEEN MADE AND ACKNOWLEDGED BY  
24 THE CLIENT AS TO:

1 (I) THE DIRECT-ENTRY MIDWIFE'S EDUCATIONAL BACKGROUND AND  
2 TRAINING;

3 (II) THE NATURE AND SCOPE OF THE CARE TO BE GIVEN, INCLUDING  
4 THE POSSIBILITY OF AND PROCEDURE FOR TRANSPORT OF THE CLIENT TO A  
5 HOSPITAL;

6 (III) THE AVAILABLE ALTERNATIVES TO DIRECT-ENTRY MIDWIFERY  
7 CARE; AND

8 (IV) A DESCRIPTION OF THE RISKS OF BIRTH, INCLUDING BUT NOT  
9 LIMITED TO THOSE CONDITIONS THAT MAY ARISE DURING DELIVERY.

10 (6) A DIRECT-ENTRY MIDWIFE SHALL PREPARE A PLAN AND PROCEDURE  
11 FOR EMERGENCY SITUATIONS WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO,  
12 SITUATIONS IN WHICH THE TIME REQUIRED FOR TRANSPORTATION TO THE NEAREST  
13 FACILITY CAPABLE OF PROVIDING APPROPRIATE TREATMENT EXCEEDS LIMITS  
14 ESTABLISHED BY THE DIRECTOR BY RULE. A SUMMARY OF SUCH PLAN SHALL BE  
15 GIVEN TO EACH CLIENT AS PART OF THE INFORMED CONSENT REQUIRED BY  
16 SUBSECTION (5) OF THIS SECTION.

17 (7) A DIRECT-ENTRY MIDWIFE SHALL PREPARE AND TRANSMIT  
18 APPROPRIATE SPECIMENS FOR NEWBORN SCREENING IN ACCORDANCE WITH SECTION  
19 25-4-1004, C.R.S.

20 (8) A DIRECT-ENTRY MIDWIFE SHALL ENSURE THAT APPROPRIATE  
21 LABORATORY TESTING, AS DETERMINED BY THE DIRECTOR, IS COMPLETED FOR  
22 EACH PREGNANT WOMAN IN SUCH DIRECT-ENTRY MIDWIFE'S CARE.

23 (9) A DIRECT-ENTRY MIDWIFE SHALL PROVIDE EYE PROPHYLACTIC  
24 THERAPY TO ALL NEWBORN CHILDREN IN SUCH DIRECT-ENTRY MIDWIFE'S CARE IN

1 ACCORDANCE WITH SECTION 25-4-303, C.R.S.

2 (10) A DIRECT-ENTRY MIDWIFE SHALL BE KNOWLEDGEABLE AND  
3 SKILLED IN ASEPTIC PROCEDURES AND THE USE OF UNIVERSAL PRECAUTIONS AND  
4 SHALL USE THEM WITH EVERY CLIENT.

5 (11) TO ASSURE THAT PROPER RISK ASSESSMENT IS COMPLETED AND  
6 THAT CLIENTS WHO ARE INAPPROPRIATE FOR DIRECT-ENTRY MIDWIFERY ARE  
7 REFERRED TO OTHER HEALTH CARE PROVIDERS, THE DIRECTOR SHALL ESTABLISH,  
8 BY RULE, A RISK ASSESSMENT PROCEDURE TO BE FOLLOWED BY A DIRECT-ENTRY  
9 MIDWIFE FOR EACH CLIENT AND STANDARDS FOR APPROPRIATE REFERRAL.

10 **12-37-106. Director - powers and duties.** (1) IN ADDITION TO ANY  
11 OTHER POWERS AND DUTIES CONFERRED ON THE DIRECTOR BY LAW, THE  
12 DIRECTOR HAS THE FOLLOWING POWERS AND DUTIES:

13 (a) TO ADOPT SUCH RULES AND REGULATIONS AS MAY BE NECESSARY  
14 TO CARRY OUT THE PROVISIONS OF THIS ARTICLE;

15 (b) TO ESTABLISH THE FEES FOR REGISTRATION AND RENEWAL OF  
16 REGISTRATION IN THE MANNER AUTHORIZED BY SECTION 24-34-105, C.R.S.;

17 (c) TO PREPARE OR ADOPT SUITABLE STANDARDS FOR EDUCATION AND  
18 TRAINING PROGRAMS AND EXAMINATIONS, WHICH MAY CONSIST OF PROGRAMS AND  
19 EXAMINATIONS DEVELOPED BY PERSONS OR ENTITIES OTHER THAN THE DIRECTOR  
20 AND APPROVED OR CERTIFIED BY THE DIRECTOR; EXCEPT THAT, IN PREPARING OR  
21 ADOPTING THE INITIAL EXAMINATION REQUIRED FOR REGISTRATION, THE DIRECTOR  
22 SHALL CONSULT WITH CERTIFIED NURSE-MIDWIVES, QUALIFIED PHYSICIANS, AND  
23 QUALIFIED DIRECT-ENTRY MIDWIVES AS TO THE VALIDITY AND SCOPE OF THE  
24 EXAMINATION;



(d) TO ACCEPT APPLICATIONS FOR REGISTRATION WHICH MEET THE REQUIREMENTS SET FORTH IN THIS ARTICLE, AND TO COLLECT THE ANNUAL REGISTRATION FEES AUTHORIZED BY THIS ARTICLE;

(e) TO SEEK, THROUGH THE OFFICE OF THE ATTORNEY GENERAL, AN INJUNCTION IN ANY COURT OF COMPETENT JURISDICTION TO ENJOIN ANY PERSON FROM COMMITTING ANY ACT PROHIBITED BY THIS ARTICLE. WHEN SEEKING AN INJUNCTION UNDER THIS PARAGRAPH (e), THE DIRECTOR SHALL NOT BE REQUIRED TO ALLEGE OR PROVE THE INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED VIOLATION OF THIS ARTICLE.

**12-37-107. Disciplinary action authorized.** (1) IF A DIRECT-ENTRY MIDWIFE HAS VIOLATED ANY OF THE PROVISIONS OF SECTION 12-37-103, 12-37-104, OR 12-37-105, THE DIRECTOR MAY DENY, REVOKE, OR SUSPEND ANY REGISTRATION, ISSUE A LETTER OF ADMONITION TO A REGISTRANT, PLACE A REGISTRANT ON PROBATION, OR APPLY FOR A TEMPORARY OR PERMANENT INJUNCTION AGAINST A DIRECT-ENTRY MIDWIFE, THROUGH THE ATTORNEY GENERAL, IN ANY COURT OF COMPETENT JURISDICTION, ENJOINING SUCH DIRECT-ENTRY MIDWIFE FROM PRACTICING MIDWIFERY OR COMMITTING ANY VIOLATION OF THE PROVISIONS OF THE SAID SECTION 12-37-103, 12-37-104, OR 12-37-105. SUCH INJUNCTIVE PROCEEDINGS SHALL BE IN ADDITION TO AND NOT IN LIEU OF ANY OTHER PENALTIES OR REMEDIES PROVIDED IN THIS ARTICLE.

(2) AS AN ALTERNATIVE TO OR IN ADDITION TO A SUSPENSION OR REVOCATION OF REGISTRATION UNDER SECTION 12-37-103 (4), THE DIRECTOR MAY ASSESS A CIVIL PENALTY IN THE FORM OF A FINE, NOT TO EXCEED FIVE HUNDRED

DOLLARS, FOR ANY ACT OR OMISSION ENUMERATED IN THE SAID SECTION.

**12-37-108. Criminal penalties.** (1) ANY PERSON WHO PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE DIRECT-ENTRY MIDWIFERY WITHOUT FIRST COMPLYING WITH THE REGISTRATION REQUIREMENTS OF SECTION 12-37-103 AND THE DISCLOSURE REQUIREMENTS OF SECTION 12-37-104 COMMITS A CLASS 3 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S., FOR THE FIRST OFFENSE, AND FOR THE SECOND OR ANY SUBSEQUENT OFFENSE, SUCH PERSON COMMITS A CLASS 6 FELONY AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-105, C.R.S.

**12-37-109. Assumption of risk - no vicarious liability - legislative declaration.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE AUTHORITY GRANTED IN THIS ARTICLE FOR THE PROVISION OF UNLICENSED MIDWIFERY SERVICES DOES NOT CONSTITUTE AN ENDORSEMENT OF SUCH PRACTICES, AND THAT IT IS INCUMBENT UPON THE INDIVIDUAL SEEKING SUCH SERVICES TO ASCERTAIN THE QUALIFICATIONS OF THE REGISTRANT DIRECT-ENTRY MIDWIFE. IT IS THE POLICY OF THIS STATE THAT REGISTRANTS SHALL BE LIABLE FOR THEIR ACTS OR OMISSIONS IN THE PERFORMANCE OF THE SERVICES THAT THEY PROVIDE, AND THAT NO LICENSED PHYSICIAN, CERTIFIED NURSE MIDWIFE, PREHOSPITAL EMERGENCY MEDICAL PERSONNEL, OR HEALTH CARE INSTITUTION SHALL BE LIABLE FOR ANY ACT OR OMISSION RESULTING FROM THE ADMINISTRATION OF SERVICES BY ANY REGISTRANT. THE PROVISIONS OF THIS SUBSECTION (1) SHALL NOT RELIEVE ANY PHYSICIAN, CERTIFIED NURSE MIDWIFE, PREHOSPITAL EMERGENCY PERSONNEL, OR HEALTH CARE INSTITUTION FROM LIABILITY FOR ANY WILLFUL OR WANTON ACT OR OMISSION OR ANY ACT OR

1 OMISSION CONSTITUTING GROSS NEGLIGENCE, OR UNDER CIRCUMSTANCES WHERE  
2 A REGISTRANT HAS A BUSINESS OR SUPERVISED RELATIONSHIP WITH ANY SUCH  
3 PHYSICIAN, CERTIFIED NURSE MIDWIFE, PREHOSPITAL EMERGENCY PERSONNEL, OR  
4 HEALTH CARE INSTITUTION.

5 (b) THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND  
6 DECLARES THAT THE LIMITATION ON LIABILITY PROVIDED IN SECTION 13-64-302,  
7 C.R.S., IS PREDICATED UPON FULL LICENSURE, DISCIPLINE, AND REGULATORY  
8 OVERSIGHT AND THAT THE PRACTICE OF UNLICENSED MIDWIFERY BY REGISTRANTS  
9 PURSUANT TO THIS ARTICLE IS AUTHORIZED AS AN ALTERNATIVE TO SUCH FULL  
10 LICENSURE, DISCIPLINE, AND REGULATORY OVERSIGHT AND IS THEREFORE NOT  
11 SUBJECT TO THE LIMITATIONS PROVIDED IN SECTION 13-64-302, C.R.S.

12 (2) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO INDICATE OR  
13 IMPLY THAT A REGISTRANT PROVIDING SERVICES UNDER THIS ARTICLE IS A  
14 LICENSED HEALTH CARE PROVIDER FOR THE PURPOSES OF REIMBURSEMENT BY ANY  
15 HEALTH INSURER, THIRD PARTY PAYER, OR GOVERNMENTAL HEALTH CARE  
16 PROGRAM.

17 SECTION 3. 10-4-403 (2.1), Colorado Revised Statutes, 1987 Repl.  
18 Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH  
19 to read:

20 10-4-403. Standards for rates - competition - procedure -  
21 requirement for independent actuarial opinions regarding 1991 legislation.

22 (2.1) (e) NO MEDICAL MALPRACTICE INSURER SHALL BE REQUIRED TO PROVIDE  
23 LIABILITY COVERAGE FOR UNLICENSED MIDWIVES WHO ARE REGISTERED AND  
24 PROVIDING SERVICES IN ACCORDANCE WITH ARTICLE 37 OF TITLE 12, C.R.S., NOR

1 SHALL ANY MEDICAL MALPRACTICE INSURER BE REQUIRED TO INCLUDE IN ANY  
2 RATE SETTING OR CLASSIFICATION BOTH LICENSED PHYSICIANS OR CERTIFIED  
3 NURSE MIDWIVES AND UNLICENSED MIDWIVES. THE COMMISSIONER SHALL  
4 NEITHER APPROVE NOR ALLOW ANY UNDERWRITING OR ACTUARIAL PRACTICE OR  
5 ANY RATE WHICH HAS THE EFFECT OF REQUIRING INSURED PHYSICIANS AND  
6 CERTIFIED NURSE MIDWIVES TO SUBSIDIZE THE RISKS OF UNLICENSED MIDWIVES.

7 SECTION 4. 13-64-202 (4), Colorado Revised Statutes, 1987 Repl.  
8 Vol., as amended, is amended to read:

9 13-64-202. Definitions. As used in this part 2, unless the context  
10 otherwise requires:

11 (4) "Health care professional" means any person licensed in this state or  
12 any other state to practice medicine, chiropractic, nursing, physical therapy,  
13 podiatry, dentistry, pharmacy, optometry, or other healing arts. The term includes  
14 any professional corporation or other professional entity comprised of such health  
15 care providers as permitted by the laws of this state. THE TERM DOES NOT  
16 INCLUDE A REGISTRANT CONDUCTING UNLICENSED MIDWIFERY PURSUANT TO  
17 ARTICLE 37 OF TITLE 12, C.R.S., OR ANY CORPORATE OR BUSINESS ORGANIZATION  
18 OR ENTITY COMPRISED OF ONE OR MORE OF SUCH REGISTRANTS.

19 SECTION 5. 24-34-104 (27), Colorado Revised Statutes, 1988 Repl.  
20 Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH  
21 to read:

22 24-34-104. General assembly review of regulatory agencies and  
23 functions for termination, continuation, or reestablishment. (27) (c) THE  
24 FOLLOWING FUNCTION OF THE DIVISION OF REGISTRATIONS SHALL TERMINATE ON

1 JULY 1, 1998: THE REGISTERING OF DIRECT-ENTRY MIDWIVES IN ACCORDANCE  
2 WITH ARTICLE 37 OF TITLE 12, C.R.S.

3 **SECTION 6.** 25-2-112, Colorado Revised Statutes, 1989 Repl. Vol., as  
4 amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

5 **25-2-112. Certificate of birth.** (2.5) FOR THE PURPOSES OF  
6 SUBSECTION (2) OF THIS SECTION, A REGISTRANT UNDER ARTICLE 37 OF TITLE 12,  
7 C.R.S., WHO ATTENDS OR WITNESSES A BIRTH OUTSIDE AN INSTITUTION SHALL  
8 PREPARE AND FILE THE CERTIFICATE AS REQUIRED BY SAID SUBSECTION (2).

9 **SECTION 7. Effective date - applicability.** This act shall take effect  
10 July 1, 1993, and shall apply to acts committed on or after said date.

11 **SECTION 8. Safety clause.** The general assembly hereby finds,  
12 determines, and declares that this act is necessary for the immediate preservation  
13 of the public peace, health, and safety.

BY REPRESENTATIVE Fleming;  
also SENATOR Schaffer.

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF THE PROFESSION OF INTERPRETING, AND  
102 MAKING AN APPROPRIATION THEREFOR.

Bill Summary

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

Enacts provisions regulating the profession of interpreting for the deaf and from the deaf to hearing persons in public and nonpublic schools. Creates the state board of examiners of interpreters in the department of education. Provides that the governor shall make appointments to the board. Requires that the board include persons who are deaf and hard of hearing.

Specifies that the board shall adopt, implement, and administer the examination which persons seeking to practice as interpreters must pass to become licensed. Specifies that a person may be licensed as either a professional oral interpreter, a professional sign language interpreter, or both. Sets criteria for the examination to include certain written provisions and certain skill tests. Requires certain education and training for persons seeking licensure as new or experienced interpreters. Specifies that the board must implement the testing and licensing provisions over a certain period of time. Provides that licensing and examinations shall conform to the work and educational experiences of persons currently practicing as interpreters.

Requires persons currently practicing as interpreters to register with the board in order to continue practicing during a temporary licensing period. Provides for the issuance of licenses to persons qualified to interpret.

Grants the department discretion in the denial, revocation, or suspension of licenses, or in placing a licensee on probation, if the licensee has committed certain acts. Allows the department to employ administrative law judges to conduct hearings concerning licensing issues. Allows the department to seek the assistance of the attorney general to obtain an injunction against persons who violate the licensing laws.

Requires the board to compile information regarding complaints against interpreters and to submit such information to the sunrise and sunset review committee in the form of a report on a certain date. Requires the board to work

with other agencies to develop consumer education in the area of interpreting. Provides for the repeal of the article on a certain date subject to review by the sunrise and sunset review committee.

Reconvenes the task force on interpreter issues on a certain date.

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

2 SECTION 1. Title 12, Colorado Revised Statutes, 1991 Repl. Vol., is  
3 amended BY THE ADDITION OF A NEW ARTICLE to read:

4 ARTICLE 44.8

5 Interpreters

6 12-44.8-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE  
7 CITED AS THE "COLORADO INTERPRETERS ACT".

8 12-44.8-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE  
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "BOARD" MEANS THE COLORADO STATE BOARD OF EXAMINERS OF  
11 INTERPRETERS CREATED IN SECTION 12-44.8-104.

12 (2) "DEAF" MEANS A HEARING LOSS WHICH NECESSITATES THE VISUAL  
13 ACQUISITION OF LANGUAGE.

14 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION.

15 (4) "EXAMINATION" MEANS THE TEST APPROVED AND ADMINISTERED BY  
16 THE BOARD CONSISTENT WITH SECTION 12-44.8-108.

17 (5) "HARD OF HEARING" MEANS A HEARING LOSS WHICH ADVERSELY  
18 AFFECTS THE ACQUISITION OF LANGUAGE BUT WHICH DOES NOT PRECLUDE THE  
19 AUDITORY ACQUISITION OF LANGUAGE.

20 (6) "INTERPRETER" MEANS A PERSON REQUIRED TO BE LICENSED

1 PURSUANT TO THIS ARTICLE PRACTICING FOR PAYMENT AS A PROFESSIONAL ORAL  
2 INTERPRETER, A PROFESSIONAL SIGN LANGUAGE INTERPRETER, OR BOTH, IN A  
3 PUBLIC OR NONPUBLIC SCHOOL, GRADES KINDERGARTEN THROUGH TWELVE OR THE  
4 EQUIVALENT THEREOF, WHO FACILITATES COMMUNICATION BETWEEN HEARING  
5 AND DEAF AND HARD OF HEARING PERSONS.

6 (7) "INTERPRETER PREPARATION PROGRAM" OR "IPP" MEANS THE  
7 PROGRAM DEVELOPED AND OFFERED AT FRONT RANGE COMMUNITY COLLEGE OR  
8 AN EQUIVALENT DEPARTMENT-APPROVED PROGRAM WHICH A POTENTIAL LICENSEE  
9 MAY COMPLETE TO ACHIEVE THE NECESSARY EDUCATIONAL TRAINING TO BECOME  
10 AN INTERPRETER.

11 (8) "PROFESSIONAL ORAL INTERPRETER" MEANS A PERSON TRAINED TO  
12 FACILITATE COMMUNICATION BETWEEN HEARING AND DEAF AND HARD OF  
13 HEARING PERSONS BY MOUTHING THE SPEAKER'S WORDS IN A MANNER WHICH IS  
14 VISIBLE AND WHICH MAKES THE SPEAKER'S MESSAGE CLEAR TO THE DEAF OR  
15 HARD OF HEARING PERSON.

16 (9) "PROFESSIONAL SIGN LANGUAGE INTERPRETER" MEANS A PERSON  
17 TRAINED TO FACILITATE COMMUNICATION BETWEEN HEARING AND DEAF AND  
18 HARD OF HEARING PERSONS BY USING SIGN LANGUAGE.

19 (10) TO "REGISTER" MEANS TO APPLY TO THE BOARD TO PRACTICE IN  
20 THIS STATE AS AN INTERPRETER SUBJECT TO THE LICENSING AND TESTING  
21 REQUIREMENTS OF THIS ARTICLE.

22 (11) "SIGN LANGUAGE" MEANS A SYSTEM OF COMMUNICATION BY  
23 MEANS OF HAND GESTURES USED TO COMMUNICATE WITH DEAF AND HARD OF  
24 HEARING PERSONS.

1 12-44.8-103. Scope of article. (1) THIS ARTICLE SHALL APPLY TO  
2 PERSONS PRACTICING AS INTERPRETERS FOR PAYMENT IN PUBLIC OR NONPUBLIC  
3 SCHOOLS, GRADES KINDERGARTEN THROUGH TWELVE OR THE EQUIVALENT  
4 THEREOF, IN THIS STATE.

5 (2) THIS ARTICLE SHALL NOT APPLY TO PERSONS WHO WOULD  
6 OTHERWISE BE DEFINED AS "INTERPRETERS" BUT WHO ARE NOT EMPLOYED IN A  
7 PUBLIC OR NONPUBLIC SCHOOL.

8 12-44.8-104. State board of examiners of interpreters - creation.

9 (1) THERE IS HEREBY CREATED IN THE DEPARTMENT OF EDUCATION THE  
10 COLORADO STATE BOARD OF EXAMINERS OF INTERPRETERS, CONSISTING OF NINE  
11 MEMBERS, ALL OF WHOM SHALL BE CITIZENS OF THE STATE OF COLORADO, AS  
12 FOLLOWS:

13 (a) FOUR INTERPRETERS, AT LEAST ONE OF WHOM IS KNOWLEDGEABLE  
14 IN ORAL INTERPRETING, INCLUDING:

15 (I) TWO PERSONS, AT LEAST ONE OF WHOM SHALL BE FROM A RURAL  
16 AREA OF COLORADO, WORKING AS INTERPRETERS IN SCHOOLS, EITHER PUBLIC OR  
17 NONPUBLIC, AS FOLLOWS:

18 (A) ONE PERSON CURRENTLY WORKING AS AN INTERPRETER IN AN  
19 ELEMENTARY SCHOOL, GRADES KINDERGARTEN THROUGH SIX; AND

20 (B) ONE PERSON CURRENTLY WORKING AS AN INTERPRETER IN A  
21 SECONDARY SCHOOL, GRADES SEVEN THROUGH TWELVE; AND

22 (II) ONE PERSON WORKING AS A FREE-LANCE INTERPRETER, WHO MAY  
23 BE A PERSON CURRENTLY EMPLOYED AS AN INTERPRETER AT A COLLEGE OR  
24 UNIVERSITY; AND

1 (III) ONE PERSON WORKING AS AN INTERPRETER IN A NONACADEMIC  
2 SETTING;

3 (b) FOUR DEAF OR HARD OF HEARING CONSUMERS, AT LEAST ONE OF  
4 WHOM USES THE SERVICES OF AN ORAL INTERPRETER, INCLUDING:

5 (I) AT LEAST ONE CONSUMER WHO IS DEAF AS DEFINED IN SECTION  
6 12-44.8-102 (2); AND

7 (II) AT LEAST ONE CONSUMER WHO IS HARD OF HEARING AS DEFINED  
8 IN SECTION 12-44.8-102 (5); AND

9 (c) ONE MEMBER OF THE PUBLIC AT LARGE.

10 (2) (a) EACH MEMBER OF THE BOARD SHALL BE APPOINTED BY THE  
11 GOVERNOR FOR A TERM OF THREE YEARS; EXCEPT THAT FOR THE INITIAL TERMS  
12 OF THE BOARD MEMBERS, ONE INTERPRETER AND TWO DEAF OR HARD OF HEARING  
13 CONSUMERS SHALL SERVE TERMS OF ONE YEAR, TWO INTERPRETERS AND ONE  
14 DEAF OR HARD OF HEARING CONSUMER SHALL SERVE TERMS OF TWO YEARS, AND  
15 ONE INTERPRETER, ONE DEAF OR HARD OF HEARING CONSUMER, AND THE MEMBER  
16 OF THE PUBLIC AT LARGE SHALL SERVE TERMS OF THREE YEARS.

17 (b) ANY INTERIM APPOINTMENT NECESSARY TO FILL A VACANCY WHICH  
18 HAS OCCURRED BY ANY REASON OTHER THAN EXPIRATION OF THE TERM OF OFFICE  
19 SHALL BE FOR THE REMAINDER OF THE UNEXPIRED TERM.

20 (c) NO PERSON SHALL BE APPOINTED TO SERVE MORE THAN TWO  
21 THREE-YEAR TERMS AS A MEMBER OF THE BOARD.

22 (d) THE GOVERNOR MAY REMOVE ANY BOARD MEMBER FOR CAUSE,  
23 WHICH SHALL INCLUDE BUT NEED NOT BE LIMITED TO MISCONDUCT,  
24 INCOMPETENCE, OR NEGLECT OF DUTY.

1 (3) THE BOARD SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES  
2 AND FUNCTIONS SPECIFIED IN THIS ARTICLE UNDER THE DEPARTMENT OF  
3 EDUCATION AND THE COMMISSIONER OF EDUCATION AS IF THE SAME WERE  
4 TRANSFERRED TO THE DEPARTMENT BY A TYPE 2 TRANSFER, AS SUCH TRANSFER  
5 IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1  
6 OF TITLE 24, C.R.S.

7 (4) MEMBERS OF THE BOARD SHALL ELECT ANNUALLY FROM AMONG  
8 THEIR NUMBER A PRESIDENT, A VICE-PRESIDENT, AND A SECRETARY.

9 (5) THE BOARD SHALL MEET AS OFTEN AS NECESSARY TO ACCOMPLISH  
10 THE PURPOSES OF THIS ARTICLE, BUT NOT LESS THAN TWICE ANNUALLY.

11 (6) BOARD MEMBERS SHALL BE REIMBURSED FOR ACTUAL AND  
12 NECESSARY EXPENSES IN CONNECTION WITH THEIR SERVICE ON THE BOARD BUT  
13 SHALL NOT RECEIVE A PER DIEM FOR SERVICE ON THE BOARD.

14 **12-44.8-105. Powers and duties of the board - interpreters cash fund**  
15 **- creation.** (1) THE BOARD SHALL:

16 (a) PROMULGATE, IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24,  
17 C.R.S., SUCH RULES AND REGULATIONS AS ARE NECESSARY FOR THE  
18 ADMINISTRATION OF THIS ARTICLE;

19 (b) DENY, REVOKE, OR SUSPEND ANY LICENSE, OR PLACE ANY LICENSEE  
20 ON PROBATION UPON DIRECTION BY THE DEPARTMENT;

21 (c) ESTABLISH THE EDUCATIONAL AND TRAINING REQUIREMENTS FOR  
22 ANY PERSON SEEKING LICENSURE AS AN INTERPRETER, INCLUDING:

23 (I) EVALUATING AND CERTIFYING FOR PURPOSES OF LICENSURE THE  
24 SKILL LEVEL AS DETERMINED THROUGH THE ADMINISTRATION OF AN EXAMINATION

1 OF PERSONS APPLYING FOR LICENSURE AS INTERPRETERS;

2 (II) (A) APPROVING AND IMPLEMENTING THE EXAMINATION, CONSISTENT  
3 WITH SECTION 12-44.8-108, WHICH SHALL BE ADMINISTERED TO PERSONS SEEKING  
4 LICENSURE AS INTERPRETERS;

5 (B) ESTABLISHING A POLICY REGARDING THE NUMBER OF TIMES PER  
6 YEAR SUCH EXAMINATION SHALL BE OFFERED, THE LOCATIONS WHERE SUCH  
7 EXAMINATION SHALL BE OFFERED, AND THE NUMBER OF TIMES AND THE  
8 PROCEDURE BY WHICH A PERSON MAY RETAKE SUCH EXAMINATION IF SUCH  
9 PERSON FAILS THE EXAMINATION OR A PORTION OF THE EXAMINATION. THE  
10 WRITTEN PORTION OF SUCH EXAMINATION SHALL BE AVAILABLE NO LATER THAN  
11 JULY 1, 1994, AND ALL PORTIONS OF THE EXAMINATION SHALL BE AVAILABLE NO  
12 LATER THAN JULY 1, 1995.

13 (III) (A) REQUIREMENTS FOR PERSONS WHO HAVE PRACTICED AS  
14 INTERPRETERS AND PERSONS WHO COMPLETE AN IPP PRIOR TO JULY 1, 1995, IN  
15 COLORADO OR ELSEWHERE, TO REGISTER WITH THE BOARD PENDING PERMANENT  
16 LICENSURE OF SUCH PERSONS AS INTERPRETERS PURSUANT TO SECTION  
17 12-44.8-107;

18 (B) ISSUING TEMPORARY LICENSES TO PERSONS PURSUANT TO  
19 SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III);

20 (C) TRAINING PROGRAMS AS NEEDED AND A TIME FRAME FOR  
21 IMPLEMENTING SUCH PROGRAMS FOR PERSONS WHO REGISTER AS INTERPRETERS  
22 WITH THE BOARD PRIOR TO JULY 1, 1995, SO THAT THE INTERPRETING SKILL  
23 LEVELS OF SUCH INTERPRETERS MAY BE OBJECTIVELY QUANTIFIED TO MATCH THE  
24 INTERPRETING SKILL LEVELS OF PERSONS GRADUATING FROM AN IPP ON AND

1 AFTER JULY 1, 1995, AND SO THAT ANY NECESSARY REMEDIAL PROGRAMS MAY  
2 BE IMPLEMENTED;

3 (IV) ISSUING WAIVERS ON A CASE-BY-CASE BASIS TO PERSONS WHO HAVE  
4 COMPLETED CERTAIN EDUCATIONAL REQUIREMENTS AS PART OF AN IPP, WHO  
5 HAVE CERTAIN PRACTICAL EXPERIENCE AS INTERPRETERS, OR WHO HAVE  
6 NATIONALLY RECOGNIZED CERTIFICATION SO THAT SUCH PERSONS ARE GIVEN  
7 CREDIT FOR THE RELEVANT SKILLS PORTIONS OF THE EXAMINATION WITHOUT  
8 HAVING TO SIT FOR SUCH PORTION OF THE EXAMINATION;

9 (V) REGISTRATION REQUIREMENTS FOR PERSONS NOT COVERED BY  
10 SUBPARAGRAPH (III) OF THIS PARAGRAPH (c);

11 (d) ESTABLISH THE PERIOD, NOT TO EXCEED THREE YEARS, FOR WHICH  
12 LICENSES ISSUED PURSUANT TO THIS ARTICLE SHALL BE VALID;

13 (e) DEFINE RENEWAL REQUIREMENTS FOR ALL LICENSEES SEEKING TO  
14 RENEW LICENSES ISSUED PURSUANT TO THIS ARTICLE;

15 (f) ESTABLISH AND COLLECT FEES SUFFICIENT TO COVER THE COSTS OF  
16 IMPLEMENTING THIS ARTICLE FOR THE ADMINISTRATION OF EXAMINATIONS FOR  
17 LICENSURE AND FOR THE ISSUANCE OF LICENSES;

18 (g) COOPERATE WITH ORGANIZATIONS AND AGENCIES TO ESTABLISH A  
19 PROGRAM REGARDING CONSUMER RIGHTS AND OBLIGATIONS AS SUCH RIGHTS AND  
20 OBLIGATIONS ARE AFFECTED BY THE USE OF INTERPRETERS;

21 (h) COLLECT INFORMATION REGARDING THE STATUS OF THE PROFESSION  
22 OF INTERPRETING AND COMPILE ANY COMPLAINTS LODGED AGAINST PERSONS  
23 LICENSED AS INTERPRETERS, OR AGAINST ANY PERSON ACTING WITHOUT A LICENSE  
24 AS AN INTERPRETER, INTO A REPORT TO BE PRESENTED TO THE SUNRISE AND

1 SUNSET COMMITTEE OF THE GENERAL ASSEMBLY BY JULY 1, 1998, FOR PURPOSES  
2 OF DETERMINING WHETHER THIS ARTICLE NEEDS TO BE AMENDED TO BETTER  
3 EFFECTUATE THE INTENT OF THE GENERAL ASSEMBLY;

4 (i) THROUGH THE COMMISSIONER OF EDUCATION, HIRE AN  
5 ADMINISTRATOR, WHO SHALL HAVE A WORKING KNOWLEDGE OF THE PROFESSION  
6 OF INTERPRETING, DEAF CULTURE, AND SIGN LANGUAGE, AND SUCH STAFF AS  
7 MAY BE NECESSARY TO ASSIST THE BOARD IN THE DISCHARGE OF ITS DUTIES AS  
8 IMPOSED BY THIS ARTICLE SUBJECT TO THE PROVISIONS OF SECTION 13 OF ARTICLE  
9 XII OF THE STATE CONSTITUTION.

10 (2) (a) ALL MONEYS COLLECTED PURSUANT TO THIS ARTICLE SHALL BE  
11 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE  
12 INTERPRETERS CASH FUND, WHICH FUND IS HEREBY CREATED. ALL INTEREST  
13 DERIVED FROM THE INVESTMENT OF MONEYS IN THE INTERPRETERS CASH FUND  
14 SHALL BE CREDITED TO THE FUND. ANY BALANCE REMAINING IN THE FUND AT  
15 THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL BE  
16 SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE PURPOSES FOR  
17 WHICH THE FUND WAS CREATED.

18 (b) THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS  
19 FROM THE INTERPRETERS CASH FUND FOR THE DIRECT AND INDIRECT COSTS OF  
20 THE BOARD INCURRED IN THE PERFORMANCE OF ITS DUTIES UNDER THIS ARTICLE.

21 (3) THE BOARD MAY ACCEPT MONEYS FROM ANY GOVERNMENTAL UNIT  
22 AS WELL AS BEQUESTS, DONATIONS, GIFTS, AND GRANTS FROM FOUNDATIONS,  
23 INDIVIDUALS, AND PRIVATE ORGANIZATIONS; EXCEPT THAT NO BEQUEST,  
24 DONATION, GIFT, OR GRANT MAY BE ACCEPTED BY THE BOARD IF IT IS SUBJECT TO

1 CONDITIONS WHICH ARE INCONSISTENT WITH THIS ARTICLE OR ANY OTHER LAW OF  
2 THIS STATE OR WHICH REQUIRES EXPENDITURES WHICH HAVE NOT BEEN APPROVED  
3 BY THE GENERAL ASSEMBLY.

4 **12-44.8-106. License required.** ON AND AFTER JANUARY 1, 1994,  
5 EXCEPT AS OTHERWISE PROVIDED BY THIS ARTICLE, ANY PERSON WHO PRACTICES  
6 AS AN INTERPRETER IN A PUBLIC OR NONPUBLIC SCHOOL, GRADES KINDERGARTEN  
7 THROUGH TWELVE OR THE EQUIVALENT THEREOF, IN THIS STATE SHALL POSSESS  
8 A VALID LICENSE ISSUED BY THE BOARD IN ACCORDANCE WITH THIS ARTICLE AND  
9 ANY RULES AND REGULATIONS ADOPTED PURSUANT TO THIS ARTICLE.

10 **12-44.8-107. Licensure.** (1) EVERY APPLICANT FOR A LICENSE WHO  
11 HAS NOT PRACTICED AS AN INTERPRETER PRIOR TO JULY 1, 1995, IN COLORADO  
12 OR ELSEWHERE, OR WHO HAS NOT GRADUATED FROM AN IPP PRIOR TO JULY 1,  
13 1995, BEFORE PRACTICING AS AN INTERPRETER, SHALL:

- 14 (a) SUCCESSFULLY COMPLETE AN INTERPRETER PREPARATION PROGRAM;
- 15 AND
- 16 (b) REGISTER WITH THE BOARD IN THE MANNER PRESCRIBED BY THE
- 17 BOARD FOR A LICENSE TO PRACTICE AS AN INTERPRETER; AND
- 18 (c) PASS THE WRITTEN PORTION OF THE EXAMINATION; AND
- 19 (d) PASS THE SKILLS PORTION OF THE EXAMINATION OFFERED BY THE
- 20 BOARD DEMONSTRATING PROFICIENCY IN THE LANGUAGE OR LANGUAGE SYSTEM
- 21 WHICH THE APPLICANT SEEKS TO INTERPRET.

22 (2) EVERY APPLICANT FOR A LICENSE WHO HAS PRACTICED AS AN  
23 INTERPRETER PRIOR TO JULY 1, 1995, OR WHO GRADUATES FROM AN IPP PRIOR  
24 TO JULY 1, 1995, IN COLORADO OR ELSEWHERE SHALL:



(a) PRIOR TO JULY 1, 1995, REGISTER WITH THE BOARD ON A FORM PROVIDED BY THE BOARD. SUCH REGISTRANTS SHALL BE ISSUED A TEMPORARY LICENSE BY THE BOARD WHICH SHALL EXPIRE UPON THE ISSUANCE OF A PERMANENT LICENSE OR OTHERWISE AS DETERMINED BY THE BOARD.

(b) BE SUBJECT TO THE APPLICABLE TESTING PROVISIONS IN SECTION 12-44.8-108 (5).

**12-44.8-108. Examination required prior to licensure.** (1) (a) ALL PERSONS SEEKING LICENSURE PURSUANT TO THIS ARTICLE SHALL PASS AN EXAMINATION OFFERED AND ADMINISTERED BY THE BOARD. ALL SUCH POTENTIAL LICENSEES SHALL TAKE THE WRITTEN PORTION OF THE EXAMINATION. SUCH WRITTEN PORTION SHALL INCLUDE QUESTIONS CONCERNING THE FOLLOWING:

- (I) DEAF CULTURE; AND
  - (II) AN INTERPRETER CODE OF ETHICS INCLUDING SITUATIONAL ETHICS;
- AND
- (III) ISSUES RELATING TO MANUALLY AND ORALLY DEAF INDIVIDUALS.

(b) NO PERSON WHO REGISTERS WITH THE BOARD AFTER JULY 1, 1995, SHALL PRACTICE AS AN INTERPRETER UNTIL SUCH PERSON PASSES THE WRITTEN AND SKILLS PORTIONS OF THE EXAMINATION.

(2) (a) ALL PERSONS SEEKING TO PRACTICE AS PROFESSIONAL SIGN LANGUAGE INTERPRETERS SHALL PASS A SKILLS TEST DEMONSTRATING PROFICIENCY IN ONE OF THE FOLLOWING LANGUAGE OR LANGUAGE SYSTEMS AND A KNOWLEDGE OF THE OTHER TWO. THE LANGUAGE AND LANGUAGE SYSTEMS ARE:

- (I) THE LANGUAGE OF AMERICAN SIGN LANGUAGE;

(II) THE LANGUAGE SYSTEMS OF:

- (A) SIGNED ENGLISH; AND
- (B) SIGNING EXACT ENGLISH II.

(b) PERSONS TESTING TO QUALIFY AS PROFESSIONAL SIGN LANGUAGE INTERPRETERS MAY USE CONSECUTIVE INTERPRETING TO TEST IN ONE SIGN LANGUAGE INTERPRETING AREA.

(c) THE BOARD MAY ISSUE AN EXAMINATION WAIVER TO A PERSON SEEKING LICENSURE AS A PROFESSIONAL SIGN LANGUAGE INTERPRETER PURSUANT TO SECTION 12-44.8-105 (1) (c) (IV).

(3) ANY PERSON SEEKING TO PRACTICE AS A PROFESSIONAL ORAL INTERPRETER SHALL PASS AN ORAL INTERPRETING SKILLS TEST PRIOR TO RECEIVING A LICENSE AND PRIOR TO PRACTICING AS AN INTERPRETER; EXCEPT THAT THE BOARD MAY ISSUE AN EXAMINATION WAIVER TO SUCH PERSON PURSUANT TO SECTION 12-44.8-105 (1) (c) (IV).

(4) ANY PERSON WHO IS CERTIFIED BY THE REGISTRY OF INTERPRETERS FOR THE DEAF SHALL BE REQUIRED TO TAKE ONLY THE APPLICABLE PARTS OF THE STATE TEST, DEPENDING UPON THE TYPE OF CERTIFICATION HELD. THE BOARD MAY ISSUE AN EXAMINATION WAIVER TO ANY SUCH PERSON PURSUANT TO SECTION 12-44.8-105 (1) (c) (IV).

(5) (a) PERSONS WHO PRACTICE AS INTERPRETERS ON OR BEFORE JANUARY 1, 1994, AND WHO REGISTER WITH THE BOARD AS INTERPRETERS BY JANUARY 1, 1994, SHALL PASS THE WRITTEN PORTION OF THE EXAMINATION BY JULY 1, 1995, OR SHALL NOT CONTINUE TO PRACTICE.

- (b) PERSONS WHO PRACTICE AS PROFESSIONAL ORAL INTERPRETERS ON

1 OR BEFORE JANUARY 1, 1994, AND WHO REGISTER WITH THE BOARD BY JANUARY  
2 1, 1994, AS PROFESSIONAL ORAL INTERPRETERS, SHALL HAVE UNTIL JULY 1, 1996,  
3 TO PASS THE ORAL INTERPRETING SKILLS TEST.

4 (c) (I) PERSONS WHO PRACTICE AS PROFESSIONAL SIGN LANGUAGE  
5 INTERPRETERS ON OR BEFORE JANUARY 1, 1994, AND WHO REGISTER WITH THE  
6 BOARD AS PROFESSIONAL SIGN LANGUAGE INTERPRETERS BY JANUARY 1, 1994,  
7 SHALL HAVE UNTIL JULY 1, 1998, TO PASS THE SKILLS TEST DEMONSTRATING  
8 PROFICIENCY IN THE LANGUAGE OR LANGUAGE SYSTEM WHICH THE REGISTRANT  
9 SEEKS TO INTERPRET OR BE WAIVED FROM HAVING TO TAKE THE SKILLS TEST  
10 PURSUANT TO SECTION 12-44.8-105 (1) (c) (IV).

11 (II) NO PERSON WHO GRADUATES FROM AN IPP PRIOR TO JULY 1, 1995,  
12 SHALL BE PRESUMPTIVELY WAIVED FROM TAKING THE SKILLS TEST.

13 (d) (I) PERSONS WHO PRACTICE AS INTERPRETERS OR WHO GRADUATE  
14 FROM AN IPP PRIOR TO JULY 1, 1995, AND WHO REGISTER WITH THE BOARD  
15 AFTER JANUARY 1, 1994, AND BEFORE JULY 1, 1995, SHALL PASS THE WRITTEN  
16 PORTION AND THE SKILLS PORTION OF THE EXAMINATION BY JULY 1, 1996, OR  
17 SHALL CEASE PRACTICING UNTIL SUCH TIME AS THEY SUCCESSFULLY COMPLETE  
18 THE EXAMINATION.

19 (II) PERSONS REGISTERING PURSUANT TO THIS PARAGRAPH (d) SHALL BE  
20 ISSUED A TEMPORARY LICENSE WHICH SHALL BE VALID UNTIL A PERMANENT  
21 LICENSE IS ISSUED OR DENIED.

22 (6) (a) PERSONS SEEKING TO QUALIFY AS INTERPRETERS SHALL NOT  
23 HAVE TO TAKE OR PASS THE WRITTEN AND SKILLS PORTIONS OF THE EXAMINATION  
24 AT ONE TIME.

1 (b) PERSONS SEEKING LICENSURE MAY TAKE THE SKILLS PORTION OF  
2 THE EXAMINATION WHENEVER PRACTICABLE SUBJECT TO THE LIMITATIONS  
3 IMPLEMENTED BY THE BOARD THROUGH RULE AND REGULATION CONCERNING THE  
4 FOLLOWING:

5 (I) THE MAXIMUM NUMBER OF TIMES WHICH A PERSON MAY RETAKE A  
6 PORTION OF THE EXAMINATION AFTER FAILING SUCH PORTION BEFORE HAVING TO  
7 TAKE REMEDIAL TRAINING; AND

8 (II) THE MAXIMUM LENGTH OF TIME, IN YEARS, A PERSON IS ALLOWED  
9 TO COMPLETE BOTH PORTIONS OF THE EXAMINATION BEFORE SUCH PERSON IS  
10 REQUIRED TO RETAKE AND PASS A PORTION OF THE EXAMINATION ALREADY TAKEN  
11 AND PASSED.

12 **12-44.8-109. Disciplinary proceedings - grounds for denial,**  
13 **revocation, or suspension of license - judicial review.** (1) THE BOARD IS NOT  
14 AUTHORIZED TO TAKE ANY DISCIPLINARY ACTIONS AGAINST ANY PERSON LICENSED  
15 OR REGISTERED PURSUANT TO THIS ARTICLE.

16 (2) THE DEPARTMENT MAY DENY, REVOKE, OR SUSPEND ANY LICENSE  
17 ISSUED UNDER ITS AUTHORITY, OR PLACE ANY LICENSEE ON PROBATION,  
18 PURSUANT TO THIS ARTICLE UPON PROOF THAT THE LICENSEE:

19 (a) HAS BEEN CONVICTED OF OR HAS ENTERED A PLEA OF NOLO  
20 CONTENDERE TO A FELONY. IN CONSIDERING THE CONVICTION OF OR SUCH PLEA  
21 TO ANY SUCH FELONY, THE DEPARTMENT SHALL BE GOVERNED BY THE PROVISIONS  
22 OF SECTION 24-5-101, C.R.S.

23 (b) HAS MADE ANY INTENTIONAL MISSTATEMENT ON SUCH LICENSEE'S  
24 APPLICATION FOR LICENSURE TO PRACTICE AS AN INTERPRETER;

1 (c) IS INCOMPETENT TO PRACTICE AS AN INTERPRETER, WHICH SHALL  
2 INCLUDE PERFORMING SERVICES OUTSIDE OF SUCH LICENSEE'S AREA OF TRAINING,  
3 EXPERIENCE, OR COMPETENCE;

4 (d) IS ADDICTED TO OR DEPENDENT ON ALCOHOL OR HABIT-FORMING  
5 DRUGS OR IS A HABITUAL USER OF CONTROLLED SUBSTANCES, AS DEFINED IN  
6 SECTION 18-18-102 (5), C.R.S., OR OTHER DRUGS HAVING SIMILAR EFFECTS, IF  
7 THE USE, ADDICTION, OR DEPENDENCY IS A DANGER TO THE PUBLIC; OR

8 (e) HAS VIOLATED ANY OF THE PROVISIONS OF THIS ARTICLE.

9 (3) THE DEPARTMENT MAY SEEK THROUGH THE OFFICE OF THE  
10 ATTORNEY GENERAL AN INJUNCTION IN ANY COURT OF COMPETENT JURISDICTION  
11 TO ENJOIN ANY PERSON FROM COMMITTING ANY ACT PROHIBITED BY THIS  
12 ARTICLE. WHEN SEEKING AN INJUNCTION UNDER THIS SUBSECTION (3), THE  
13 DEPARTMENT SHALL NOT BE REQUIRED TO ALLEGE OR PROVE THE INADEQUACY  
14 OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR IRREPARABLE DAMAGE IS  
15 LIKELY TO RESULT FROM A CONTINUED VIOLATION OF THIS ARTICLE.

16 (4) THE DEPARTMENT MAY EMPLOY ADMINISTRATIVE LAW JUDGES ON  
17 A FULL- OR PART-TIME BASIS TO CONDUCT ANY HEARINGS REQUIRED BY THIS  
18 ARTICLE, SUBJECT TO AVAILABLE APPROPRIATIONS. THE ADMINISTRATIVE LAW  
19 JUDGES SHALL BE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24,  
20 C.R.S. FOR PURPOSES OF JUDICIAL REVIEW, ANY ACTION TAKEN BY THE BOARD  
21 PURSUANT TO THIS SECTION SHALL BE CONSIDERED FINAL.

22 **12-44.8-110. Reconvening of task force on interpreter issues.** THE  
23 TASK FORCE ON INTERPRETER ISSUES CONVENED BY THE DEPARTMENT OF  
24 REGULATORY AGENCIES AS PART OF THE SUNRISE REVIEW FOR THIS ARTICLE SHALL

1 BE RECONVENED FOR THE PURPOSES FOR WHICH SUCH TASK FORCE WAS  
2 ORIGINALLY ESTABLISHED AT SUCH TIME AS THE SUNRISE AND SUNSET REVIEW  
3 COMMITTEE MEETS TO REVIEW THE BOARD PURSUANT TO SECTION 12-44.8-111.

4 **12-44.8-111. Review of board - repeal of article.** (1) THE PROVISIONS  
5 OF SECTION 24-34-104, C.R.S., CONCERNING THE TERMINATION SCHEDULE FOR  
6 REGULATORY BODIES OF THE STATE UNLESS EXTENDED AS PROVIDED IN THAT  
7 SECTION ARE APPLICABLE TO THE STATE BOARD OF EXAMINERS OF INTERPRETERS  
8 CREATED IN SECTION 12-44.8-104.

9 (2) THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 1999.

10 **SECTION 2.** 22-2-103 (1), Colorado Revised Statutes, 1988 Repl. Vol.,  
11 is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12 **22-2-103. Department of education.** (1) The department of education  
13 shall include the following:

14 (d) STATE BOARD OF EXAMINERS OF INTERPRETERS CREATED IN SECTION  
15 12-44.8-104, C.R.S.

16 **SECTION 3.** 24-1-115, Colorado Revised Statutes, 1988 Repl. Vol., is  
17 amended BY THE ADDITION OF A NEW SUBSECTION to read:

18 **24-1-115. Department of education - creation.** (8) THE DEPARTMENT  
19 OF EDUCATION SHALL INCLUDE THE STATE BOARD OF EXAMINERS OF  
20 INTERPRETERS CREATED IN SECTION 12-44.8-104, C.R.S. THE STATE BOARD OF  
21 EXAMINERS SHALL EXERCISE ITS POWERS, DUTIES, AND FUNCTIONS AS IF THE SAME  
22 WERE TRANSFERRED BY A TYPE 2 TRANSFER TO THE DEPARTMENT OF EDUCATION.

23 **SECTION 4.** 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol.,  
24 as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

1           **24-34-104. General assembly review of regulatory agencies and**  
2 **functions for termination, continuation, or reestablishment.** (28.1) THE STATE  
3 BOARD OF EXAMINERS OF INTERPRETERS IN THE DEPARTMENT OF EDUCATION,  
4 PURSUANT TO ARTICLE 44.8 OF TITLE 12, C.R.S., SHALL TERMINATE ON JULY 1,  
5 1999.

6           **SECTION 5. Appropriation.** In addition to any other appropriation,  
7 there is hereby appropriated, out of any moneys in the interpreters cash fund  
8 created in section 12-44.8-105, Colorado Revised Statutes, not otherwise  
9 appropriated, to the department of education, for the fiscal year beginning July 1,  
10 1993, the sum of \_\_\_\_\_ dollars (\$) and \_\_\_\_ FTE, or so much thereof as  
11 may be necessary, for the implementation of this act. Of said sum, \_\_\_\_\_  
12 dollars (\$) and \_\_\_\_ FTE, is for allocation to the state board of examiners of  
13 interpreters.

14           **SECTION 6. Effective date.** This act shall take effect July 1, 1993;  
15 except that section 12-44.8-104, Colorado Revised Statutes, shall take effect upon  
16 passage.

17           **SECTION 7. Safety clause.** The general assembly hereby finds,  
18 determines, and declares that this act is necessary for the immediate preservation  
19 of the public peace, health, and safety.

BY REPRESENTATIVE Kerns;  
also SENATOR Hopper.

A BILL FOR AN ACT

101 CONCERNING PROCEDURES RELATED TO THE PRESENCE OF RADON AND, IN  
102 CONNECTION THEREWITH, PREVENTING UNFAIR BUSINESS PRACTICES AND  
103 AUTHORIZING THE DEPARTMENT OF HEALTH TO SET GUIDELINES FOR THE  
104 MITIGATION OF RADON IN SCHOOLS.

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 making a false representation as to the results of a radon test or the need for mitigation of radon is a deceptive trade practice. Authorizes the department of health to set guidelines for the mitigation of radon in schools. Requires the addition of a clause to real estate contracts to disclose the fact that radon exists in high levels in Colorado and to advise the testing of property prior to purchase.

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

SECTION 1. 6-1-105 (1), Colorado Revised Statutes, 1992 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

6-1-105. Deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person:

(hh) KNOWINGLY MAKES A FALSE REPRESENTATION AS TO THE RESULTS

OF A RADON TEST OR THE NEED FOR RADON MITIGATION.

SECTION 2. 25-1-107 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25-1-107. Powers and duties of the department. (1) The department has, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(m.1) THE AUTHORITY TO SET GUIDELINES FOR THE MITIGATION OF RADON IN SCHOOLS;

SECTION 3. Title 38, Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 37.5

Radon Disclosure Statement

38-37.5-101. Disclosure statement required - radon. ALL RESIDENTIAL REAL PROPERTY SALE CONTRACTS SHALL INCLUDE THE FOLLOWING STATEMENT: "RADON, A NATURALLY OCCURRING RADIOACTIVE GAS, HAS BEEN FOUND TO EXIST AT HIGH LEVELS IN THE STATE OF COLORADO. TESTING FOR THE PRESENCE OF RADON IN RESIDENTIAL REAL ESTATE PRIOR TO PURCHASE IS ADVISABLE."

SECTION 4. Effective date. This act shall take effect July 1, 1993.

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

BY REPRESENTATIVE Owen;  
also SENATOR Schaffer.

A BILL FOR AN ACT

101 CONCERNING ADVISORY BODIES SCHEDULED FOR REPEAL JULY 1, 1993.

Bill Summary

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

Repeals the sunset date of the following advisory boards and committees: The advisory committee to the state housing board concerning camper trailers and camper coaches; the advisory committee on factory-built nonresidential structures; the advisory committee on factory-built housing; the Colorado board of veterans affairs; the advisory committee on governmental accounting; the organic certification advisory board; the advisory committee to the Auraria board; the advisory committee to the property tax administrator; the Colorado economic development advisory board; and the advisory board on hazardous material responders.

Merges the advisory committee on factory-built nonresidential structures and the advisory committee on factory-built housing into one committee.

Revises the provisions that mandate the composition of the Colorado economic development advisory board by removing the requirement that a certain number of the members be elected officials and requiring instead that all members be from the private sector.

Deletes a requirement that the governor, with the advice and consent of the senate, appoint the advisory committee on governmental accounting. Provides instead that the state auditor make such appointments.

Revises the provisions that mandate the composition of the organic certification advisory board by adding a requirement that a member of the general public be on the board in lieu of a representative of the marketing community.

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

2 SECTION 1. 2-3-1203 (3) (f) (IV), (3) (f) (V), (3) (f) (IX), (3) (f) (X),

3 (3) (f) (XI), (3) (f) (XIII), (3) (f) (XIV), (3) (f) (XVI), (3) (f) (XVII), and (3) (f)

1 (XVIII), Colorado Revised Statutes, 1980 Repl. Vol., as amended, are repealed as  
2 follows:

3 2-3-1203. Sunset review of advisory committees. (3) The following  
4 dates are the dates for which the statutory authorization for the designated advisory  
5 committees is scheduled for repeal:

6 (f) July 1, 1993:

7 (IV) ~~The advisory committee on factory-built housing appointed pursuant~~  
8 ~~to section 24-32-710, C.R.S.;~~

9 (V) ~~The advisory committee to the state housing board concerning~~  
10 ~~camper trailers and camper coaches, which committee is appointed pursuant to~~  
11 ~~section 24-32-903 (2), C.R.S.;~~

12 (IX) ~~The Colorado board of veterans affairs, appointed pursuant to~~  
13 ~~section 26-10-103 (1), C.R.S.;~~

14 (X) ~~The advisory committee on governmental accounting, appointed~~  
15 ~~pursuant to section 29-1-503 (1), C.R.S.;~~

16 (XI) ~~The advisory committee to the property tax administrator, appointed~~  
17 ~~pursuant to section 39-2-129, C.R.S.;~~

18 (XIII) ~~The advisory committee to the Auraria board appointed pursuant~~  
19 ~~to section 23-70-102 (1) (e) and (1) (d), C.R.S.;~~

20 (XIV) ~~The organic certification advisory board appointed pursuant to~~  
21 ~~section 35-11.5-114, C.R.S.;~~

22 (XVI) ~~The advisory committee on factory-built nonresidential structures,~~  
23 ~~appointed pursuant to section 24-32-1903 (2), C.R.S.;~~

24 (XVII) ~~The Colorado economic development advisory board created~~

1 ~~pursuant to section 24-49-101, C.R.S.;~~

2 (XVIII) ~~The advisory board on hazardous materials responders appointed~~  
3 ~~pursuant to section 24-33.5-1402, C.R.S.;~~

4 SECTION 2. 23-70-102 (1) (c) (II) and (1) (d) (II), Colorado Revised  
5 Statutes, 1988 Repl. Vol., as amended, are repealed as follows:

6 23-70-102. Auraria board - membership - terms - oaths - voting.  
7 (1) (c) (II) ~~This paragraph (c) is repealed, effective July 1, 1993. Prior to said~~  
8 ~~repeal, the advisory committee shall be reviewed as provided for in section~~  
9 ~~2-3-1203, C.R.S.~~

10 (d) (II) ~~This paragraph (d) is repealed, effective July 1, 1993. Prior to~~  
11 ~~said repeal, the advisory committee shall be reviewed as provided for in section~~  
12 ~~2-3-1203, C.R.S.~~

13 SECTION 3. 24-32-710 (3) (a) and (3) (b), Colorado Revised Statutes,  
14 1988 Repl. Vol., are amended to read:

15 24-32-710. Rules - enforcement - advisory committee - sunset review.

16 (3) (a) The board shall consult with and obtain the advice of an advisory  
17 committee on ~~factory built housing~~ RESIDENTIAL AND NONRESIDENTIAL  
18 STRUCTURES in the drafting and promulgation of rules. The committee shall  
19 consist of twelve members appointed by the state director of housing from the  
20 following professional and technical disciplines: One member from architecture,  
21 one from structural engineering, three from building code enforcement, one from  
22 mechanical engineering or contracting, one from electrical engineering or  
23 contracting, one from the plumbing industry, one from the mobile home industry,  
24 one from the construction design or producer industry, one from manufactured

1 housing, and one from organized labor. Committee members shall be reimbursed  
2 for actual and necessary expenses incurred while engaged in official duties.

3 (b) (f) ~~This subsection (3) is repealed, effective July 1, 1993.~~

4 (II) ~~Prior to said repeal, the advisory committee on factory built housing~~  
5 ~~shall be reviewed as provided for in section 2-3-1203, C.R.S.~~

6 SECTION 4. 24-32-903 (2) (b), Colorado Revised Statutes, 1988 Repl.  
7 Vol., is repealed as follows:

8 24-32-903. Rules - advisory committee - sunset review - enforcement.

9 (2) (b) (f) ~~This subsection (2) is repealed, effective July 1, 1993.~~

10 (II) ~~Prior to said repeal, the advisory committee appointed pursuant to~~  
11 ~~this subsection (2) shall be reviewed as provided for in section 2-3-1203, C.R.S.~~

12 SECTION 5. 24-32-1903 (2), Colorado Revised Statutes, 1988 Repl.  
13 Vol., as amended, is amended to read:

14 24-32-1903. Rules - advisory committee - sunset review -  
15 enforcement. (2) (a) The board shall appoint, consult with and obtain the advice  
16 of an THE advisory committee to ~~serve at the pleasure of the board, on factory built~~  
17 ~~nonresidential structures~~ ON RESIDENTIAL AND NONRESIDENTIAL STRUCTURES, AS  
18 DESCRIBED IN AND APPOINTED PURSUANT TO THE PROVISIONS OF SECTION  
19 24-32-710 (3) (a) in drafting such rules and regulations. ~~The advisory committee~~  
20 ~~shall consist of at least three members and shall be composed of persons~~  
21 ~~knowledgeable in the field of the manufacturing of factory built nonresidential~~  
22 ~~structures, and members shall be reimbursed for actual and necessary expenses~~  
23 ~~incurred while engaged in official duties.~~

24 (b) (f) ~~This subsection (2) is repealed, effective July 1, 1993.~~

1 ~~(H) Prior to said repeal, such advisory committee shall be reviewed as~~  
2 ~~provided for in section 2-3-1203, C.R.S.~~

3 SECTION 6. 24-33.5-1402 (3), Colorado Revised Statutes, 1988 Repl.  
4 Vol., as amended, is repealed as follows:

5 24-33.5-1402. Advisory board - legislative declaration. (3) ~~(a) This~~  
6 ~~section is repealed, effective July 1, 1993.~~

7 ~~(b) Prior to said repeal, the advisory board shall be reviewed as provided~~  
8 ~~for in section 2-3-1203, C.R.S.~~

9 SECTION 7. 24-49-101 (2), Colorado Revised Statutes, 1988 Repl.  
10 Vol., as amended, is amended to read:

11 24-49-101. Colorado economic development advisory board - creation  
12 - membership. (2) The board shall consist of ~~twelve members appointed and~~  
13 ~~serving as follows:~~

14 ~~(a) The governor of Colorado;~~

15 ~~(b) The president of the senate;~~

16 ~~(c) The speaker of the house of representatives;~~

17 ~~(d) The minority leaders of the senate and house of representatives;~~

18 ~~(e) Seven~~ EIGHT members from the private sector recognized for  
19 expertise in business development, capital or finance development, rural  
20 development, small business, transportation, and labor, which may include a  
21 private sector member of the Colorado economic development commission. ~~Three~~  
22 FOUR of such members shall be appointed by the governor; two members shall be  
23 appointed by the speaker of the house of representatives; and two members shall  
24 be appointed by the president of the senate.

1 SECTION 8. 24-49-102 (1) (a), (5), and (6), Colorado Revised Statutes,  
2 1988 Repl. Vol., as amended, are amended to read:

3 24-49-102. Powers, duties, and functions of the Colorado economic  
4 development advisory board - repeal. (1) The Colorado economic development  
5 advisory board shall have the following powers, duties, and functions:

6 (a) ~~To create a partnership between~~ PROVIDE ADVICE TO the legislative  
7 and executive branches of state government and other appropriate private and  
8 public sector organizations in achieving the economic goals of the state;

9 (5) The board shall meet at least four times per year. ~~The governor, the~~  
10 ~~speaker of the house of representatives, and the president of the senate shall serve~~  
11 ~~as co chairs of the board and shall alternate each year in presiding over meetings~~  
12 ~~of the board.~~ THE PRESIDING OFFICER OF THE BOARD SHALL BE ELECTED BY ITS  
13 MEMBERS AND SERVE FOR A PERIOD OF ONE YEAR. THE PRESIDING OFFICER MAY  
14 BE REELECTED BY THE BOARD FOR SUBSEQUENT TERMS.

15 (6) ~~(a) This article is repealed, effective July 1, 1993-1996.~~

16 ~~(b) Prior to said repeal, the advisory board shall be reviewed as provided~~  
17 ~~in section 2-3-1203, C.R.S.~~

18 SECTION 9. 26-10-103 (6), Colorado Revised Statutes, 1989 Repl.  
19 Vol., is repealed as follows:

20 26-10-103. Board of veterans affairs - sunset review. (6) ~~(a) This~~  
21 ~~section is repealed, effective July 1, 1993.~~

22 ~~(b) Prior to said repeal, the Colorado board of veterans affairs shall be~~  
23 ~~reviewed as provided for in section 2-3-1203, C.R.S.~~

24 SECTION 10. 29-1-503 (1) and (5), Colorado Revised Statutes, 1986



1 Repl. Vol., are amended to read:

2 **29-1-503. Appointment of advisory committee - powers and duties -**

3 **sunset review.** (1) ~~The governor with the advice and consent of the senate~~ STATE  
4 AUDITOR shall appoint an advisory committee on governmental accounting to assist  
5 the auditor in formulating and prescribing a classification of accounts which shall  
6 consist of six members, one of whom shall be a member of the Colorado society  
7 of certified public accountants and the remaining five of whom shall be active in  
8 finance matters either as elected officials or finance officers employed by a unit of  
9 local government as defined in section 29-1-502 and each of whom shall represent  
10 one of the following levels of local government: Counties, cities and counties,  
11 cities and towns, school districts and junior college districts, and local improvement  
12 or special service districts and other local entities having authority under the  
13 general laws of this state to levy taxes or impose assessments.

14 (5) ~~(a) This section is repealed, effective July 1, 1993.~~

15 ~~(b) Prior to said repeal, the advisory committee on governmental~~  
16 ~~accounting shall be reviewed as provided for in section 2-3-1203, C.R.S.~~

17 **SECTION 11. 35-11.5-114 (1) and (4), Colorado Revised Statutes, 1984**

18 Repl. Vol., as amended, are amended to read:

19 **35-11.5-114. Advisory board.** (1) (a) For the purpose of assisting the  
20 commissioner in formulating rules and regulations for carrying out the provisions  
21 of this article, there is hereby created an organic certification advisory board, to  
22 be composed of nine members appointed by the commissioner, as follows: Seven  
23 shall be engaged in the production or marketing of various types of organic  
24 products, including grains, fruits, and vegetables; one shall be a representative

1 from the Colorado cooperative extension service; and one shall be a representative  
2 from the Colorado agricultural experiment station.

3 (b) EFFECTIVE JUNE 16, 1993, THE NINE MEMBER BOARD SHALL BE  
4 COMPOSED AS FOLLOWS: SIX SHALL BE ENGAGED IN THE PRODUCTION OR  
5 MARKETING OF VARIOUS TYPES OF ORGANIC PRODUCTS, INCLUDING GRAINS,  
6 FRUITS, AND VEGETABLES; ONE SHALL BE A CONSUMER REPRESENTING THE  
7 GENERAL PUBLIC; ONE SHALL REPRESENT THE COLORADO COOPERATIVE  
8 EXTENSION SERVICE; AND ONE SHALL REPRESENT THE AGRICULTURAL EXPERIMENT  
9 STATION.

10 (4) ~~(a) This section is repealed, effective July 1, 1993.~~

11 ~~(b) Prior to said repeal, the advisory board shall be reviewed as provided~~  
12 ~~for in section 2-3-1203, C.R.S.~~

13 **SECTION 12. 39-2-129 (2), Colorado Revised Statutes, 1982 Repl.**

14 Vol., as amended, is repealed as follows:

15 **39-2-129. Advisory committee to the property tax administrator**  
16 **created - sunset review.** (2) ~~(a) This section is repealed, effective July 1, 1993.~~

17 ~~(b) Prior to said repeal, the advisory committee to the property tax~~  
18 ~~administrator shall be reviewed as provided for in section 2-3-1203, C.R.S.~~

19 **SECTION 13. Safety clause.** The general assembly hereby finds,

20 determines, and declares that this act is necessary for the immediate preservation  
21 of the public peace, health, and safety.