

TEXT

EXPLANATION

1 ~~the--president--of--the-board-of-education-and~~ SUCH OATH shall be
2 filed with the county clerk AND RECORDER of the county in which
3 the headquarters of the district is located. In case a director
4 fails to take the oath within said period, his office shall be
5 deemed vacant and the vacancy thus created shall be filled in the
6 same manner as other vacancies in the office of director.

7 SECTION 11. 22-31-127, Colorado Revised Statutes 1973, is
8 amended to read:

9 22-31-127. Contests. Proceedings to contest the election
10 of any person declared duly elected as a member of the board of
11 education of any district in this state OR TO CONTEST THE RESULTS
12 OF ANY SCHOOL ELECTION may be instituted by any REGISTERED
13 qualified elector of such school district. Such proceedings
14 shall be instituted within ten days after the votes cast at such
15 election are canvassed. The ~~county~~ DISTRICT court of the county
16 wherein the headquarters of a school district is situated shall
17 have jurisdiction in all contests ~~for-the-office-of-director~~ of
18 ~~any-such~~ school ~~district~~ ELECTIONS. In such cases the rules of
19 practice and procedure in contested elections for county officers

- (1) Statute would specifically allow for contests of any school election.
- (2) District courts would have jurisdiction of contested school elections.
- (3) A person contesting the results of a school election would need to be a registered qualified elector.

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1 shall apply, as far as applicable.

2 SECTION 12. 22-31-128 (1) (a), (b), (c), and (d) (I) and
3 (II), (2), and (4) (a), Colorado Revised Statutes 1973 (numbered
4 as 123-31-28, C.R.S. 1963), as amended by section 7 of chapter
5 90, Session Laws of Colorado 1974, are amended to read:

6 22-31-128. Recall of school directors. (1) (a) A petition
7 containing the requisite number of signatures shall be filed with
8 the secretary of the board of education of the school district,
9 demanding an election of a successor to the school director named
10 in the petition. EACH PETITION SHALL DESIGNATE BY NAME AND
11 ADDRESS NOT LESS THAN THREE NOR MORE THAN FIVE PERSONS, REFERRED
12 TO IN THIS SECTION AS "COMMITTEE", WHO SHALL REPRESENT THE
13 SIGNERS THEREOF IN ALL MATTERS AFFECTING THE SAME. THE PETITION
14 SHALL CLEARLY INDICATE THE NAME OF THE SCHOOL DISTRICT AND THE
15 NAME OF THE DIRECTOR SOUGHT TO BE RECALLED. THE PETITION SHALL
16 INCLUDE THE NAME OF ONLY ONE PERSON TO BE RECALLED. The petition
17 shall contain a general statement, in not more than two hundred
18 words, of the grounds on which the recall is sought, which
19 statement shall be intended for the information of the electors

(1) A school recall petition would provide for a committee of 3, 4, or 5 persons to represent the signers of the petition.

(2) Each petition would contain the name of only one person to be recalled.

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1 of the school district. Such electors shall be the sole and
2 exclusive judges of the legality, reasonableness, and sufficiency
3 of the grounds assigned for recall, and said grounds shall not be
4 open to review.

5 (b) The petition shall be signed by ~~registered~~ QUALIFIED
6 electors of the school district equal in number to at least forty
7 percent of those voting for school director in the election at
8 which the director to be recalled was elected, but in no case
9 less than ten percent of registered electors qualified to vote in
10 the most recent biennial school election; except that no more
11 than thirty thousand signatures shall be required.

12 (c) (I) Any such recall petition may be circulated and
13 signed in sections, but each section shall contain a full and
14 accurate copy of the title and text of the petition. The
15 signatures need not all be on one sheet of paper, but each sheet
16 shall contain an oath, subscribed to BEFORE A NOTARY PUBLIC by
17 the person circulating such sheet, that the signatures thereon
18 are genuine. ~~Each person signing the petition shall add to his~~
19 ~~signature the date of his signing and his place of residence, and~~

A petition could be signed by qualified electors as opposed to only registered electors.

- (1) The petition would contain an oath, subscribed to by the circulator before a notary public, that the signatures on the petition are genuine.
- (2) Space would be provided for signers to indicate whether they are registered to vote in elections of the school district.

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1 No signature shall be counted if it was signed to the petition
2 more than sixty days prior to the date on which the petition was
3 filed with the secretary of the board of education. THE PETITION
4 SHALL PROVIDE SPACE FOR SIGNERS, WHO MUST BE QUALIFIED ELECTORS
5 OF THE SCHOOL DISTRICT, TO INDICATE WHETHER THEY ARE REGISTERED
6 OR NOT REGISTERED TO VOTE IN ELECTIONS OF THE SCHOOL DISTRICT.

7 (II) A PERSON SIGNING THE PETITION AND INDICATING THAT HE
8 IS A REGISTERED ELECTOR SHALL ALSO PRINT HIS LEGAL NAME, HIS
9 PLACE OF RESIDENCE, AND THE DATE OF SIGNING.

10 (III) A QUALIFIED ELECTOR SIGNING THE PETITION AND
11 INDICATING THAT HE IS NOT A REGISTERED ELECTOR SHALL, IN
12 ADDITION, APPEAR BEFORE AN OFFICER LEGALLY AUTHORIZED TO
13 ADMINISTER OATHS, AND ACKNOWLEDGE HIS SIGNATURE AND THE DATE OF
14 SIGNING, AND MAKE AN OATH BY AFFIDAVIT THERETO ATTACHED THAT HE
15 IS A CITIZEN OF THE UNITED STATES, THAT ON THE DATE OF SIGNING
16 THE PETITION, HE HAS ATTAINED THE AGE OF EIGHTEEN YEARS, HAS
17 RESIDED IN THE STATE OF COLORADO AND THE SCHOOL ELECTION PRECINCT
18 AT LEAST THIRTY-TWO DAYS, AND THAT HE HAS TRULY STATED HIS
19 RESIDENCE.

A registered elector would print his legal name, place of residence, and date of signing.

A qualified elector, who is not registered, would appear before a notary and make an oath by affidavit that: he is a United States citizen; is 18 years or older; has been a resident of the precinct for 32 days; and has truly stated his residence.

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1 (d) (I) Any such petition shall be deemed sufficient if THE
 2 BOARD OF EDUCATION DETERMINES THAT IT WAS signed by the requisite
 3 number of ~~registered~~ QUALIFIED electors of the district within
 4 the period specified by paragraph (c) of this subsection (1),
 5 unless a ~~protest~~ CHALLENGE in writing under oath shall be filed
 6 in the ~~county~~ DISTRICT court of the county in which the
 7 headquarters of the district is located by THE BOARD OF EDUCATION
 8 OR some ~~registered~~ QUALIFIED elector of the district, within
 9 fifteen days after such petition was filed, setting forth
 10 specifically the grounds of such ~~protest~~ CHALLENGE. THE BOARD OF
 11 EDUCATION MAY CONTRACT FOR THE SERVICES OF THE COUNTY CLERK AND
 12 RECORDER TO DETERMINE THE SUFFICIENCY OF THE SIGNATURES CONTAINED
 13 IN ANY SUCH PETITION. THE COST OF SUCH SERVICES, NOT TO EXCEED
 14 AN AMOUNT EQUAL TO FORTY CENTS PER SIGNATURE, SHALL BE BORNE BY
 15 THE COMMITTEE REPRESENTING THE SIGNERS BUT ANY COSTS IN EXCESS OF
 16 FORTY CENTS PER SIGNATURE SHALL BE BORNE BY THE SCHOOL DISTRICT.
 17 Upon receipt of a ~~protest~~ CHALLENGE, the clerk of the ~~county~~
 18 DISTRICT court shall forthwith mail a copy of the ~~protest~~
 19 CHALLENGE to the ~~person--or--persons--named-in-the-petition-as~~

- (1) Board of education would determine sufficiency of number of signatures on recall petitions.
- (2) Board of education could contract with county clerk to determine the sufficiency of signatures if petitions are challenged.
- (3) Committee representing the signers would bear the cost of verification of signatures in an amount not to exceed \$.40 per signature, with costs over that amount to be borne by the school district.
- (4) Changes are included relative to qualified electors signing the petitions.
- (5) Hearing on any challenge would be held in district court.

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1 COMMITTEE representing the signers thereof and to the secretary
2 of the board of education, giving notice of the time and place
3 for hearing such ~~protest~~ CHALLENGE. The hearing shall be held in
4 the ~~county~~ DISTRICT court of the county in which the headquarters
5 of the district is located. Such hearing shall be summary and
6 not subject to delay and shall be concluded within thirty days
7 after the petition was filed. The result of the hearing shall be
8 forthwith certified to the ~~person~~ COMMITTEE representing the
9 signers of such petition and to the secretary of the board of
10 education.

11 (II) If the petition is not sufficient, it may be
12 withdrawn by the ~~person~~ COMMITTEE representing the signers of
13 such petition, and, within fifteen days thereafter, may be
14 amended and refiled as an original petition.

15 (2) (a) The recall election shall be conducted in the same
16 manner as provided by law for regular biennial school elections,
17 insofar as practicable. EACH DIRECTOR PROPOSED TO BE RECALLED
18 AND THE COMMITTEE REPRESENTING THE SIGNERS OF THE PETITIONS MAY
19 APPOINT ONE WATCHER FOR EACH PRECINCT.

Committee could amend and refile petition.

Would allow precinct watchers for recall elections.

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1 (b) In school districts which use paper ballots, there
 2 shall be printed on the official ballot, in not more than two
 3 hundred words, the grounds set forth in the petition for
 4 demanding the recall, and, in not more than two hundred words,
 5 the school director's justification of his course in office. In
 6 school districts which use voting machines, there shall be posted
 7 inside each voting machine booth a card on which is printed, in
 8 not more than two hundred words, the grounds set forth in the
 9 petition for demanding the recall, and, in not more than two
 10 hundred words, the school director's justification of his course
 11 in office. IN SCHOOL DISTRICTS WHICH USE ELECTRONIC VOTING
 12 EQUIPMENT, THERE SHALL BE SUPPLIED WITH THE VOTE RECORDER A SHEET
 13 OF PAPER ON WHICH IS PRINTED THE SAME INFORMATION AS REQUIRED FOR
 14 VOTING MACHINES IN THIS PARAGRAPH (b).

15 (c) The ballot, ~~or~~ voting machine, ~~contains~~ OR VOTE
 16 RECORDER SHALL CONTAIN the question "Shall (name of person
 17 against whom recall petition is filed) be recalled from the
 18 office of school director?" Following such question shall be the
 19 words "Yes" and "No" and a blank space in which the voter shall

Would provide that the information which is provided for voters using paper ballots and voting machines would be made available to voters using electronic voting equipment.

The same question would be submitted to the voters using a vote recorder as those using a paper ballot or voting machine.

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1 indicate his vote for or against such recall.

2 (4) (a) If the vote in the election recalls the school
3 director, the secretary of the board of education shall call an
4 election to fill the vacancy for the remainder of the unexpired
5 term; such election shall be held within ~~thirty~~ FORTY-FIVE days
6 after the certification of the results of the recall election.

7 SECTION 13. 22-31-129 (1) (h), Colorado Revised Statutes
8 1973, is amended to read:

9 22-31-129. Vacancies. (1) (h) If the person who was duly
10 elected or appointed does not attend MORE THAN three consecutive
11 regular meetings of the board of education ~~without-the-board-of~~
12 ~~education--having-entered-upon-its--minutes-an-approval-for-an~~
13 ~~additional-absence-if-such-additional-absence-is-not~~ UNLESS THE
14 BOARD BY RESOLUTION SHALL APPROVE ANY ADDITIONAL ABSENCES OR
15 UNLESS SUCH ABSENCES ARE due to a temporary mental or physical
16 disability or illness;

17 SECTION 14. 22-31-131, Colorado Revised Statutes 1973
18 (numbered as 123-31-31, C.R.S. 1963), as amended by section 9 of
19 chapter 90, Session Laws of Colorado 1974, is REPEALED AND

Election to fill vacancy caused by recall election would be within 45 days of recall election.

Vacancy would be created if the board member fails to attend more than three consecutive regular meetings, unless the board by resolution were to approve additional absences.

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1 REEACTED, WITH AMENDMENTS, to read:

2 22-31-131. Election procedures in districts composed of a
3 city and county. (1) The regular biennial school election in
4 each school district coterminous with a city and county shall be
5 held on the third Tuesday in May of each odd-numbered year and
6 shall be conducted and supervised by the election commission of
7 said city and county.

8 (2) Every elector qualified and registered to vote at a
9 general election shall be entitled to vote at such regular
10 biennial school election if he is registered on or before the
11 thirty-second day before such school election.

12 (3) Any candidate for the office of member of the board of
13 education of such district shall be a registered elector of such
14 district.

15 (4) Any person who desires to be a candidate for the office
16 of member of the board of education shall file a written notice
17 of such intention with the election commission at least
18 thirty-two days prior to the election date together with a
19 nomination petition signed by not less than fifty registered

Rewritten section would eliminate exist-
ing references which include school dis-
tricts of over 70,000 enrollment in this
section. Amended section would apply only
to Denver.

No change from present law.

No change from present law.

Technical change would delete reference
which is not applicable to Denver.

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1 electors of said district, which petition shall contain the name
2 and term of the office for which the person is nominated and his
3 post-office address, place of residence, and place of business.
4 Each of the electors signing the same shall add to his signature
5 his place of residence.

6 (5) The election commission, at least eighteen days before
7 such regular biennial school election, shall give written notice
8 of the election in substantially the same manner as is set forth
9 in section 22-31-113.

10 (6) Either ballots, voting machines, or electronic voting
11 equipment of a type approved for use in general elections may be
12 used in such school elections. The election commission shall
13 prepare the ballots, voting machines, or vote recorders for said
14 election. Said ballots, voting machines, or vote recorders shall
15 contain the names of the candidates to be balloted for at said
16 election, which names shall be arranged in alphabetical order
17 according to surnames, and such words as will indicate the number
18 of members of the board of education to be elected. Whenever
19 such school election is combined with a municipal election, the

Technical change as in subsection (4).

- (1) Technical changes as in subsection (4).
- (2) Provision would be included for use of electronic voting equipment.

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1 election commission shall permit and arrange for the joint use of
2 voting machines or electronic vote recorders for balloting for
3 candidates for municipal offices, for candidates for the board of
4 education of said school district, and for such other
5 propositions as may be submitted to the electors of said school
6 district or city and county.

7 (7) Registration requirements for such school elections
8 shall be the same as those defined by state law governing general
9 elections.

10 (8) (a) The appointment of judges of election, the printing
11 of pollbooks and oath forms, the designation of precinct
12 boundaries and polling places, the canvassing of the votes cast,
13 and other procedures pertaining to the conduct of school
14 elections required by this article to be done or performed by the
15 secretary or board of education shall, in school districts
16 coterminous with a city and county, be done and performed by the
17 election commission. The election commission shall canvass the
18 returns within five days of such election and shall certify the
19 results thereof to the secretary of the board of education
20 forthwith upon completion of such canvass.

No change from present law.

- (1) Clerks of elections are no longer appointed.
- (2) Language changes would make this subsection apply only to Denver.
- (3) References to county clerks would be deleted.

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1 (b) Whenever the date of such school election is identical
2 to the date set for a municipal election in a city and county
3 that is coterminous with such school district, the election
4 commission shall arrange for the combining of such school
5 election with said municipal election and shall designate as
6 school election precincts and polling places the same election
7 precincts and polling places established for such municipal
8 election and shall designate the judges of such municipal
9 election as judges of such school election. It shall not be
10 necessary to preserve school ballots cast, to lock any voting
11 machine used, or to preserve vote recorders cast for any period
12 in excess of fifteen days after such election unless otherwise
13 ordered by the court.

14 (9) Voting by absentee ballot shall be permitted at such
15 school elections in the same manner and under the same conditions
16 as are prescribed by law in general elections.

17 (10) If such school election is combined with a municipal
18 election of a city and county that is coterminous with said
19 school district, said school district shall be liable for any

No change from present law.

Subsection would be amended to apply only to Denver.

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1 increased cost of conducting said election attributable to such
2 combination. If such school election is not combined with a
3 municipal election of a city and county that is coterminous with
4 said school district, the board of education of such district
5 shall pay the entire cost of said election. Any amounts so
6 becoming due to such city and county from such school district
7 shall be promptly paid upon presentation of a certified statement
8 therefor by the election commission.

9 (11) Except as provided in this section, school elections in
10 school districts coterminous with a city and county shall be
11 subject to other provisions of law pertaining to school
12 elections.

13 SECTION 15. 22-70-119 (2), Colorado Revised Statutes 1973,
14 is amended to read:

15 22-70-119. Qualification of voters. (2) In all cases
16 where specific provision is not made in this article, election of
17 members of junior college committees shall be governed by general
18 laws governing elections in school districts. ~~having-a-school~~
19 ~~population-in-excess-of-three-thousand;~~

Subsection would apply only to Denver.

Technical changes would conform with other changes by deleting population classifications.

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1 SECTION 16. Repeal. 22-31-106 (6) and (7), Colorado
2 Revised Statutes 1973 (numbered as 123-31-6 (6) and (7), C.R.S.
3 1963), as enacted by section 2 of chapter 91, Session Laws of
4 Colorado 1974, are repealed.

5 SECTION 17. Appropriation. In addition to any other
6 appropriation, there is hereby appropriated out of any moneys in
7 the state treasury not otherwise appropriated, to the department
8 of education for allocation to the commissioner of education, for
9 the fiscal year beginning July 1, 1975, the sum of three thousand
10 dollars (\$3,000), or so much thereof as may be necessary, to
11 provide for the preparation and printing of a simplified school
12 election procedures manual pursuant to section 2 of this act.

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

Subsections which would be repealed apply only to 1974 school election registration procedures. (See also Section 4 of bill.)

BILL 12

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A BILL FOR AN ACT

1 CONCERNING THE ELECTION OF SCHOOL DIRECTORS.

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

3 SECTION 1. 22-31-105, Colorado Revised Statutes 1975, is
4 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 22-31-105. School directors - number - election - term.

6 (1) Except as provided in subsection (2) of this section, in
7 each school district of the state, there shall be elected five,
8 six, or seven school directors. Such directors shall be elected
9 for staggered terms of office, with as close to the same number
10 of vacancies in each election as possible according to the length
11 of the term of office, for a term of four or six years each. The
12 number and term shall be as established by any plan of
13 reorganization, or any amendment to said plan; or as established
14 prior to the effective date of this section, as amended, or any
15 amendment thereto; or as established in a proposed plan as
16 provided in subsection (4) or (5) of this section.

17 (2) In each school district coterminous with a city and
18 county, there shall be elected seven school directors, each for a

Rewritten section would continue to allow any school district, except Denver, to elect 5, 6, or 7 school directors on a staggered basis for terms of 4 or 6 years each, as established under any plan of reorganization or as provided by statute.

Denver could change the terms of directors, but the number of directors would remain at seven.

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1 term of six years or as amended under subsection (4) of this
2 section and until his successor is elected and qualified as
3 provided under said subsection (4).

4 (3) All school directors shall be voted on at large by the
5 electors of the entire school district, whether or not the
6 district has a director district plan of representation.

7 (4) (a) The board of education of any school district may,
8 by resolution passed by a majority of all members of the board,
9 submit to the qualified registered electors of the school
10 district, at the next regular biennial school election, a
11 proposed plan to change the terms of office of the directors of
12 the district from six years to four years or from four years to
13 six years, as the case may be. Such terms of office shall be
14 staggered as provided under subsection (1) of this section, but
15 under such proposed plan the term of a school director shall not
16 be increased or decreased after his election or appointment. The
17 proposed plan shall be adopted by resolution of the board at
18 least sixty days prior to the election.

19 (b) Upon written petition the board of education of any

All directors would be voted on at large whether or not the district has a director district plan of representation. (Existing language)

The board of education could adopt by resolution and submit to the qualified registered electors a proposed plan to change the terms of directors from 6 to 4 years or from 4 to 6 years. Terms would be staggered.

A petition and a proposed plan would be

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1 school district shall submit to the qualified registered electors
2 of the school district, at the next regular biennial school
3 election, a proposal to change the terms of office of the school
4 directors of the district from six years to four years or from
5 four years to six years, as the case may be. Such terms of
6 office shall be staggered as provided under subsection (1) of
7 this section. The petition shall be signed by at least ten
8 percent of the registered electors of the district, and the
9 proposed plan, specifying terms of office and establishing the
10 procedure for making the transitions, shall be attached thereto.
11 The petition, together with the proposed plan, shall be submitted
12 to the secretary of the board of education at least ninety days
13 prior to the election.

14 (c) No proposal to change the terms of office of the school
15 directors of the district shall be submitted within four years
16 after a previous proposal to change the terms of office has been
17 submitted to the qualified registered electors of the district.

18 (d) The secretary of the board of education shall cause
19 notice to be given that at the next biennial election for school

submitted to the board of education setting forth a change in the length of terms from 6 to 4 years or from 4 to 6 years.

Existing language.

Existing language except that the words "qualified registered electors" would be substituted for the word "voters" of the

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1 directors a plan revising the terms of office of school directors
2 will be submitted to the qualified registered electors of the
3 district; and such notice shall be published and posted in the
4 same manner as required for the regular biennial school election.
5 Said notice shall state the question to be submitted to the
6 qualified registered electors, the qualifications of a qualified
7 registered elector to vote thereon, the date of election, the
8 polling places and hours of polling as shall be designated for
9 the regular biennial school election, and that such plan is on
10 file in the administration offices of the district for public
11 inspection during reasonable business hours; except that said
12 notice may be combined with the notice otherwise required for the
13 election of school directors at said regular biennial school
14 election.

15 (e) The ballot shall contain the words "For the (increase)
16 (decrease) to a (six) (four) year term of office for school
17 directors" and "Against the (increase) (decrease) to a (six)
18 (four) year term of office for school directors". Otherwise, the
19 ballots and election procedures shall be the same as prescribed

district.

Reworded for clarity.

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1 for the regular biennial school election.
 2 (f) If a majority of the votes at said election shall be
 3 "For the (increase) (decrease) to a (six) (four) year term of
 4 office for school directors", the plan shall become effective
 5 upon canvass of election returns. If a majority of the votes
 6 shall be "Against the (increase) (decrease) to a (six) (four)
 7 year term of office for school directors", the school directors
 8 of said district shall continue to be elected or appointed as
 9 prescribed in this section.

10 (5) (a) The board of education of any school district not
 11 coterminous with a city and county may, by resolution passed by a
 12 majority of the whole board, submit to the qualified registered
 13 electors of the school district, at the next regular biennial
 14 school election, a proposed plan to increase the number of school
 15 directors from five to seven or from six to seven or decrease the
 16 number of school directors from seven to five or from six to
 17 five. Such terms of office shall be staggered as provided under
 18 subsection (1) of this section, but under such proposed plan the
 19 term of a school director shall not be increased or decreased

Reworded for clarity.

- (1) Provision would exclude Denver. Previous language excluded districts with a school enrollment of more than 40,000 and less than 8,000.
- (2) The board, by adoption of a resolution, could submit a plan to the qualified registered electors to change the number of directors from 5 to 7, 6 to 7, 7 to 5, or from 6 to 5. Terms would be staggered.
- (3) Term of school director could not be increased or decreased during his term.

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1 after his election or appointment. The proposal shall be adopted
2 by resolution of the board at least sixty days prior to the
3 election.

4 (b) Upon written petition the board of education of any
5 school district not coterminous with a city and county shall
6 submit to the qualified registered electors of the school
7 district, at the next regular biennial school election, a
8 proposed plan to increase the number of school directors from
9 five to seven or from six to seven or decrease the number of
10 school directors from seven to five or from six to five. Such
11 terms of office shall be staggered as provided under subsection
12 (1) of this section. The petition shall be signed by at least
13 ten percent of the registered electors of the district and shall
14 be submitted to the secretary of the board of education at least
15 ninety days prior to the election.

16 (c) The secretary of the board of education shall cause
17 notice to be given that at the next biennial election for school
18 directors a proposed plan revising the number of school directors
19 will be submitted to the qualified registered electors of the

(1) Provision would exclude Denver. Same proposal as in paragraph (a) but the question would be submitted to a vote by the qualified registered electors upon petition presented to the board.

Public notice provision.

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1 district; and such notice shall be published and posted in the
2 same manner as required for the regular biennial school election.
3 Said notice shall state the question to be submitted to the
4 qualified registered electors, the qualifications of a qualified
5 registered elector to vote thereon, the date of election, the
6 polling places and hours of polling as shall be designated for
7 the regular biennial school election, and that such plan is on
8 file in the administration offices of the of the district for
9 public inspection during reasonable business hours; except that
10 said notice may be combined with the notice otherwise required
11 for the election of school directors at said regular biennial
12 school election.

13 (d) The ballot shall contain the words "For (increasing)
14 (decreasing) the number of school directors from (five to seven)
15 (six to seven) (seven to five) (six to five)" and "Against
16 (increasing) (decreasing) the number of school directors from
17 (five to seven) (six to seven) (seven to five) (six to five)".
18 Otherwise, the ballots and election procedures shall be the same
19 as prescribed for the regular biennial school election.

Wording of ballot proposal.

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1 (e) If a majority of the votes on said question shall be
2 "For (increasing) (decreasing) the number of school directors
3 from (five to seven) (six to seven) (seven to five) (six to
4 five)", the plan shall become effective for the election of
5 school directors at subsequent regular biennial school elections.
6 If a majority of the votes shall be "Against (increasing)
7 (decreasing) the number of school directors from (five to seven)
8 (six to seven) (seven to five) (six to five)", there shall
9 continue to be the same number of school directors as before the
10 election.

11 SECTION 2. 22-31-108 (1) and (2), Colorado Revised Statutes
12 1973, are amended to read:

13 22-31-108. Adoption, modification, or elimination of
14 director district plan of representation. (1) The board of
15 education of any school district which desires to propose the
16 adoption of a director district plan of representation, ~~or a plan~~
17 ~~to change the number of director districts~~; or the elimination of
18 a director district plan of representation and replace such plan
19 with an at-large plan of representation may submit a plan to

Effect of results of election.

- (1) Stricken language would be unnecessary since changes in the number of board members would be covered in section 1 of this bill.
- (2) Change in percentage of persons required to sign petitions for director district plan would conform with requirements for signatures in terms of office and in number of school directors.

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1 implement such change to the registered electors of the school
2 district at any regular biennial school election or at a special
3 school election called by the board for such purpose. The plan
4 shall be adopted by the board of education at least sixty days
5 prior to the election.

6 (2) The registered electors of any school district who
7 desire to propose the adoption of a director district plan of
8 representation, ~~or a plan to change the number of director~~
9 ~~districts,~~ or the elimination of a director district plan of
10 representation and replace such plan with an at-large plan of
11 representation may petition the board of education of said school
12 district to submit a plan to implement such change to the
13 registered electors of the district at any regular biennial
14 school election. The petition shall be signed by at least
15 ~~fifteen~~ TEN percent of the registered electors of said school
16 district, and the proposed plan of representation shall be
17 attached thereto. The petition, together with the proposed plan,
18 shall be submitted to the secretary of the board of education of
19 the school district at least sixty days prior to the election.

TEXT

EXPLANATION

1 If the plan meets statutory requirements, it is the duty of the
2 board of education to submit such plan to the registered electors
3 of the school district at the next regular biennial school
4 election.

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

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COMMITTEE ON EDUCATION

BILL 13

A BILL FOR AN ACT

1 ESTABLISHING STUDENT-AID PROGRAMS AT ACCREDITED NONPROFIT
2 INSTITUTIONS OF HIGHER EDUCATION, AUTHORIZING CONTRACTS WITH
3 SUCH INSTITUTIONS, AND 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.)

Creates programs of loan, student scholarship, and work study for resident students attending institutions of higher education within the state and provides that the new programs will be administered in the same manner as those like programs of public institutions of higher education. Places a limitation of three hundred dollars per student per school year on aid granted under the programs and no more than five percent of money available shall be awarded to students on a basis other than need. Authorizes the commission on higher education to contract with private institutions of higher education for educational services. Provides a post audit review of all programs. Appropriates \$2,199,400 dollars for the implementation of this bill.

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

5 SECTION 1. Title 23, Colorado Revised Statutes 1973, as
6 amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

7 ARTICLE 3.5

8 Private Institutions of Higher Education

9 23-3.5-101. Definitions. As used in this article, unless

1 the context otherwise requires:

2 (1) "Commission" means the Colorado commission on higher
3 education.

4 (2) "Private institution of higher education" means a
5 non-public four-year college, junior college or university
6 located in this state which requires as a prerequisite for
7 admission to a degree program that a person has successfully
8 completed high school or the equivalent thereof, and which is
9 accredited by the north central association of colleges and
10 secondary schools. The term does not include any theological or
11 proprietary institution nor does it include any institution
12 operated for profit.

13 (3) "Public institution of higher education" means an
14 institution of higher education established and existing pursuant
15 to law as an agency of the state of Colorado, or as a local
16 district junior college, and supported wholly or in part by tax
17 revenues.

18 23-3.5-102. Programs created. (1) In addition to the
19 programs of loan matching pursuant to the federal "National
20 Defense Education Act of 1958", as amended, state student
21 scholarships and aid, and work study established pursuant to part
22 2 of article 1 of this title for students attending institutions
23 of higher education supported in whole or in part by state funds,
24 there are hereby created and authorized the same programs for
25 students, both undergraduate and graduate, attending private
26 institutions of higher education.

27 (2) The programs created by subsection (1) of this section

1 shall be administered in the same manner as those programs for
2 students attending public institutions of higher education;
3 except that none of the moneys made available pursuant to the
4 provisions of this article shall be used for athletic grants and
5 scholarships. The commission shall promulgate regulations for
6 the administration of this article through the private
7 institutions of higher education and may require their agreement
8 to the provisions of such regulations in order for their students
9 to participate in the programs.

10 23-3.5-103. Student aid - limitation. Of the moneys made
11 available for state student scholarships and aid pursuant to the
12 provisions of this article, no more than five percent of such
13 amount shall be awarded to students on a basis other than need,
14 and no such student shall receive more than three hundred dollars
15 per academic year plus summer session. The remainder of
16 available moneys shall be awarded to students on the basis of
17 need, and no such student shall receive more than twelve hundred
18 dollars per academic year plus summer session.

19 23-3.5-104. Commission authorized to contract. Subject to
20 available appropriations, the commission is authorized to
21 contract with private institutions of higher education for the
22 provision of educational services which it determines in the
23 public interest should be available to Colorado resident
24 students, provided that the commission also determines that the
25 purchase of such services is consistent with any comprehensive
26 plan adopted pursuant to 23-1-108 (1) (b) and that such
27 comparable services will be purchased in the private institution

1 of higher education at no greater cost to the state than if such
2 services were to be provided in public institutions.

3 23-3.5-105. Authorization for appropriation. In order to
4 fund the programs established by this article the general
5 assembly shall make annual appropriations to the commission for
6 work study programs, for state matching of federal work study
7 programs, for loan matching programs pursuant to the federal
8 "National Defense Education Act of 1958", as amended, for state
9 student scholarships and aid programs authorized by section
10 23-3.5-102, and for contracts authorized by section 23-3.5-104.

11 23-3.5-106. Availability of article. The provisions of
12 this article shall be available only to those students who are
13 residents of this state for tuition purposes as determined
14 pursuant to article 7 of this title.

15 23-3.5-107. Post audit review. The programs authorized by
16 this article shall be subject to legislative post audit review.

17 SECTION 2. 23-1-201 (1), Colorado Revised Statutes 1973, is
18 amended to read:

19 23-1-201. Work study program - use of funds. (1) The
20 commission is directed to establish a work study program in
21 institutions of higher education supported in whole or in part by
22 state funds OR IN PRIVATE INSTITUTIONS OF HIGHER EDUCATION, AS
23 DEFINED IN SECTION 23-3.5-101, in cooperation with such
24 institutions of higher education. The work study program shall
25 be designed to provide employment for qualifying students in good
26 standing with the institution in positions which are directly
27 under the control of the institution of higher education

1 providing such position or in positions with nonprofit
2 organizations or governmental agencies with which the institution
3 may execute student employment contracts. Any student who is a
4 resident of the state of Colorado and who is enrolled or accepted
5 for enrollment in an undergraduate division of an institution of
6 higher education supported in whole or in part by state funds OR
7 A PRIVATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION
8 23-3.5-101, shall be eligible to qualify for participation in the
9 work study program established pursuant to this section.

10 SECTION 3. Appropriation. In addition to any other
11 appropriation, there is hereby appropriated, out of any moneys in
12 the state treasury not otherwise appropriated, to the Colorado
13 commission on higher education, for the fiscal year commencing
14 July 1, 1975, for the implementation of this act, the sum of two
15 million one hundred ninety-nine thousand four hundred dollars
16 (\$2,199,400), or so much thereof as may be necessary, to be
17 allocated as follows: For state student scholarships and aid one
18 million one hundred twenty-eight thousand dollars (\$1,128,000),
19 for National Defense Education Act loan matching one hundred
20 thousand dollars (\$100,000), for contracts authorized by section
21 23-3.5-104, C.R.S. 1973, eight hundred ninety-six thousand four
22 hundred dollars (\$896,400), and for work study programs
23 seventy-five thousand dollars (\$75,000).

24 SECTION 4. Effective date. This act shall take effect July
25 1, 1975.

26 SECTION 5. Safety clause. The general assembly hereby
27 finds, determines, and declares that this act is necessary for

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

COMMITTEE ON EDUCATION

BILL 14

A BILL FOR AN ACT

1 CONCERNING TEACHER CERTIFICATION.

Bill Summary

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

Requires the board of education to adopt standards for institutions of higher education and to prescribe standards for qualifications for the issuance of teacher certificates. Enacts the "Teacher Certification Act of 1975" which provides for the continuing evaluation and revision of standards for the certification of teachers and encourages the professional development of teachers; charges a fee of fifteen dollars for examination and review of an application for a teacher's certificate; provides that a teacher must pursue a course of education to upgrade his skills before a certificate may be renewed; changes the standards for revocation and suspension of a teaching certificate; and provides for continuing evaluation of institutions of teacher education.

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

3 SECTION 1. 22-2-109 (1), Colorado Revised Statutes 1973, is
4 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 22-2-109. State board of education - duties. (1) The
6 state board of education shall:

7 (a) Evaluate and determine and publish its findings as to
8 which state institutions of higher education meet the
9 requirements of an accepted institution of higher education

1 pursuant to section 22-60-103 (1);

2 (b) Evaluate and determine and publish its findings as to
3 which programs of study of state institutions of higher education
4 meet the requirements of an approved program of teacher
5 preparation pursuant to section 22-60-103 (2);

6 (c) Adopt rules and regulations which prescribe standards
7 for the evaluation of teacher preparation programs;

8 (d) Make periodic visits as may be necessary to the
9 colleges and universities in the state in order to observe and
10 evaluate the programs of preparation offered therein;

11 (e) Utilize the capabilities of professional educators from
12 all levels of education in the development of standards of
13 evaluation and in the evaluation of teacher preparation programs
14 in the state institutions;

15 (f) Adopt rules and regulations which prescribe standards
16 of qualification, preparation, training, or experience that are
17 required for the issuance of teacher certificates, administrator
18 certificates and letters of authorization;

19 (g) Adopt rules and regulations which prescribe standards
20 for endorsements deemed appropriate for each type of certificate
21 or letter of authorization;

22 (h) Utilize the capabilities of professional educators from
23 all levels of education in the development of standards for
24 teaching certificates, administrator certificates, letters of
25 authorization, and appropriate endorsements;

26 (i) Conduct or arrange for research pertinent or essential
27 to implement the provisions of article 60 of this title including

1 but not limited to teacher certification and teacher preparation
2 programs in institutions of higher education.

3 SECTION 2. Article 60 of title 22, Colorado Revised
4 Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to
5 read:

6 ARTICLE 60

7 Teacher Certification

8 22-60-101. Short title. This article shall be known and
9 may be cited as the "Teacher Certification Act of 1975".

10 22-60-102. Legislative declaration. (1) It is declared to
11 be the policy of the state of Colorado to provide quality
12 education in the schools of the state and to this end to provide
13 a process for the evaluation and revision of the standards for
14 the certification of teachers and to encourage the professional
15 development of teachers. It is further the policy of this state
16 that teachers in Colorado be of good moral character, have a
17 thorough and up-to-date knowledge in depth of their subject
18 matter, and, except for teachers applying for or holding a type C
19 certificate, have a thorough grounding in the moral, ethical, and
20 philosophical roots of our civilization, have a broad educational
21 background in the liberal arts, hold at least a bachelor's
22 degree, and have an adequate foundation in professional education
23 including student teaching.

24 (2) It is also the policy of this state to safeguard the
25 welfare of our children against unqualified, incompetent, and
26 immoral teachers, to improve the instructional programs in the
27 schools of the state, to encourage wiser use of the services of

1 teachers, and to permit flexibility of standards for the
2 certification of teachers in accordance with changing educational
3 concepts and programs. To these ends, this article shall be
4 liberally construed.

5 22-60-103. Definitions. As used in this article, unless
6 the context otherwise requires:

7 (1) "Accepted institution of higher education" means an
8 institution of higher education which offers at least a four-year
9 program or equivalent of studies leading to a bachelor's or
10 higher degree and which has a teacher preparation program
11 approved by the state board of education for teacher
12 certification.

13 (2) "Approved program of preparation" means a program of
14 study for teacher preparation including student teaching, leading
15 to graduation from an accepted institution of higher education,
16 that meets the standards of the state board of education and that
17 upon completion leads to a recommendation for certification by an
18 accepted institution of higher education.

19 (3) "Board of education" means the governing body
20 authorized by law to administer the affairs of any school
21 district in the state except junior and community college
22 districts.

23 (4) "Certificate" means the license to teach in the
24 instructional program of a school district or to administer,
25 supervise, counsel, or direct such programs.

26 (5) "Endorsement" means the designation on a certificate or
27 letter of authorization of grade level, subject matter, or

1 service specialization in accordance with the preparation,
2 training, or experience of the holder of such certificate or
3 letter of authorization.

4 (6) "In-service education program" means a program directly
5 sponsored by a school district or a board of cooperative services
6 for all or any portion of the instructional, administrative, and
7 support personnel employed by the district to improve the quality
8 of the learning process.

9 (7) "School district" means any school district organized
10 and existing pursuant to law, but does not include junior or
11 community college districts.

12 (8) "State board of education" means the state board of
13 education established by section 1 of article IX of the state
14 constitution.

15 (9) "Teacher" means any person employed to instruct
16 students or to administer, direct, or supervise the instructional
17 program in a school in the state.

18 (10) "Year of study" shall mean two semesters or three
19 quarters during which a student carries a normal course load as
20 defined by the institution.

21 22-60-104. Types of certificates issued - term. (1) The
22 department of education is designated as the sole agency
23 authorized to issue certificates to persons of good moral
24 character and acceptable personal qualifications who possess
25 specific qualifications required to meet the objectives of each
26 type of certificate, as follows:

27 (a) Type A. The general teacher certificate, certifying

1 that a person has been awarded or is eligible for a bachelor's
2 degree from an accredited institution; has completed an approved
3 program of teacher preparation at an accepted institution of
4 higher education, which program includes a professional teacher
5 education sequence including field experience; meets high
6 standards of professional performance and ability; demonstrates
7 thorough familiarity with the subject matter to be taught; and is
8 found to offer the competencies essential to maintain and improve
9 the quality of instruction in the public schools of the state.

10 (b) Type B. The professional teaching certificate,
11 certifying that a person has a minimum of three years of
12 experience under a Type A or equivalent certificate and has
13 completed a master's degree or higher degree in an accepted
14 institution of higher education.

15 (c) Type C. The vocational teaching certificate,
16 certifying that a person has satisfactorily completed five or
17 more calendar years of satisfactory work experience in the
18 specific occupational area in which instruction is to be given
19 and meets such other requirements as to academic preparation,
20 professional preparation, professional performance and ability,
21 and experience as the state board of education may establish to
22 maintain and improve the quality of instruction in the public
23 schools of the state.

24 (d) Type D. The administrative certificate, certifying
25 that a person has completed an approved program of school
26 administration in an accepted institution, has completed a
27 master's degree or higher degree in an accepted institution of

1 higher education, and meets such other requirements as the state
2 board of education may establish concerning professional
3 performance and ability.

4 (e) Type E. The special services certificate, certifying
5 that a person has satisfactorily completed a program of
6 preparation in one of the following special areas: The education
7 of handicapped children; the physical and mental health of
8 students; counseling and other psychological services for
9 students; or are specialists in curriculum materials, including
10 librarians. Such certificate shall also certify that the person
11 has been awarded a degree at an accepted institution of higher
12 education and has met the standards of the state board concerning
13 academic and professional education, experience, performance, and
14 personal qualifications.

15 (f) The state board of education may issue certificates for
16 teachers of adult education subjects. Such certificates shall be
17 for teaching in the subject or subjects named on the certificate.
18 The academic preparation, professional education sequence,
19 personal qualifications, training and experience, professional
20 performance, and ability requirements shall be determined by the
21 state board of education.

22 (2) The state board of education is authorized to establish
23 such other requirements for any of the types of teaching
24 certificates provided for in subsection (1) of this section as it
25 deems necessary to maintain and improve the quality of
26 instruction in the public schools of the state; except that no
27 degree in addition to those specified for each type of

1 certificate shall be required by such rules and regulations.

2 (3) Certificates granted under this section shall be valid
3 for a period of five years from the date of issuance.

4 (4) Applicants for Types A, B, D, and E certificates who
5 have not been a teacher for at least one year within a five-year
6 period prior to the application date shall complete an approved
7 plan of professional development of not less than eight semester
8 or twelve quarter hours of college credit as approved by the
9 Colorado department of education.

10 (5) Each applicant for a certificate may be required to
11 submit a statement from a designated recommending official of the
12 accepted institution of higher education or training agency; such
13 statement shall certify that the applicant has completed the
14 approved program in a satisfactory manner and in good standing,
15 but such statement shall not be required for the renewal of a
16 certificate.

17 (6) In determining the moral qualifications of applicants,
18 the state board of education shall be governed by the provisions
19 of section 24-5-101, C.R.S. 1973.

20 (7) This section shall apply to all certificates granted
21 after July 1, 1975.

22 22-60-105. Waiver of professional education courses -
23 certificates. The state board of education may waive
24 professional education courses in accordance with previous
25 experience and demonstrated competency for an applicant for a
26 Type A teaching certificate who has taught for a period of five
27 years.

1 22-60-106. Letters of authorization - types - applicant's
2 qualifications. (1) The state board of education is authorized
3 to issue the following letters of authorization to persons of
4 good moral character, notwithstanding the qualifications
5 prescribed for certificates in section 22-60-104;

6 (a) An applicant for a letter of authorization, Type I,
7 shall possess outstanding talent in a particular area of
8 specialization and demonstrated ability and knowledge therein and
9 shall enjoy wide recognition as an authority in such area. His
10 services shall have been requested by a board of education and
11 shall be limited to his area of specialization.

12 (b) An applicant for a letter of authorization, Type II,
13 shall have been awarded at least a bachelor's degree from a
14 standard institution of higher education but need not have
15 completed the sequence of professional education courses. A Type
16 II letter of authorization shall be valid only while the holder
17 serves as an intern in a program approved by the state board of
18 education.

19 (c) A letter of authorization, Type III, may be issued by
20 the state board of education permitting an applicant to teach at
21 a particular grade level or in a special academic or vocational
22 area when in the judgment of said board an emergency exists and
23 such action is essential to the preservation of good
24 instructional programs in the public schools and to the
25 educational well-being of the children enrolled therein.

26 (2) A letter of authorization shall be valid for a period
27 of one school year and shall be subject to renewal for one

1 additional school year, notwithstanding requirements for the
2 renewal of a certificate. In determining an applicant's
3 character, the board shall be governed by the provisions of
4 section 24-5-101, C.R.S. 1973.

5 22-60-107. Fees. The fee for the examination and review of
6 an application for a certificate or letter of authorization, or
7 any renewal thereof, is fifteen dollars. Upon determination of
8 eligibility of an applicant to receive a certificate or letter of
9 authorization, such certificate or letter of authorization shall
10 be issued without the payment of an additional fee. All fees
11 collected under this section shall be transmitted to the state
12 treasurer and credited to the general fund.

13 22-60-108. Renewal of certificate. (1) A certificate
14 shall expire as proscribed in section 22-60-104 notwithstanding
15 the provisions of section 24-4-104 (7), C.R.S. 1973, and may be
16 renewed upon application and payment of the prescribed fee. An
17 applicant for renewal of a certificate shall be required to
18 submit, on forms provided by the department of education,
19 evidence that he has completed a plan of professional development
20 experiences which is appropriate to the certificate to be
21 renewed. The plan shall consist of not less than eight semester
22 or twelve quarter hours of college or university credit from an
23 accepted institution, except that three semester hours of credit
24 may be earned through in-service education programs approved by
25 the state board of education.

26 (2) The state board of education shall adopt rules and
27 regulations which would establish criteria in addition to the

1 formal educational requirements for certification and
2 recertification of teachers.

3 (3) The state board of education shall establish criteria
4 for local school district in-service education programs which:

5 (a) Demonstrate that there are identified needs for
6 in-service education and that the identified needs have been
7 assessed by teachers and other school district personnel in
8 cooperation with other agencies or organizations;

9 (b) Provide for planned activities which meet the needs for
10 in-service education;

11 (c) Include an evaluation plan which will determine the
12 effect of the activities on the learning process;

13 (d) Indicate the part which the in-service education
14 program plays in implementing the overall long-range plans of the
15 district or the board of cooperative services;

16 (e) Evidence cooperation with institutions of higher
17 education, where the program could benefit from such cooperation,
18 and with the department of education.

19 22-60-109. Endorsement of certificate or letter - effect.

20 The state board of education is authorized to cause a certificate
21 or letter of authorization to be endorsed, which endorsement may
22 specify the grade level, subject matter area, or other
23 specialization which may be appropriate to an applicant's major
24 preparation, training, and experience.

25 22-60-110. Grounds for suspending or revoking certificate

26 or letter. (1) The state board of education may revoke or
27 suspend any teaching certificate or letter of authorization:

1 (a) Upon evidence that the holder knowingly made any false
2 or misleading statements on the application;

3 (b) When the holder has been determined to be mentally
4 incompetent by a court of competent jurisdiction;

5 (c) When the holder is found guilty of a violation of any
6 law of this state or any municipal law of this state involving
7 unlawful sexual behavior pursuant to section 18-3-401, C.R.S.
8 1973;

9 (d) When the holder is found guilty of a violation of any
10 law of this state, any municipality of this state, or law of the
11 United States involving the illegal sale of narcotics.

12 (2) The state board of education may suspend or revoke a
13 certificate or letter of authorization if the state board finds
14 and determines that the holder thereof has become professionally
15 incompetent or guilty of unethical behavior.

16 (3) The state board of education shall promulgate
17 appropriate rules and regulations defining the standards of
18 unethical behavior and professional incompetency.

19 22-60-111. Procedure - denial, suspension, revocation -
20 certificate or letter. Procedures for the denial, suspension, or
21 revocation of a certificate or letter of authorization shall be
22 in accordance with the provisions of article 4 of title 24,
23 C.R.S. 1973.

24 22-60-112. Hearing officer - duties. The state board of
25 education shall appoint a hearing officer who shall conduct
26 hearings on the denial, suspension, or revocation of a
27 certificate or letter of authorization. The officer shall reduce

1 his findings to written form and submit a written report and
2 recommendations to the state board of education.

3 22-60-113. Evaluation of approved programs of teacher
4 education. (1) Teachers employed by the school districts of the
5 state who completed their training at accepted institutions of
6 higher education in this state shall be provided forms for the
7 evaluation of the teacher preparation programs in which that
8 teacher obtained his training. Such forms shall be prepared and
9 distributed by the Colorado department of education; the
10 completed forms shall be returned promptly to the department of
11 education and shall be reviewed annually by the state board of
12 education.

13 (2) The administrative staff of the school districts of
14 this state shall be provided forms to evaluate the teaching
15 experience and training of graduates of Colorado teacher
16 preparation institutions employed within said district.
17 Evaluation shall be completed during the ninth month of the first
18 and third years of teaching or at such other times as may be
19 deemed appropriate by the state board of education. Such forms
20 shall be completed and returned promptly to the department of
21 education and shall be reviewed annually by the state board of
22 education. Such evaluation information shall be made available
23 to colleges and universities.

24 22-60-114. Prior certificates validated. This article
25 shall not be construed as invalidating any certificate issued
26 pursuant to law prior to July 1, 1975, and said certificate shall
27 remain valid until the date of expiration, except as provided in

1 sections 22-60-110 and 22-60-111 for the suspension or revocation
2 of a certificate.

3 SECTION 3. 22-63-102 (10), Colorado Revised Statutes, 1973,
4 is amended to read:

5 22-63-102. Definitions. (10) "Teacher's certificate"
6 means a certificate as defined in section 22-60-103 ~~(3)~~ (4).

7 SECTION 4. 22-63-108 (2), Colorado Revised Statutes 1973,
8 is amended to read:

9 22-63-108. Interest prohibited. (2) Any employee who
10 violates the provisions of subsection (1) of this section is,
11 upon determination thereof, subject to suspension or revocation
12 of his certificate or letter of authorization as provided in
13 section ~~22-60-111~~ 22-60-110 (2).

14 SECTION 5. 22-65-105 (6), Colorado Revised Statutes 1973,
15 is amended to read:

16 22-65-105. Duties and powers of the commission. (6) The
17 commission shall advise and consult with the department in the
18 administration of sections ~~22-60-111~~ 22-60-110 to ~~22-60-115~~
19 22-60-112 and article 63 of this title.

20 SECTION 6. Effective date. This act shall take effect July
21 1, 1975.

22 SECTION 7. Safety clause. The general assembly hereby
23 finds, determines, and declares that this act is necessary for
24 the immediate preservation of the public peace, health, and
25 safety.

**LEGISLATIVE COUNCIL COMMITTEE
ON BANKING**

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COMMITTEE ON BANKING

The interim Committee on Banking was created by the Legislative Council in 1973 to review the commercial banking laws of Colorado. In response to this broad charge, the committee's activities in 1973 centered primarily on identification of those areas of the commercial banking code which may require amendment due to change in bank structure or regulatory need.

Major trends in the banking industry were identified and the structure of banking in Colorado was examined. The committee's inquiry placed particular emphasis on the following areas: (a) branch banking; (b) the rapid growth of multi-bank holding companies in Colorado; (c) use of electronic systems for fund transfers; (d) proposed changes in Colorado's banking code; and (e) possible effects of federal legislation stemming from the "Hunt Commission" report. This report concerned the structure and functions of financial institutions and included a number of recommendations of possible importance to the study by the Committee on Banking.

Testimony in 1973 indicated that there exists a significant interconnection among the major components of the financial industry. Consequently, the committee sought to broaden the scope of its inquiry, and permission was received from the Legislative Council to include a review of savings and loan association and credit union statutes in the committee's studies.

In meetings held in the 1974 interim, the committee concentrated on: a review of twelve proposed changes to the Colorado banking code, as advanced by Mr. Harry Bloom, state bank commissioner; consideration of two amendments to Colorado's credit union statutes; and discussion of a proposal to authorize limited branch banking in Colorado.

I. State Banking Code

Updating the Colorado Banking Code -- Bill 15

The intent of the Committee on Banking, in recommending six attached bills, is to modernize and streamline the present regulatory practices of the Division of Banking. Bill 15 embodies several proposed changes in these statutes.

Hearing required within six months. The present statute requires that the banking board hold a hearing concerning a charter application within six months of date of filing the application. As a result of the increased number of applications that have been filed, the board has been required to conduct two or three hearings per month to meet the statutory requirement. The six-month restriction also requires the board to conduct a hearing on an application when one application for the same area has already been denied and the denial is being appealed to the Court of Appeals. In other cases, the applicants have requested that a hearing be postponed for valid reasons, but these requests have been denied due to the six-month limitation.

Bill 15 would allow the bank commissioner to postpone, for valid reason and good cause, the hearing required for granting or denying a charter.

Minimum number of bank examinations. Colorado statutes contain two provisions relating to the minimum number of bank examinations required of the commissioner. One statute requires two examinations by the commissioner for all state banks organized prior to the enactment of the Colorado Banking Code of 1957. The banking code of 1957, however, requires twice-a-year bank examinations for all state banks organized after 1957, except that the commissioner may accept, in lieu of one of his examinations, the examination made by the Federal Deposit Insurance Corporation or the Board of Governors of the Federal Reserve System. The committee concluded that this inconsistency should be resolved.

Further, as a result of the rapid increase in workload during the past several years, the Division of Banking has been unable to meet the required twice-a-year examination schedule. In addition, the Joint Budget Committee denied the division's fiscal year 1975 budget request for additional funds and personnel, and reduced its staff by four examiners. The Committee on Banking and the Joint Budget Committee are in agreement that the division needs to conduct at least one bank examination annually but that twice-a-year examinations, in most cases, are unnecessary. The existing statutory language would be clarified under Bill 15 to require examination of state banks at least once a year. Also note that Bill 19, concerning the powers and duties of the state banking commissioner, contains a similar amendment to a separate statute.

New banks - deposit insurance - management. Under the present statute it is possible for a bank to open for business without providing deposit insurance. According to the commissioner, banks that have opened without deposit insur-

ance have not received public support or experienced normal growth until deposit insurance was acquired.

Another problem involving new banks relates to the banking board's inability to determine, prior to opening for business, if the management of a new bank is qualified by character and experience and if their financial status is consistent with their responsibilities and duties. This problem sometimes arises when the proposed officers of the new bank are employed by an existing bank and disclosure of their association with the applicants could result in the termination of their employment. In other instances, the applicants have not been able to obtain qualified management prior to the authorization of a charter.

Bill 15 would provide that the granting of a new state bank charter be contingent upon obtaining membership in the Federal Deposit Insurance Corporation and upon the approval of the proposed management by the banking board.

Change of bank's location. In evaluating an application for a change of location of a bank, the statute directs that the banking board use the standards of "public convenience and advantage." However, the statute is not clear as to what the banking board is to consider in applying this standard.

The criteria under which the banking board could grant a change of a bank's location would be clarified under Bill 15. The bill would specify that the board consider both the community to which the bank will be moving and the community from which the bank will move in terms of public convenience and advantage.

Publishing list of stockholders. A list of the stockholders is included in an application for charter, and present statute requires that the list be published. Some applications have had in excess of 100 stock subscribers. Since the applications are public records which may be examined by any party, the publication of long lists of stockholders is expensive and does not serve any useful purpose. Bill 15 would delete the present requirement that the list of stockholders be published in an application for a state bank charter.

Persons entitled to testify. Present statutes are unclear regarding the individuals who may be heard and who are entitled to introduce testimony during a hearing on an application for a state bank charter. Under Bill 15, language would be added to state that those persons receiving

notice by registered or certified mail would be entitled to be heard, as well as such others as the banking board may determine to be necessary.

Powers of Banking Board - Assessment of Examination Fees --
Bill 16

Currently, the Division of Banking's operations are financed by a combination of examination fees, which are statutorily established, and by a general fund appropriation. The examination fees, however, are not sufficient to cover examination costs. Deficits have occurred since fiscal year 1971 and for fiscal year 1974, the deficit totaled \$38,326. The commissioner suggested that the administrative expenses attributable to the supervision of state banks, industrial banks, and credit unions be recovered through the assessment of fees for the examination of these organizations.

The committee agreed with this approach. Bill 16 would put the Division of Banking on a self-supporting basis by allowing the banking board and the commissioner to assess fees for supervision in proportion to an institution's assets and resources.

Banking Board - Emergency Grant of a New Charter -- Bill 17

The commissioner pointed out that, in cases of unexpected closings, banks might be reorganized and opened again quickly if normal chartering procedures could be by-passed. By reorganizing in this manner, the public at large and the depositors of the closed bank might be protected. The United States Comptroller of the Currency presently has this authority. In two recent cases, state banks which were forced to close reopened under a federal charter. Had the state been allowed to reorganize these banks, it would not have lost direct supervisory control.

Under Bill 17, all of the requirements of the banking code for obtaining a bank charter would be waived in those instances in which a state bank has been closed and when it has been determined by the board and by the FDIC that it would be in the best interests of the public and the depositors to organize a new bank to assume the deposit liabilities of the failed bank.

Change of Bank Ownership - Report to Bank Commissioner --
Bill 18

The present statute requires that a state bank report promptly any changes among executive officers and directors to the commissioner, but it is not required that reports be made concerning changes in ownership of a significant portion of a bank's stock. Either situation involving these changes may have effect upon the operating policies of a particular bank and the commissioner must be aware of changes in ownership in order to effectively supervise state banks.

Bill 18 would require an officer of a state bank to report to the commissioner any change in ownership of voting stock which results in the control of ten percent or more of this stock by a stockholder or affiliated group. The report is to include, insofar as it is obtainable, information concerning the number of shares involved, the names of the seller and purchaser, the total number of shares owned by seller and purchaser, and any loans made in connection with the acquisition. The required reporting of any change among executive officers and directors of a bank would be retained.

Powers and Duties of State Bank Commissioner -- Bill 19

Exchange of information. The commissioner is not now legally empowered to exchange information with the Federal Deposit Insurance Corporation or the Board of Governors of the Federal Reserve System as to the condition of banks under his supervision. Such exchange would be beneficial in the pursuit of the division's duties and would be permitted under Bill 19.

Minimum number of bank examinations. Explanation of the inconsistency in present statutes relating to the minimum required number of bank examinations is contained on page 148 of this report. Bill 19 would amend existing statutory language concerning the powers and duties of the commissioner to require examination of a state bank at least once a year.

II. Credit Union Statutes

State Credit Union Membership -- Bill 20

Presently, a member who leaves the sphere of operation of a credit union may choose to retain his shares and deposits in that credit union and thus remain a member. The member may borrow from that credit union, but the funds

borrowed may not be in excess of the value of his shares and deposits. This provision was said to discourage potential members from participating in credit unions and to penalize members who leave a credit union's membership field.

Bill 20 would allow a member who leaves a credit union's sphere of influence to retain full membership if so permitted under the credit union's by-laws. The by-laws must be approved by the state banking commissioner in order to become effective.

III. Branch Banking

A question of major interest to the committee was whether to permit branch banking in Colorado. Extensive testimony was received concerning both the possible beneficial effects and negative consequences of branch banking on Colorado's economy.

The present Colorado banking statutes prohibit branch banking but provide that a bank may establish one "detached facility" within 3,000 feet of the principal office of that bank, but not within 300 feet of the premises of another bank or its detached facility. These detached facilities are restricted to receiving deposits, to issuing money orders, cashier's checks, and traveler's checks or similar instruments, and to cashing checks or drafts, making change, and other similar activities. A detached facility which engages in any activities other than these is considered a branch, and such facilities are prohibited.

Proponents of allowing full-service branch offices to operate in Colorado advanced several arguments to support the view that the present banking structure is not providing sufficient service. It was contended that a branch banking structure would provide the public with a superior level of service than is presently the case. Colorado was said to have the third highest people-per-office figure in the United States (about 9,000). Further, branch offices would make banking more accessible to the public. Every state west of Colorado has statewide branching and the economies in these states do not differ substantially from that of Colorado.

It was also argued that savings and loan associations in Colorado may now branch and may soon offer electronic funds transfer systems, thus giving them a substantial competitive advantage. Branching was said to stimulate compe-

tition within market areas and competition is beneficial to consumers.

Opponents of branch banking suggested that the effect of any liberalization of Colorado's present statutes would lead to economic domination of Colorado's economy by a small number of large banks. The net result would be abuse of economic power and removal of local control and initiative. Opponents note that multi-bank holding companies (MBHC) controlled 70 percent of the deposits in Colorado at the end of 1973. If allowed to branch, these MBHCs would soon control both local market areas as well as the state's economy as a whole, thus reducing competition among banks. In addition, such a banking structure would siphon money away from consumers, rural and urban, to be invested in areas which promise greater success.

A limited branch banking proposal was advanced for the committee's consideration during the 1974 interim. Under this proposal, banks would be allowed to establish branches subject to the following conditions:

(1) Any bank could establish a branch at any location within the county in which it has its principal office with an exception that any bank having its principal office in a Standard Metropolitan Statistical Area (SMSA) which includes several counties could establish a branch at any location within such SMSA.

(2) Another condition concerned the population size of a community. Under the proposal, no branch could be established in any community which has a population of less than 2,500 and in which the principal office of another bank is located. This limitation would apply to all parts of the state.

(3) A third condition was that except by acquisition of an existing bank by merger, consolidation, or purchase, no bank may establish more than two branches per calendar year.

(4) A fourth condition would provide for limited branch banking across counties, other than in SMSAs, that do not have a commercial bank. 1/ It was proposed that any bank could establish one branch in any county which does not

1/ The following six counties do not have a commercial bank: Costilla, Custer, Gilpin, Hinsdale, Mineral, and San Juan.

contain the principal office of a bank, but only if the branch bank's principal office were situated in an adjacent county.

The committee's primary concern during its consideration of this limited branch banking proposal has been the interest of the public and the adequacy of Colorado's present banking structure in serving these interests. Several members of the committee feared that a significant concentration of Colorado's financial resources would occur if the General Assembly were to adopt a branch banking proposal. These members were particularly apprehensive about granting any branching power to multi-bank holding company banks. The combined advantages of branching and multi-bank holding company status might grant an undue competitive advantage to such banks.

After receiving extensive testimony, a majority of the committee determined that a branch banking structure would not enhance service in Colorado and the committee does not recommend the above proposal.

COMMITTEE ON BANKING

BILL 15

A BILL FOR AN ACT

1 CONCERNING THE STATE BANKING CODE.

Bill Summary

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

Deletes references to notices of intention to file a bank charter. Allows the banking commissioner to postpone bank charter hearings beyond the six months allowed by statute for valid reasons and good cause. Provides that notice of hearings by the banking division may be sent by registered or certified mail and deletes the notice of hearing to stockholders of a proposed bank. Requires the order to grant a new charter to a proposed bank be contingent upon the proposed bank obtaining membership in the federal deposit insurance corporation rather than making application for membership to the FDIC. Allows the banking board to make a new bank charter contingent upon the banking board's subsequent approval of a final disclosure of the new bank's management. Extends the criteria for a change in location of a bank to the public convenience, need, or advantage of the community from which the bank will be moved as well as the community to which the bank is to be moved.

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

3 SECTION 1. 11-2-111 (1), Colorado Revised Statutes 1973, is
4 amended to read:

5 11-2-111. Records. (1) Information from the records of
6 the division shall be revealed only to members of the banking
7 board, except insofar as the same may be rendered necessary by

1 law; except that any party entitled to appear in a hearing on an
2 application for bank charter shall have access to the applicant's
3 ~~notice--of--intention~~; proposed articles or amended articles of
4 incorporation, application for charter, and proposed bylaws and
5 except that the commissioner may exchange information as to the
6 condition of banks with the United States comptroller of the
7 currency, banking departments of other states, the federal
8 reserve system and its examiners, and the federal deposit
9 insurance corporation and its examiners.

10 SECTION 2. The introductory portion of 11-3-110 (3) and
11 11-3-110 (4), (5), (6), and (7), Colorado Revised Statutes 1973,
12 are amended to read:

13 11-3-110. Procedure for granting or denying charter. (3)
14 The banking board, within six months after the filing of an
15 application for charter, and subject to subsection (7) of this
16 section, shall hold a public hearing to consider the application.
17 HOWEVER, THE COMMISSIONER MAY, FOR VALID REASONS AND WITH GOOD
18 CAUSE, POSTPONE SUCH HEARING. At such hearing the applicant
19 shall have the burden of proving:

20 (4) On hearing, the board may admit in evidence the
21 application for charter and any other relevant information in the
22 files of the division. The applicant and all others receiving
23 notice BY REGISTERED OR CERTIFIED MAIL under subsection (5) of
24 this section are also entitled to be heard and to introduce
25 testimony at such hearing, as well as such others as the banking
26 board may determine to be necessary.

27 (5) The commissioner shall give notice of the hearing on

1 application for charter provided in subsection (3) of this
2 section at least thirty days in advance of the hearing date fixed
3 by the board, by registered or certified mail, to the applicant,
4 to each bank doing business in the community in which the
5 proposed bank is to be located, to such additional banks as may
6 be doing business within a three-mile radius of the location of
7 the proposed bank, and to such other persons or banks as the
8 commissioner or the banking board may designate. Such notice
9 shall be in the form prescribed by the banking board and shall
10 include the names of the incorporators, ~~the stockholders~~, the name
11 and location of the proposed bank, the date, time, and place of
12 the hearing, and that the application and proposed articles of
13 incorporation or amended articles of incorporation are available
14 for inspection in the office of the commissioner. The
15 commissioner shall also cause such notice to be published at
16 least one time not less than twenty days prior to the date fixed
17 for such hearing in a newspaper of general circulation within the
18 community in which the proposed bank is to be located.

19 (6) Within one hundred twenty days following the date of
20 conclusion of the hearing, the banking board shall issue a
21 written order requiring the commissioner to grant a charter if a
22 majority of the board finds that the requirements of subsection
23 (1) of this section have been met and that the applicant has met
24 the burden of proof prescribed in subsection (3) of this section.
25 The board shall make execution of its order to grant a charter
26 contingent upon the proposed bank ~~making-a-bona-fide-application~~
27 ~~for~~ OBTAINING membership in the federal deposit insurance

1 corporation or the federal reserve system. IN APPLICATIONS WHERE
2 MANAGEMENT HAS NOT BEEN FULLY DISCLOSED AT THE TIME OF THE
3 HEARING, THE BOARD MAY MAKE EXECUTION OF ITS ORDER TO GRANT A
4 CHARTER CONTINGENT UPON ITS SUBSEQUENT APPROVAL OF MANAGEMENT.
5 If a majority of the banking board finds that the requirements of
6 subsection (1) of this section or the burden of proof of
7 subsection (3) of this section have not been met, the application
8 for charter shall be denied. The banking board may revoke a
9 charter which may have been granted in any case where the
10 proposed bank has not exercised its charter and opened for
11 business within six months from the date of the order to grant
12 the charter.

13 (7) If within a ninety-day period there has been filed with
14 the commissioner two or more applications for charter for state
15 banks to serve the same community, the banking board may hold a
16 single hearing to consider such applications. The board may
17 grant or deny a charter to any one or more of the applicants
18 without regard to the priority in time of filing applications. ~~or~~
19 ~~notices--of--intention.~~ The determination of the banking board to
20 deny a charter to an applicant who might otherwise qualify for a
21 charter under subsections (1) and (3) of this section shall be
22 based upon a finding that the public need or advantage of the
23 community or area of the community in which the proposed bank
24 will be located will best be served by such denial and by the
25 granting of a charter on another application or other
26 applications heard at such single hearing.

27 SECTION 3. 11-3-117 (5), Colorado Revised Statutes 1973, is

1 REPEALED AND REENACTED WITH AMENDMENTS to read:

2 11-3-117. Amendments of articles - change of location -
3 authorized but unissued stock. (5) Except as otherwise
4 specified in subsection (4) of this section, the commissioner
5 shall present the application for amendment to the banking board.
6 In making its determination thereon, the board shall consider
7 whether the public convenience, need, or advantage of the
8 community or area of the community in which the proposed bank
9 will be located or from which the bank will be moved will best be
10 served by granting the application, and shall be guided by the
11 standards prescribed for the approval of an application for a
12 charter, insofar as they are reasonably applicable.

13 SECTION 4. Effective date. This act shall take effect July
14 1, 1975.

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

COMMITTEE ON BANKING

BILL 16

A BILL FOR AN ACT

1 CONCERNING THE POWER OF THE DIVISION OF BANKING TO ASSESS FEES.

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 the division of banking may assess fees to cover expenses of the division in supervising and examining state banks, industrial banks, and credit unions.

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

3 SECTION 1. 11-2-114, Colorado Revised Statutes 1973, is
4 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 11-2-114. Assessments. The banking board shall make
6 assessments to cover expenses of regular examinations and the
7 administrative expenses of the division of banking, attributable
8 to the supervision of state banks subject to its jurisdiction,
9 upon said state banks in proportion to their assets or resources.
10 Assessments may be made more frequently than annually at the
11 discretion of the banking board. The annual rate of such
12 assessment shall be the same for all state banks; except that
13 state banks examined more frequently than once in a calendar year
14 shall, in addition, be assessed the expense of these additional

1 examinations. The banking board shall in addition make
2 assessments to cover the expenses of examinations of trust
3 departments of state banks in a like manner.

4 SECTION 2. 11-20-113, Colorado Revised Statutes 1973, is
5 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6 11-20-113. Examination fees. The state bank commissioner
7 shall charge every state bank for examinations the amount to be
8 assessed by the banking board as provided in 11-2-114.

9 SECTION 3. 11-22-111, Colorado Revised Statutes 1973, is
10 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

11 11-22-111. Examination fees. The state banking
12 commissioner shall make assessments to cover expenses of regular
13 examinations and the administrative expenses of the division of
14 banking, attributable to the supervision of industrial banks
15 subject to its jurisdiction, upon said industrial banks in
16 proportions to their assets or resources. Assessments may be
17 made more frequently than annually at the discretion of the state
18 bank commissioner. The annual rate of such assessment shall be
19 the same for all industrial banks; except that industrial banks
20 examined more frequently than twice in a calendar year shall, in
21 addition, be assessed the expense of these additional
22 examinations.

23 SECTION 4. 11-30-106 (1), Colorado Revised Statutes 1973,
24 is amended to read:

25 11-30-106. Examinations - reports - powers of commissioner.
26 (1) Credit unions shall be under the supervision of the state
27 bank commissioner. Every credit union shall be examined by him

1 at least annually; except that, in the case of a credit union
2 having assets not exceeding twenty-five thousand dollars, the
3 commissioner may accept an audit of a certified public accountant
4 in lieu of making an examination. For each examination made by
5 the commissioner, a credit union shall pay the commissioner a fee
6 of fifty-five dollars per man-day or an aggregate fee of three
7 dollars for each one thousand dollars of assets, whichever is the
8 lesser, plus fifteen cents for each full one thousand dollars of
9 assets; but the minimum fee for any examination made by the
10 commissioner shall be twenty-five dollars. IN ADDITION TO THE
11 FOREGOING FEES, THE COMMISSIONER MAY ASSESS EACH CREDIT UNION AN
12 ADDITIONAL AMOUNT, THE TOTAL OF WHICH ASSESSMENTS, TOGETHER WITH
13 THE FEES PROVIDED IN THIS SUBSECTION (1), SHALL COVER THE
14 EXPENSES OF THE DIVISION OF BANKING ATTRIBUTABLE TO THE
15 SUPERVISION OF STATE CHARTERED CREDIT UNIONS SUBJECT TO THE
16 COMMISSIONER'S JURISDICTION; EXCEPT THAT THE ASSESSMENT SHALL BE
17 AT THE SAME RATE FOR ALL CREDIT UNIONS.

18 SECTION 5. Effective date. This act shall take effect July
19 1, 1975.

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

COMMITTEE ON BANKING

BILL 17

A BILL FOR AN ACT

1 CONCERNING THE EMERGENCY GRANT OF NEW BANK CHARTERS.

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 the banking board may issue an emergency grant of a new charter to qualified individuals in lieu of bank liquidation or reorganization.

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

3 SECTION 1. Article 5 of title 11, Colorado Revised Statutes
4 1973, is amended BY THE ADDITION OF A NEW SECTION to read:

5 11-5-108. Emergency grant of new charter. In lieu of
6 liquidation or reorganization, the banking board may, in the
7 interest of protecting the public and the depositors of a closed
8 bank, issue a new bank charter to qualified individuals for the
9 same location as the closed bank, contingent upon the new bank
10 assuming full liability for all of the deposits of the closed
11 bank. A new charter may be issued summarily without the
12 publication of notice, without the holding of a public hearing,
13 and without complying with any of the other provisions and
14 procedures specified in this code.

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

COMMITTEE ON BANKING

BILL 18

A BILL FOR AN ACT

1 CONCERNING REPORTS OF CHANGE IN OWNERSHIP OF A STATE BANK TO THE
2 STATE BANK COMMISSIONER.

Bill Summary

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

Requires a state bank to report any change in outstanding voting stock that results in a change in ownership of the bank. Defines the term "control" of ownership. Specifies the contents of the report to the commissioner.

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

4 SECTION 1. 11-2-109, Colorado Revised Statutes 1973, is
5 amended BY THE ADDITION OF A NEW SUBSECTION to read:

6 11-2-109. Bank reports to commissioner. (4) (a) Whenever
7 a change occurs in the outstanding voting stock of any state bank
8 which will result in control or in a change in the control of
9 said bank, the president or other chief executive officer of said
10 bank shall promptly report such facts to the commissioner upon
11 obtaining knowlege of such change. As used in this subsection
12 (4), the term "control means the power to directly or indirectly
13 direct or cause the direction of the management or policies of

1 the bank. A change in ownership of voting stock which would
2 result in direct or indirect ownership by a stockholder or an
3 affiliated group of stockholders of less than ten percent of the
4 outstanding voting stock shall not be considered a change of
5 control. If there is any doubt as to whether a change in the
6 outstanding voting stock is sufficient to result in control
7 thereof or to effect a change in the control thereof, such doubt
8 shall be resolved in favor of reporting the facts to the
9 commissioner.

10 (b) The reports required by paragraph (a) of this
11 subsection (4) shall contain the following information to the
12 extent that it is known by the person making the report:

13 (I) The number of shares involved;

14 (II) The names of the sellers or transferors;

15 (III) The names of the purchasers or transferees;

16 (IV) The names of the beneficial owners if the shares are
17 registered in another name;

18 (V) The purchase price;

19 (VI) The total number of shares owned by the sellers or
20 transferors, the purchasers or transferees, and the beneficial
21 owners both immediately before and after the transaction; and

22 (VII) Detailed information concerning any loans made in
23 connection with the acquisition.

24 (VIII) Such other information as may be available to inform
25 the commissioner of the effect of the transaction upon control of
26 the bank whose stock is involved.

27 SECTION 2. Safety clause. The general assembly hereby

1 finds, determines, and declares that this act is necessary for
2 the immediate preservation of the public peace, health, and
3 safety.

COMMITTEE ON BANKING

BILL 19

A BILL FOR AN ACT

1 CONCERNING THE POWERS AND DUTIES OF THE STATE BANK COMMISSIONER.

Bill Summary

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

Requires that the state bank commissioner examine state banks only once a year instead of twice a year. Allows the exchange of information between the state bank commissioner and the federal deposit insurance corporation or the board of governors of the federal reserve system as to the condition of banks.

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

3 SECTION 1. 11-2-108 (1), Colorado Revised Statutes 1973, is
4 amended to read:

5 11-2-108. Examinations and examiner's reports. (1) The
6 commissioner shall, at least ~~twice~~ ONCE each calendar year and as
7 often as he deems advisable, carefully examine the books,
8 records, papers, assets, and liabilities of every kind and
9 character owned by, or relating to, every state bank; shall keep
10 himself fully informed as to its financial condition and business
11 methods; shall make and file in his office a correct report in
12 detail disclosing the results of such examination; and shall mail

1 a copy of such report to the bank examined. However, the
2 commissioner is authorized to accept in his discretion, in lieu
3 of one of such examinations, the examination that may have been
4 made of said bank within a reasonable period by the federal
5 deposit insurance corporation or by the board of governors of the
6 federal reserve system if a copy of said examination is furnished
7 to the commissioner. The commissioner may also, in his
8 discretion, accept any other report relative to the condition of
9 a state bank, which may be obtained by said authorities within a
10 reasonable period, in lieu of such report authorized by the laws
11 of this state to be required of such bank by his division if a
12 copy of such report is furnished to the commissioner.

13 SECTION 2. 11-20-109, Colorado Revised Statutes 1973, is
14 amended to read:

15 11-20-109. Information confidential. Neither the state
16 bank commissioner nor his deputies shall divulge any information
17 acquired by them in the discharge of their duties, except insofar
18 as the same may be rendered necessary by law. THE STATE BANK
19 COMMISSIONER He may exchange information as to the condition of
20 banks with the United States comptroller of the currency, THE
21 FEDERAL DEPOSIT INSURANCE CORPORATION, THE BOARD OF GOVERNORS OF
22 THE FEDERAL RESERVE SYSTEM, and banking departments of other
23 states.

24 SECTION 3. 11-20-112, Colorado Revised Statutes 1973, is
25 amended to read:

26 11-20-112. Examinations once yearly. The state bank
27 commissioner, at least twice ONCE each year and as often as he

1 deems advisable, shall carefully examine all the books, records,
2 papers, assets, and liabilities of every kind and character owned
3 by or relating to every bank, and shall keep himself fully
4 informed as to the financial condition and business methods
5 thereof, and shall make and file in his office a correct report
6 in detail disclosing the results of such examination.

7 SECTION 4. Effective date. This act shall take effect July
8 1, 1975.

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

COMMITTEE ON BANKING

Bill 20

A BILL FOR AN ACT

1 CONCERNING MEMBERSHIP IN CREDIT UNIONS.

Bill Summary

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

Provides that a member of a credit union who leaves the field of membership of the credit union may retain his membership as provided by the bylaws of the credit union.

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

3 SECTION 1. 11-30-103 (3), Colorado Revised Statutes 1973,
4 is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5 11-30-103. Membership. (3) A member who leaves the field
6 of membership of the credit union may retain membership in the
7 credit union as provided by the bylaws of the credit union.

8 SECTION 2. Effective date. This act shall take effect July
9 1, 1975.

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

**LEGISLATIVE COUNCIL COMMITTEE
ON WATER**

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Council Staff

Lenny Arnold
Research Associate

Bob Petts
Research Assistant

*replaced Sen. Harry Locke

COMMITTEE ON WATER

The Committee on Water was directed by the Legislative Council to undertake a study of the following subjects: (1) The relationship between the administrative functions of the state engineer's office and land use legislation; (2) A review of the statutes establishing the Colorado Water Conservation Board construction fund; (3) The establishment of river basin management authorities; and (4) The administration of non-tributary aquifers as defined in Senate Bill 213 enacted in the 1973 session.

I. Topics on Which Bills Are Recommended

As a result of its studies during the 1974 interim, the committee recommends three bills included with this report. Bill 21 relates to legislation regulating subdivisions and would require that county commissioners submit all subdivision water supply plans to the state engineer, except those plans of subdivisions which would connect with existing municipal water supply systems. If the state engineer renders an adverse opinion on the adequacy of a subdivision's water supply plan, the subdivider would be required to notify prospective purchasers of such an opinion. In addition, the position of the state engineer would be clarified in denying applications for well permits in subdivisions where he has rendered an adverse opinion on the adequacy of the subdivision's water supply plan.

Bill 22 would change the present statutory dates for the completion of the tabulation of water rights and would strike the existing provision that the tabulation proceedings are to be considered general adjudication proceedings.

Bill 23 would give the counties certain powers with regard to constructing flood control works and in removing flood hazards from streams.

Functions of the State Engineer's Office as Related to Land Use Legislation -- Bill 21

In both the 1973 and 1974 interim periods, policies of the state engineer's office were discussed with regard to that office's review of the adequacy of subdivision water supply plans under Senate Bill 35 (1972 session), and the issuance of permits for domestic in-house use wells under House Bill 1042 (1972 session).

The question on the relationship between these acts arises in the situation where the subdivision is relying on small capacity, domestic, in-house use wells for its water supply. An example of the problem is illustrated below in regard to well permits:

(1) The county commissioners exercise their option of submitting the subdivision's water supply plan to the state engineer under the provisions of S.B. 35;

(2) The state engineer provides an opinion on the "...material injury to decreed water rights, historic use of and estimated water yield...conditions associated with said water supply evidence. The state engineer shall consider the cumulative effect of on-lot wells on water rights and existing wells...";

(3) The state engineer may return to the county commissioners an adverse opinion on the water supply plan on the basis that the proposed wells would cumulatively have the effect of injuring existing wells or water rights;

(4) The county commissioners could approve the subdivision despite the adverse ruling;

(5) Individuals who purchased lots in the subdivision could apply for well permits under the provisions of H.B. 1042.

Given this situation, it is the policy of the state engineer to deny permits for individual applicants within the entire subdivision on the basis that an individual's well, plus the cumulative effect of all other proposed individual wells within the subdivision, would materially injure the vested water rights of others.

The state engineer is in a difficult position if one permit is issued to construct a domestic well in a subdivision where he has rendered an adverse opinion on the subdivision's water supply plan. If one permit is issued, it is the state engineer's policy that he would have to issue permits to the other individuals in order not to be prejudicial to the other lot owners. The state engineer's policy in the situation illustrated above has been upheld in a case adjudicated in Water Division No. 2 (Case No. W-4024).

A second problem relates to the failure of some counties to submit water supply plans for subdivisions to the state engineer for an opinion. As noted previously, county commissioners are given the option in deciding whether to submit subdivision water supply plans to the state engineer

for his review and opinion. The state engineer expressed a need for his office to obtain the water supply plans for all proposed subdivisions in order to know where these subdivisions are being proposed and to have adequate information on subsequent well applications. In cases where the water supply plan is adequate, the state engineer's opinion should be easily rendered and should not cause undue delay.

Bill 21 would require county commissioners to submit all subdivision water supply plans to the state engineer for his review and opinion except for the plans of those subdivisions which are to connect with a municipal water supply system. Under Bill 21, if the state engineer were to render an adverse opinion on the water supply plan of a subdivision, and if the county commissioners still approve the subdivision, the subdivider is to furnish all purchasers a copy of the state engineer's opinion prior to the sale.

In addition, the bill would clarify the state engineer's position under the Water Right Determination and Administration Act of 1969 in denying applications for well permits in subdivisions where the state engineer has rendered an adverse opinion on the water supply plan. The state engineer would consider the cumulative effect of all wells in the subdivision in determining material injury.

Tabulation of Water Rights -- Bill 22

Two problems were brought to the attention of the committee regarding the tabulation of water rights and conditional water rights. The first problem concerns the statutory deadlines for completing the tabulations and the deadlines for making revisions to the tabulations. The second problem involves the statutory language which provides that proceedings concerning the tabulation of water rights and conditional water rights every four years "shall be considered general adjudication proceedings" (37-92-402 (2) (K), C.R.S. 1973). This language indicates that the tabulation proceedings are, in effect, a "re-adjudication" of all previously adjudicated water rights. The committee suggests that such a "re-adjudication" is not the purpose of the tabulation.

The Water Right Determination and Administration Act of 1969 provides that the division engineer, after the initial tabulation, and no later than July 1, 1974, and by July 1 every four years thereafter, is to prepare a new tabulation of all water rights and conditional water rights in his division. Notice is to be published by July 10 that the tabulation has been made and that it is available for inspection. A copy is to be mailed to persons affected by changes in the

tabulation (e.g., owners of water rights found to be abandoned, new claimants to water rights, etc.). September 10 is the deadline for filing written objections to the manner in which water rights or conditional water rights are listed or to omission of a right.

By October 10, the division engineer is to make revisions to the tabulation. If the tabulation is revised, notice of the revision is to be published by October 20. Written protests to the tabulation are to be filed by November 30 and, beginning in the second week of December, the water judge in each division is to hold hearings on protests to the tabulation. After these hearings the court is to make the appropriate adjustments and enter a judgment and decree. If no protests are filed, the court is to enter a judgment and decree incorporating and confirming the tabulation by November 30.

Clerical mistakes in the judgment and decree may be corrected by the water judge on his own initiative or upon petition by any person. Substantive errors may be corrected by the water judge upon petition of any person whose rights have been affected. Finally, the proceedings set forth shall be considered general adjudication proceedings.

The division engineers completed the 1974 tabulation by the July 1 deadline but the printer was unable to deliver the printed listings until August. As a result, the tabulation was unavailable for inspection by July 10 as required by statute and the time available for review of the tabulations was also shortened.

A group of water lawyers subsequently filed blanket objections to every listing in each water division. In addition, the state engineer's office filed a complaint with the judges in the seven water divisions asking for a stay of the operation of the tabulation proceedings until January 1975, because of the printing problem. A later complaint was entered asking for a stay of the proceedings until May 2, 1975, so that the legislature could act on this matter. This order has been signed by four of the water division judges and it is expected that the other three water judges will also sign the order.

Testimony before the committee indicated that the existing statutory deadlines, even without this year's printing problem, were too short to provide all parties with adequate time for review or other action. Therefore, the committee discussed revised tabulation proceedings deadlines.

With regard to the second problem, concern was expressed that the statutory provision declaring that the tabulation proceedings shall be general adjudication proceedings is not consistent with the purpose of the tabulation. The committee suggested that the purpose of the tabulation list is not to provide for a "re-adjudication" of all water rights.

Bill 22 would change the present dates for the tabulation of water rights and would strike the language that declares the proceedings regarding the tabulation are to be general adjudication proceedings. Listed below are the proposed date changes included in the bill.

	<u>Present</u>	<u>Proposed</u>
Completion of tabulation by division engineers	July 1, 1974, and every <u>four</u> years thereafter	July 1, 1975, and every <u>five</u> years thereafter
Cut-off date for data to be included in new tabulations	Not specified	Prior to January 1 of the year of the next tabulation
Publication of notice of tabulation and availability for inspection	July 10, 1974, and every four years thereafter	July 10, 1975, and every five years thereafter
Deadline for written objections to listings in tabulation	September 10	December 10
Division engineer's revisions to tabulation	October 10	May 10 of the succeeding year
Publication of revisions	October 20	June 10 of the succeeding year
Protests to revisions to water clerk and division engineer	November 30	August 30 of the succeeding year

	<u>Present</u>	<u>Proposed</u>
Hearings by water judge on protests to the cabulation	Second week in December	September or Octo- ber term day of the succeeding year

County Flood Control Powers -- Bill 23

The committee recommended a bill last year to give certain powers relative to flood control to county commissioners. This bill (H.B. 1019) and two other bills on the same subject (S.B. 60 and H.B. 1120) were considered in the 1974 session and the General Assembly enacted S.B. 60.

Testimony before the committee in the 1974 interim indicated that the U.S. Corps of Engineers requires an assurance that flood protection projects constructed by the corps will be maintained after construction. The corps has concluded that Colorado counties do not have the authority to provide all of the necessary assurances for contractual agreements with the federal government. Consequently, the Colorado Water Conservation Board has had to provide the assurance that such projects will be maintained. However, the board does not have the actual capability of maintaining projects while counties do have some of the necessary equipment for this purpose. It was stated that S.B. 60 did not remedy this situation.

The committee is recommending Bill 23, which would repeal and reenact the legislation enacted in the 1974 session. The bill would grant the Board of County Commissioners of each county the power to construct works necessary for the control of floods and for the abatement of stream channel erosion and to remove obstructions in the channel of any natural stream which creates a flood hazard. However, water diversion devices could not be removed or modified except at the counties' own expense and risk and only if the quality or quantity of water or any water right was not altered or diminished.

The bill would retain most of the provisions of S.B. 60 regarding rights of access to streams. The county would have to give notice and negotiate with the owner of the lands for access. If negotiations fail, the county could institute proceedings in the district court for an order compelling the owner to permit access. Counties would be authorized to assess a levy not to exceed three mills to establish a flood control fund and the counties may also contract with local, state, and federal entities to carry out the purposes of this article. Further, the Colorado Water Conservation Board

could make grants to counties or other local agencies to assist counties in carrying out the purposes of the article.

II. Other Assigned Study Topics

River Basin Authorities

The committee recognizes the need throughout the state for better management of Colorado's valuable water resources. Proper management of Colorado's water resources would result in more efficient use of water and would insure the availability of an adequate and stable water supply when needed. For committee recommendations on river basin authorities see the 1973 interim report (Publication No. 203, pp. 97-98).

The committee's study on methods to achieve better management of Colorado's water resources was continued in the 1974 interim. Dr. Norman Evans, Director of the Environmental Resources Center at Colorado State University, and associated faculty members involved in the study of water resource management met with the committee. The purpose of this meeting was to familiarize the committee with the type of research being done by C.S.U. in the area of water resource management and to solicit comments on means to manage Colorado's water resources more efficiently. Legislation is not submitted by the committee regarding river basin management, but it is recognized that there is an urgent and continuing need to search for methods to improve the management of Colorado's water resources.

A Study of Aquifers, as Defined in Senate Bill 213

S.B. 213 of the 1973 session provided that the state engineer is to administer certain nontributary aquifers. In his consideration of whether to issue a "permit to construct a well," in nontributary aquifers, only the water underlying the land owned by the applicant shall be considered unappropriated; the aquifer shall be presumed to have a useful life of 100 years if there is no substantial artificial recharge; and no material injury shall result from the issuance of a permit.

The committee discussed two items under this general topic:

(1) The feasibility and desirability of administering certain nontributary aquifers under unitization procedures similar to oil and gas pools;

(2) The legal conflict, if any, between the Colorado Supreme Court decision (Whitten v. Coit, 153 Colo. 157, 385 P.2d 121), which held that the doctrine of prior appropriation of water is not applicable in nontributary underground waters, and elements of S.B. 213 which appear to adopt aspects of the prior appropriation doctrine.

Although specific recommendations are not submitted on this topic, the committee reviewed information on Colorado's groundwater conditions with regard to the tributary and non-tributary nature of groundwater, the geologic characteristics of water-bearing strata, the adequacy or inadequacy of certain groundwater sources as a long-term water supply, and concepts of groundwater management, conjunctive use, and recharge. (See Summary of Colorado Hydrogeology, prepared for the committee by Willard Owens Associates, Inc.)

It was concluded that presently there is limited data on groundwater conditions in Colorado, particularly with regard to nontributary aquifers, and the committee is not making any recommendations in this subject area.

Proposed Regulations for the State Discharge System Relating to Agricultural Activities

At its June 28, 1974, meeting, the committee was briefed by the technical secretary of the Water Quality Control Commission on the draft regulations for the state discharge permit system relating to agricultural activities. Following a discussion of the proposed regulations, a letter was prepared and sent to the commission outlining the questions raised during the meeting. The letter included several possible amendments to the proposed regulations. The commission subsequently agreed to adopt the committee's recommendations on the proposed agricultural discharge permit regulations.

COMMITTEE ON WATER

BILL 21

A BILL FOR AN ACT

1 CONCERNING THE DUTIES OF THE STATE ENGINEER RELATING TO THE
2 ADEQUACY OF SUBDIVISION WATER SUPPLIES.

Bill Summary

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

Requires the state engineer to give an opinion on the adequacy of water supplies for proposed county subdivisions in all cases except when a municipal supply is available. Requires the state engineer to notify the county commissioners of determinations that water supplies are inadequate, which opinion is to be made available to prospective purchasers of subdivision homes. Amends water law to clarify the right of the state engineer to consider the cumulative effect of wells in determining when material injury to other water rights exists.

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

4 SECTION 1. 30-28-136 (1) (h) and (3), Colorado Revised
5 Statutes 1973, are amended to read:

6 30-28-136. Referral and review requirements. (1) (h) When
7 applicable EXCEPT WHEN THE PROPOSED SUBDIVISION IS TO BE
8 CONNECTED TO AN ADEQUATE EXISTING MUNICIPAL WATER SUPPLY, to the
9 state engineer for an opinion regarding material injury to
10 decreed water rights, historic use of and estimated water yield
11 to supply the proposed development, and conditions associated

1 with said water supply evidence. The state engineer shall
2 consider the cumulative effect of on-lot wells on water rights
3 and existing wells.

4 (3) (a) The provisions of this part 1 shall not modify the
5 duties or enlarge the authority of the state engineer or the
6 division engineers nor divest the water courts of jurisdiction
7 over actions concerning water right determinations and
8 administration; neither shall any opinion of the state engineer
9 submitted under subsection (1) (h) of this section nor any
10 finding by a board of county commissioners concerning subdivision
11 water supply matters create any presumption concerning injury or
12 noninjury to water rights; and neither the state engineer's
13 opinion nor the finding of the board of county commissioners may
14 be used as evidence in any administrative proceeding or in any
15 judicial proceeding concerning water right determinations or
16 administration.

17 (b) IN THE EVENT THE STATE ENGINEER DETERMINES THAT
18 MATERIAL INJURY TO DECREED WATER RIGHTS WILL OCCUR IF THE
19 PROPOSED DEVELOPMENT IS APPROVED AND THAT HE WILL NOT ISSUE WELL
20 PERMITS AS A RESULT, HE SHALL NOTIFY THE BOARD OF COUNTY
21 COMMISSIONERS. A COPY OF THIS OPINION SHALL BE FURNISHED TO THE
22 SUBDIVIDER. IN THE EVENT THE SUBDIVISION IS APPROVED
23 NOTWITHSTANDING THE STATE ENGINEER'S OPINION, THE SUBDIVIDER
24 SHALL FURNISH TO ALL PURCHASERS A COPY OF THE STATE ENGINEER'S
25 OPINION PRIOR TO THE SALE.

26 SECTION 2. 37-92-602 (3) (b), Colorado Revised Statutes
27 1973, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

1 37-92-602. Exemptions - presumptions. (3) (b) (III) If
2 the application is for a well as defined in subparagraph (II) of
3 this paragraph (b) which will be located in a subdivision as
4 defined in section 30-28-101 (10), C.R.S. 1973, for which the
5 water supply plan has not been recommended for approval by the
6 state engineer, the cumulative effect of all such wells in the
7 subdivision shall be considered in determining material injury.

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

COMMITTEE ON WATER

BILL 22

A BILL FOR AN ACT

1 CONCERNING TABULATIONS OF WATER RIGHTS TO BE COMPILED UNDER THE
2 "WATER RIGHT DETERMINATION AND ADMINISTRATION ACT OF 1969".

Bill Summary

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

The dates by which the state engineer and the division engineer are to have all water rights in the state tabulated is set back a year, from July 1, 1974, to July 1, 1975, and subsequent tabulations are to be at 5 year intervals rather than 4. Dates for the completion of various facets of the tabulation are set back accordingly. Repeals a provision referring to the tabulations as being general adjudication proceedings.

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

4 SECTION 1. 37-92-401 (5), Colorado Revised Statutes 1973,
5 is amended to read:

6 37-92-401. Lists of priorities. (5) The tabulation
7 provided for in this section shall be used by the division
8 engineer, the state engineer, and their staffs for administrative
9 purposes and for the purpose of preparing the 1974 1975
10 tabulation specified in section 37-92-402. Subject to the
11 foregoing procedures any person aggrieved by any portion of such
12 tabulation may file a written protest with the water clerk and

1 the division engineer setting forth the factual and legal basis
2 for such protest. The fee for filing such protest with the water
3 clerk shall be twenty dollars. Thereafter the water judge shall
4 order such notice, conduct such proceedings, and enter such
5 orders as he deems appropriate to deal with such protest pending
6 the proceedings in section 37-92-402.

7 SECTION 2. 37-92-402 (1), the introductory portion of
8 37-92-402 (2), and 37-92-402 (2) (b), (2) (c), (2) (d), (2) (e),
9 (2) (f), and (2) (k), Colorado Revised Statutes 1973, are amended
10 to read:

11 37-92-402. Tabulations - abandonment. (1) No later than
12 July 1, 1974 1975, and July 1 every ~~four~~ FIVE years thereafter
13 the division engineer with the approval of the state engineer
14 shall prepare a new tabulation of all water rights and
15 conditional water rights in his division. The 1974 1975
16 tabulation shall reflect any changes in the 1970 tabulation
17 PROVIDED FOR IN SECTION 37-92-401 which the division engineer and
18 the state engineer determine to be advisable based on the
19 principles set forth in section 37-92-401 to reflect correctly
20 the priority of water rights. and The 1974 1975 tabulation and
21 succeeding tabulations shall ~~include--the--priorities--awarded~~
22 ~~subsequent--to--these--listed--in--the--preceding--tabulation;--shall~~
23 ~~incorporate--any--changes--of--water--rights--that--have--been--approved;~~
24 ~~shall--note--any--changes--from--conditional--water--right--to--water~~
25 ~~right;~~ REFLECT JUDGMENTS AND DECREES DETERMINING, CHANGING, OR
26 OTHERWISE AFFECTING WATER RIGHTS AND AND CONDITIONAL WATER
27 RIGHTS, WHICH JUDGMENTS AND DECREES HAVE BEEN ENTERED SUBSEQUENT

1 TO THOSE REFLECTED IN THE PRECEDING TABULATION AND PRIOR TO
2 JANUARY 1 OF THE YEAR OF THE CURRENT TABULATION, SHALL
3 INCORPORATE ANY CHANGES IN EARLIER TABULATIONS ORDERED BY THE
4 WATER JUDGE, shall modify any water rights or conditional water
5 rights which the division engineer determines to have been
6 abandoned in part, and shall omit any water rights or conditional
7 water rights which the division engineer determines have been
8 totally abandoned. Except as specified in the preceding
9 sentence, each tabulation pursuant to this section shall make no
10 changes in the listings in previous tabulations except changes to
11 correct clerical errors and changes ordered by the water judge
12 pursuant to paragraph (i) of subsection (2) of this section, and
13 any such changes, modifications, or omissions shall be especially
14 noted by some appropriate means. In making his determination
15 with respect to abandonment, the division engineer shall
16 investigate the circumstances relating to each water right, the
17 water available under which has not been fully applied to a
18 beneficial use. In making such tabulation, the division engineer
19 may use such system of numbering and listing water rights and
20 conditional water rights in order of seniority as is suited to
21 the administrative needs of the particular division or portion
22 thereof. He shall have separate priority lists as necessary so
23 that only those water rights and conditional water rights which
24 take or will take water from the same source and are in a
25 position to affect one another will be on the same priority list.

26 (2) The following deadlines shall then be effective ~~in 1974~~
27 ~~and every four years thereafter~~ FOR THE 1975 TABULATION AND FOR

1 SUCCEEDING TABULATIONS:

2 (b) Not later than ~~September~~ DECEMBER 10, any person who
3 wishes to object to the manner in which a water right or
4 conditional water right is listed in the tabulation or to the
5 omission of a water right or conditional water right from such
6 tabulation shall file a statement of objection in writing with
7 the division engineer. A fee of ten dollars shall be paid with
8 such filing; except that no fee shall be required for any such
9 filing to correct any clerical error.

10 (c) On or before ~~October~~ MAY 10 OF THE SUCCEEDING YEAR, the
11 division engineer shall make such revisions, if any, as he deems
12 proper in the aforesaid tabulation. In considering the matter
13 raised by statements of objections, the division engineer may
14 consult with interested persons. The division engineer shall
15 consult with the state engineer and shall make any revisions in
16 the tabulation determined by the state engineer to be necessary
17 or advisable. The revised tabulation or, if there are no
18 revisions, the original tabulation, signed by the division
19 engineer and by the state engineer, shall be filed on or before
20 ~~October~~ MAY 10 OF THE SUCCEEDING YEAR with the water clerk. A
21 copy of such tabulation, together with any revisions, shall be
22 available in the office of each division engineer and the offices
23 of each water commissioner and each county clerk and recorder for
24 inspection at any time during regular office hours, and the
25 division engineer shall furnish or mail a copy to anyone
26 requesting same upon payment of a fee of five dollars. If the
27 tabulation is revised, the division engineer on or before ~~October~~

1 20 JUNE 10 OF THE SUCCEEDING YEAR shall publish a notice that the
2 tabulation has been revised and that the revision may be
3 inspected or a copy thereof obtained as specified in this
4 paragraph (c). Such publication shall be made as is necessary to
5 obtain general circulation once in each county or portion thereof
6 which is in the division by means of one or more newspapers
7 which, if feasible, are published in the division.

8 (d) Any person who wishes to protest the manner in which a
9 water right or conditional water right is listed in the
10 tabulation, including any revisions, or the omission of a water
11 right or conditional water right from such tabulation shall file
12 a written protest with the water clerk and with the division
13 engineer not later than ~~November~~ AUGUST 30 OF THE SUCCEEDING
14 YEAR. Such protest shall set forth in detail the facts and legal
15 basis therefor. Service of a copy of the protest or any other
16 document is not necessary for jurisdictional purposes, but the
17 water judge may order service of a copy of the protest or any
18 other document on any person and in any manner which he may deem
19 appropriate. The fee for filing such protest with the water
20 clerk shall be twenty dollars.

21 (e) Commencing ~~the-second-week-in-December~~ ON THE SEPTEMBER
22 OR OCTOBER TERM DAY (AS THE CASE MAY BE) OF THE SUCCEEDING YEAR,
23 IN THE RESPECTIVE DIVISIONS PURSUANT TO SECTION 37-92-304 (1),
24 and continuing for as long as may be necessary, the water judge
25 of each division shall conduct hearings on the tabulation filed
26 by the division engineer and any protests that have been filed
27 with respect thereto. The hearings shall be conducted in

1 accordance with trial practice and procedure; except that no
2 pleadings other than the protest shall be required. The
3 protestant shall appear either in person or by counsel in support
4 of the protest. The division engineer shall appear in support of
5 the tabulation, and, if requested by the division engineer, the
6 attorney general shall represent the division engineer. All
7 persons interested in the portions of the tabulation which are
8 being protested shall be permitted to participate in the hearing
9 either in person or by counsel if they enter their appearance in
10 writing prior to the date on which hearings are to commence.
11 Such entry of appearance shall identify the portion of the
12 tabulation with respect to which the appearance is being made.
13 The water judges of the various divisions shall arrange their
14 hearings, if necessary in their discretion, to accommodate
15 counsel and other persons who may be involved in hearings in more
16 than one division. Promptly after hearing all protests the water
17 judge shall enter a judgment and decree which shall either
18 incorporate the tabulation of the division engineer as filed or
19 shall incorporate same with such modifications as the water judge
20 may determine proper after the hearings.

21 (f) If no protests have been filed, then promptly after
22 ~~November~~ AUGUST 30 OF THE SUCCEEDING YEAR the water judge shall
23 enter a judgment and decree incorporating and confirming the
24 tabulation of the division engineer without modification.

25 (k) ~~Proceedings--set--forth--in--this--section--shall--be~~
26 ~~considered-general-adjudication-proceedings;~~ FOR THE PURPOSE OF
27 THE 1975 TABULATION SPECIFIED IN SUBSECTION (1) OF THIS SECTION,

1 THE TABULATIONS PROMULGATED BY THE DIVISION ENGINEERS IN JULY OF
2 1974, AS SUPPLEMENTED, SHALL BE CONSIDERED THE TABULATIONS
3 REQUIRED BY SAID SUBSECTION (1), AND THE STATEMENTS OF OBJECTION
4 FILED WITH THE DIVISION ENGINEERS IN 1974, AS SUPPLEMENTED, SHALL
5 BE CONSIDERED THE STATEMENTS OF OBJECTION PROVIDED FOR IN
6 PARAGRAPH (b) OF THIS SUBSECTION (2).

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

COMMITTEE ON WATER

BILL 23

A BILL FOR AN ACT

1 CONCERNING THE POWERS OF COUNTIES TO CONTROL FLOODS, AND
2 AUTHORIZING STATE ASSISTANCE TO LOCAL GOVERNMENTS FOR SUCH
3 PURPOSES.

Bill Summary

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

Authorizes county commissioners to control floods in their respective counties by removing obstructions and constructing works to control stream channel erosion and flooding. Authorizes the commissioners to adopt plans for flood control, subject to the approval of the state water conservation board as to construction of works. Details method to be followed in inspecting streams for flood hazards. Provides for cooperative action by landowners, and for court orders in the absence of agreement, and for damages where shown. Authorizes a tax levy of up to 3 mills to establish a county flood control fund. Provides that the state water conservation board may assist counties with money.

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

5 SECTION 1. Article 30 of title 30, Colorado Revised
6 Statutes 1973, (numbered as article 31 of chapter 36, C.R.S.
7 1963) as enacted by section 1 of chapter 43, Session Laws of
8 Colorado 1974, is REPEALED AND REENACTED, WITH AMENDMENTS, to
9 read:

1 ARTICLE 30

2 Control of Floods

3 30-30-101. Legislative declaration. For the purpose of
4 protecting life and property, the board of county commissioners
5 of each county of this state shall have the powers granted by
6 this article for the control of floods and the abatement of
7 stream channel erosion.

8 30-30-102. Authority to construct works. (1) To carry out
9 the purposes of this article, and subject to the review and
10 approval by the Colorado water conservation board of plans
11 involving construction of works, the board of county
12 commissioners of each county shall have the authority within its
13 respective county to:

14 (a) Construct any works necessary for the control of
15 floods;

16 (b) Construct any works necessary for the abatement of
17 stream channel erosion;

18 (c) Remove or cause to be removed any obstruction in the
19 channel of any natural stream which creates a flood hazard.
20 Water diversion devices may not be removed or modified except as
21 provided in subsection 30-30-103 (5).

22 30-30-103. Adoption of plan - acquisition of lands or
23 rights-of-way. (1) A board of county commissioners by
24 resolution may, after public hearing, adopt plans to carry out
25 the purposes of this article, which plans, with respect to the
26 construction of works, shall not be carried out until and unless
27 they have been approved in the form of a resolution adopted by

1 the Colorado water conservation board at a regular or special
2 meeting of that board.

3 (2) The board of county commissioners shall have the power
4 to acquire by gift, purchase, or voluntary agreement all lands or
5 rights-of-way necessary to accomplish the adopted plan.

6 (3) For the purpose of ascertaining flood hazard
7 conditions, the board of county commissioners and its authorized
8 agents and employees shall have reasonable access rights to any
9 stream. Such access shall be through existing gates, roads, and
10 lanes where possible, and, except in an emergency, the board
11 shall give at least five days' prior notice of a need for access.
12 In any event, the board or its authorized agents and employees
13 shall be liable for damages resulting to water diversion
14 facilities, fences, growing crops, and other private property
15 arising out of the exercise of such access rights.

16 (4) (a) If the board of county commissioners determines
17 that there are obstructions on the property owner's property
18 which in their opinion create a flood hazard, they shall give
19 him written notice of those conditions. Thereafter the board of
20 county commissioners shall negotiate with the owner to reach
21 agreement as to the existence of such conditions and as to the
22 procedures necessary for the elimination thereof. If such
23 agreement is reached, the owner, if he requests, shall be given a
24 reasonable time within which to eliminate such conditions
25 himself, and such agreement may provide for compensation to the
26 owner for such work.

27 (b) If the board of county commissioners and the owner

1 cannot reach such agreement, then, unless the owner consents to
2 access by the board of county commissioners, the board of county
3 commissioners shall have access only through the institution of
4 proceedings in the district court for a mandatory order
5 compelling the owner to permit access for the purposes specified
6 in section 30-30-102. In such court proceedings, it shall be
7 appropriate for the court to consider the necessity for and the
8 reasonableness of the request of the board of county
9 commissioners for access and to award to the owner such payment,
10 if any, as may be proper to compensate him for damages to his
11 property resulting from the flood control work on his property as
12 authorized by the board of county commissioners.

13 (5) The board of county commissioners shall have the
14 authority and right to modify, at its own expense and risk,
15 existing water diversion devices for the purposes of this
16 article, but it shall in no way alter or diminish the quality or
17 quantity of water entitled to be received under any vested water
18 right.

19 (6) Notice of the public hearing required under subsection
20 (1) of this section shall be given by publishing a brief
21 description and estimated cost of the proposed flood control
22 works, along with notice of the time and place of the hearing,
23 published once each week for two successive weeks in a newspaper
24 of general circulation within the county in which said flood
25 control works are proposed, the last publication of which shall
26 be not less than ten days nor more than thirty days prior to the
27 date set for said hearing.

1 30-30-104. Contracts and agreements. The board of county
2 commissioners may enter into contracts and agreements with
3 adjoining counties, the state of Colorado, or any agency or
4 political subdivision thereof for the purposes of implementing or
5 carrying out the purposes of this article.

6 30-30-105. Tax levy. For the purposes of this article, the
7 board of county commissioners of each county is hereby authorized
8 to assess a levy not to exceed three mills per dollar of
9 valuation for assessment against all taxable property within the
10 county, the revenues from which shall be used to establish a
11 flood control fund to be expended only to carry out the purposes
12 of this article; except that no such levy shall be made against
13 any taxable property within the boundaries of any special
14 district organized under state law which has the authority to and
15 is levying a property tax for flood control purposes.

16 30-30-106. Colorado water conservation board - grants to
17 counties. The Colorado water conservation board may make grants
18 to counties or other local governmental agencies, out of moneys
19 appropriated to it by the general assembly or other funds
20 available for such purpose, to assist such governmental agencies
21 in carrying out the purposes of this article in the manner and
22 under such terms and conditions as may be prescribed by said
23 board. Grants under this section may be made upon application by
24 the county or other local governmental agency therefor and on the
25 basis of the urgency of the flood control problems and the
26 financial need therefor, not to exceed fifty percent of the costs
27 incurred by a county or other local governmental agency.

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