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Report to the Colorado General Assembly:

**RECOMMENDATIONS FOR 1978
COMMITTEES ON:**

Agriculture and Wildlife

Higher Education

Governmental Expenditures

Mined Land

Legislative Procedures



VOLUME II

COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 223

December, 1977

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* * * * *

The Legislative Council, which is composed of six Senators, six Representatives, plus the Speaker of the House and the Majority Leader of the Senate, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

COLORADO LEGISLATIVE COUNCIL
RECOMMENDATIONS FOR 1978

(Volume II)

Committees on:

Agriculture and Wildlife

Higher Education

Governmental Expenditures

Mined Land

Legislative Procedures

Legislative Council
Report To The
Colorado General Assembly

Research Publication No. 223
December, 1977



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December 8, 1977

To Members of the Fifty-first Colorado General Assembly:

Submitted herewith are the final reports of the Legislative Council interim committees for 1977. This year's report consolidates the individual reports of nine committees into two volumes. The reports of the Committees on Insurance; Health, Environment, Welfare, and Institutions; Corrections; School Finance, and Fire and Police Pensions, are contained in separate volumes.

Respectfully submitted,

/s/ Representative Carl Gustafson
 Chairman
 Colorado Legislative Council

CG/vjk

FOREWORD

The recommendations of the Colorado Legislative Council for 1978 appear in two consolidated volumes and five separate reports. Volume I contains the reports of the Committees on The Budgeting Process, Judiciary, Fixed Utilities, and Transportation and Energy. Reports in Volume II are from the Committees on Agriculture and Wildlife, Higher Education, Mined Land, Governmental Expenditures, and Legislative Procedures.

The Legislative Council reviewed the reports contained in this Volume II at its meeting on November 28, 1977. With the exception of Bill 23 from the Committee on Agriculture and Wildlife and Bill 29 from the Committee on Higher Education, the Legislative Council voted to transmit all bills included herein with favorable recommendation to the Governor and the 1978 session of the General Assembly.

The Committee on Governmental Expenditures recommended to the Legislative Council, at the November 28 meeting, that the study be continued during the 1978 interim. The Legislative Council did not endorse this proposal and makes no recommendations thereon.

The Committee on Legislative Procedures is requesting that the Governor place on his call to the General Assembly two items which do not appear in this report. These two items are: 1) a bill which would require mandatory enrollment in the retirement association by all state employees; and 2) a bill which sets forth a procedure to be used by those employees who wish to "buy-back" periods of state service not covered by employee or employer contributions to the retirement fund.

The committees and staff of the Legislative Council were assisted by the staff of the Legislative Drafting Office in the preparation of bills and resolutions contained in this Volume. Sue Burch and Terry Walker assisted the Committee on Agriculture and Wildlife; Sue Burch and Marcia Baird, the Committee on Higher Education; Becky Lennahan and Doug Brown, Committee on Governmental Expenditures; John Lansdowne and Mardie McCreary, Committee on Mined Land; and Jim Wilson, Becky Lennahan, and Doug Brown, Committee on Legislative Procedures.

December, 1977

Lyle C. Kyle
Director

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LEGISLATIVE COUNCIL
COMMITTEE ON AGRICULTURE AND WILDLIFE

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COMMITTEE ON AGRICULTURE AND WILDLIFE

The Committee on Agriculture and Wildlife was constituted by the Legislative Council and, pursuant to the provisions of H.J.R. 1046, 1977 session, was charged with the following three study topics: 1) wildlife habitat; 2) the water shortage; and 3) coal slurry pipelines. In general, the areas of study outlined in H.J.R. 1046 included:

- I. Wildlife Habitat. Examination of the need for wildlife habitat, including an evaluation of lands and waters presently owned by the Division of Wildlife and the need for disposition of existing, or acquisition of further, such lands.
- II. Water Shortage. Review of water conservation measures, the economic and social impact of the water shortage, necessary adjustments in agricultural use of water, and any secondary effects of the shortage, especially on tourism.
- III. Slurry Pipelines. Examination of the effect slurry pipelines would have on existing water resources, water rights, the environment, and employment.

Committee Procedures

Wildlife Habitat

During the interim, the Committee on Agriculture and Wildlife was presented with a broad overview of the status of wildlife habitat in the state and the Division of Wildlife's role in acquiring and managing such habitat. The committee approached the study not so much with the objective of recommending new legislation on the subject but to develop an appreciation of the need for wildlife habitat and an understanding of the division's position with respect to that need.

The committee pursued this first objective throughout its deliberations, giving attention both to the general topic of the division in regard to Colorado wildlife habitat and to the status of specific parcels of land on which the division is, or proposes to be, developing or managing such habitat. Testimony was received in Denver, Steamboat Springs, and Sterling concerning the status of existing habitat, the division's management thereof, and the prospect for the development of additional habitat. The testimony came from spokesmen for the division, a number of county and local officials,

representatives of wildlife conservation and sportsmen's groups, ranchers and farmers, and from other interested citizens.

The trips to Steamboat Springs and Sterling provided committee members an opportunity to tour lands and waters currently owned or controlled by the division, lands and waters under option to the division, and lands and waters thought desirable by the division for future acquisition or lease. On its tour of the Steamboat Springs area, the committee also observed the mined land reclamation process under way on several specific mine sites.

Each of the tours provided the members an opportunity to hear the opinions and complaints of the local citizenry and to view the specific land parcels to be under future discussion or review in the legislative budget process. Particular attention was given to the relationship between present and prospective division land holdings and the tax base of the local jurisdictions.

Finally, the committee addressed the argued need for more public and open private land for sportsmen's use and the possibility that the division could alleviate that need by leasing state school lands under the control of the State Board of Land Commissioners. Discussion of this subject was undertaken with members of the state board and representatives of various wildlife conservation and sportsmen's groups. Although no legislation on the subject was considered, the committee was of the consensus that the possible use of these lands merits future consideration by the General Assembly.

Water Shortage

The committee began considering the current state water shortage by receiving testimony from representatives of various state agencies concerned with its implications and effects. Among those agencies were the Colorado Water Conservation Board, the Department of Agriculture, and the Governor's Office. Over the balance of the interim, the committee received testimony from a selection of witnesses concerning Colorado's water law and the state's obligations under the terms of various interstate water compacts. Additional testimony addressed the effects of the shortage upon surface and underground appropriators, its implications for agricultural production, and the possible need for amendments to the state's water code.

Slurry Pipelines

The study of slurry pipelines, specifically coal slurry pipelines, focused upon both the general descriptive aspects and water-use implications of the technology and the specific aspects and implications of the proposed San Marco project. That project, a joint venture of the Denver and Rio Grande Western Railroad and Houston Natural Gas, would transport slurried coal from a point of origin near Walsenburg in Colorado to a terminus in Texas, using water from the

San Luis Valley. The committee approached its review of the San Marco project from an overall concern for its technical, economic, environmental, and water-use implications.

Relative to the subject of slurry technology in general, the committee received testimony from representatives of Energy Transportation Systems, Inc. (ETSI), a coal slurry venture in Wyoming; a representative of the Burlington Northern Railroad; the State Engineer; a representative of the State Water Conservation Board; and various local and regional water conservation and management district officials. The committee was presented information concerning the technical and economic aspects of the slurry technology, and possible environmental effects.

In examining the San Marco project in specific, the committee heard from representatives of the joint venture company involved in its development. The focus of that examination was upon the project's possible impacts upon water resources and water rights in the San Luis Valley. A review was made of the state's water code as it relates to slurry pipelines and the exportation or diversion of water from the state, as proposed in the San Marco development.

Findings and Recommendations

Assessments on Water Wells -- Bill 22

Bill 22 is recommended by the Committee on Agriculture and Wildlife in response to a problem apparently experienced by several ground water management districts in the state. The Colorado Ground Water Commission has recently begun using acre-feet as a measurement of water use for its purposes, rather than gallons-per-minute as it did previously. It was further noted that there exists a degree of confusion with respect to the ability of ground water management districts to determine the proper gallons-per-minute estimate for taxation purposes, since more than one estimate of pump capacity is usually filed for each well.

The recommended legislation responds to that problem by amending the law to allow ground water management districts to tax wells, for purposes of special assessment, upon either the acre-feet or the gallons-per-minute measurement. The bill also provides a maximum assessment limit of 15 cents per acre-foot for districts choosing the acre-feet alternative. That limit would be analagous to the existing statutory limit of 5 cents per gallon per minute, which the bill retains for application to districts taxing upon the gallons-per-minute basis.

Coal Slurry Pipelines -- Bill 23

Bill 23 is recommended in response to the concern of many mem-

bers that coal slurry pipelines represent a potentially significant use of Colorado's limited water resources. It was their further concern that such water use is entirely consumptive in nature, involving the exportation of Colorado water in such a fashion as to preclude its reuse by the people of the state.

The recommended legislation amends an existing provision of law prohibiting the diversion of Colorado surface and ground waters for application outside the state by specifying that the use of such waters for the purpose of transporting coal in the form of slurry is included within the scope of that prohibition. The amendment is intended to explicitly prohibit diversion of water from the state in order to preempt a possible judicial interpretation that slurry pipeline water usage is not within the scope of the existing, more general prohibition.

Bill 23 also establishes a special study committee to evaluate the prohibition and make recommendations to the first regular session of the fifty-second General Assembly concerning the appropriateness of its continuance or repeal. The bill additionally specifies the composition of the committee and directs it to make its report to the General Assembly by February 1, 1979. (Bill 23 is submitted by the Legislative Council without recommendation.)

COMMITTEE ON AGRICULTURE AND WILDLIFE

BILL NO. 22

A BILL FOR AN ACT

1 CONCERNING SPECIAL ASSESSMENTS ON WATER WELLS CERTIFIED BY THE
2 BOARD OF DIRECTORS OF A DESIGNATED GROUND WATER MANAGEMENT
3 DISTRICT.

Bill Summary

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

Provides that a special assessment on water wells made by the board of directors of a designated ground water management district may be made on the basis of claimed average annual amount of water in acre-feet in such well, not to exceed fifteen cents per acre-foot, in lieu of basing such assessment on the registered pump capacity.

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

5 SECTION 1. 37-90-132, Colorado Revised Statutes 1973, as
6 amended by chapter 427, Session Laws of Colorado 1977, is amended
7 to read:

8 37-90-132. Management district - board of directors - taxes
9 - levy - limitation. The board of directors may levy and collect
10 annually taxes necessary to finance the activities of such
11 district to the amount of not more than one-half mill on the
12 dollar of the valuation for assessment of all taxable property

1 within the district. It shall, in accordance with the schedule
2 prescribed by section 39-5-128, C.R.S. 1973, certify its mill
3 levy to the board of county commissioners of the counties wholly
4 or partially within the district, who shall extend the same on
5 the county tax list, and the same shall be collected by the
6 county treasurer in the same manner as state and county taxes.
7 In addition, annually the board of directors of the district may
8 assess and certify a special assessment on all water wells,
9 except those wells described in section 37-90-105, in the
10 district not to exceed five cents per gallon per minute of the
11 registered pump capacity of each such well OR FIFTEEN CENTS PER
12 ACRE-FOOT OF THE CLAIMED AVERAGE ANNUAL AMOUNT OF WATER IN
13 ACRE-FEET OF EACH SUCH WELL. Said assessment shall be collected
14 by the county treasurer in the same manner as other special
15 assessments. It is the duty of the board to apply for and to
16 receive from the county treasurers all money to the credit of the
17 district.

18 SECTION 2. Effective date. This act shall take effect July
19 1, 1978.

20 SECTION 3. 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 AGRICULTURE AND WILDLIFE

BILL NO. 23

A BILL FOR AN ACT

1 PROHIBITING THE USE OF WATERS OF THE STATE OF COLORADO FOR THE
2 TRANSPORTATION OF COAL IN THE FORM OF SLURRY, AND CREATING A
3 COMMITTEE TO STUDY SAID PROHIBITION.

Bill Summary

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

Prohibits the use of ground and surface waters of the state for the transporting of coal in the form of slurry and establishes a special study committee to evaluate such prohibition and make recommendations concerning such prohibition to the first regular session of the fifty-second general assembly.

4 WHEREAS, The general assembly finds that the exportation of
5 waters of this state as a component of coal slurry is not
6 presently in furtherance of the policy of this state to maximize
7 the beneficial use of all waters of this state while concurrently
8 it recognizes that there is a need for continued study of the
9 issue; now, therefore,
10 Be it enacted by the General Assembly of the State of Colorado:

11 SECTION 1. 37-81-101, Colorado Revised Statutes 1973, is
12 amended to read:

1 37-81-101. Unlawful to divert water for application outside
2 of state. (1) For the purpose of aiding and preserving unto the
3 state of Colorado and all its citizens the use of all the waters
4 of the springs, lakes, ponds, creeks, rivers, streams, and
5 watercourses of this state, which waters do not increase with the
6 growth of population and which are necessary for the health and
7 prosperity of all the citizens of the state of Colorado, and for
8 the growth, maintenance, and general welfare of the state, it is
9 unlawful for any person, corporation, or association to divert,
10 carry, or transport by ditches, canals, pipes, conduits, natural
11 streams, or watercourses the waters of any spring, reservoir,
12 lake, pond, creek, river, stream, or watercourse of this state
13 into any other state for use therein.

14 (2) FOR THE PURPOSE OF AIDING AND PRESERVING UNTO THE STATE
15 OF COLORADO AND ALL ITS CITIZENS THE MAXIMUM BENEFICIAL USE OF
16 ALL WATERS OF THIS STATE, AS ENUMERATED IN SUBSECTION (1) OF THIS
17 SECTION, THE USE OF ANY OF SUCH WATERS FOR THE PURPOSE OF
18 TRANSPORTING COAL IN THE FORM OF SLURRY IS PROHIBITED.

19 SECTION 2. 37-90-136, Colorado Revised Statutes 1973, is
20 amended to read:

21 37-90-136. Unlawful to divert water for application outside
22 of state. (1) For the purpose of aiding and preserving unto the
23 state of Colorado and all its citizens the use of all ground
24 waters of this state, whether tributary or nontributary to a
25 natural stream, which waters are necessary for the health and
26 prosperity of all the citizens of the state of Colorado, and for
27 the growth, maintenance, and general welfare of the state, it is

1 unlawful for any person to divert, carry, or transport by
2 ditches, canals, pipelines, conduits, or any other manner any of
3 the ground waters of this state, as said waters are in this
4 section defined, into any other state for use therein.

5 (2) FOR THE PURPOSE OF AIDING AND PRESERVING UNTO THE STATE
6 OF COLORADO AND ALL ITS CITIZENS THE MAXIMUM BENEFICIAL USE OF
7 ALL GROUND WATERS OF THIS STATE, WHETHER TRIBUTARY OR
8 NONTRIBUTARY TO A NATURAL STREAM, THE USE OF ANY OF SUCH WATERS
9 FOR THE PURPOSE OF TRANSPORTING COAL IN THE FORM OF SLURRY IS
10 PROHIBITED.

11 SECTION 3. Article 81 of title 37, Colorado Revised
12 Statutes 1973, as amended by Session Laws of Colorado 1977, is
13 amended BY THE ADDITION OF A NEW SECTION to read:

14 37-81-104. Special study committee. A special study
15 committee shall be appointed in the manner prescribed in this
16 section to conduct a study of the feasibility and effect of the
17 prohibition of the use of waters of this state for the
18 transportation of coal in the form of slurry. Said committee
19 shall consist of fifteen members to be appointed as follows: Four
20 members, two from each of the two major political parties, from
21 the house of representatives, appointed by the speaker of the
22 house; four members, two from each of the two major political
23 parties, from the senate, to be appointed by the president of the
24 senate; one member representing the office of the governor, to be
25 appointed by the governor; one member from the department of
26 natural resources, to be appointed by the executive director of
27 the department of natural resources; one member from the division

1 of water resources, to be appointed by the state engineer; one
2 member from the Colorado water conservation board, to be
3 appointed by the director of the Colorado water conservation
4 board; and three members from the energy industry who have an
5 interest in coal slurry, to be appointed by the legislative
6 council. The special study committee shall make its report to
7 the first regular session of the fifty-second general assembly.
8 This section shall be repealed effective February 1, 1979.

9 SECTION 4. 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.

LEGISLATIVE COUNCIL
COMMITTEE ON HIGHER EDUCATION

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COMMITTEE ON HIGHER EDUCATION

The primary activity of the Legislative Council Committee on Higher Education in the first year of its two-year study has been to focus on the statewide organizational structure of higher education and, more specifically, to consider the role and mission of institutions of post-secondary education in Colorado. This activity was enhanced through three, two-day tours of post-secondary institutions outside of the Denver metropolitan area. Plans are being made to visit the metropolitan campuses during the 1978 interim. 1/

At each campus the committee was accompanied by staff from the Commission on Higher Education, the Trustees of State Colleges and University Consortium, and the State Board for Community Colleges and Occupational Education. The committee toured the physical plant and discussed questions submitted to each institution with the college administration, staff, and community leaders. These questions related to what the institutions thought to be the most appropriate governance system for higher education and what should be the role of the Commission on Higher Education within the system. The committee discussed the long range plans of each institution and listened to what the institution considered to be its role based on the characteristics of the students it serves, the geographic area served, and its selected programs of emphasis.

The responses to these general questions, as well as to specific questions on the operation of each institution, have been compiled by the Legislative Council staff and are being distributed to college presidents, members of governing boards, and staff of the boards involved in higher education, and to others interested in the planning and administration for higher education in Colorado. The responses, plus the master plan being prepared by the CCHE, will be used as a basis for the continuation of the committee's work in 1978. Appended to this report is a list of the general questions submitted to all institutions and an example of specific questions directed to an individual institution.

1/ Colleges and area vocational schools visited were: Adams State College, Aims Community College, Aurora Vocational-Technical School, Colorado Mountain College, Colorado Northwestern Community College, Colorado State University, Delta-Montrose Area Vocational-Technical School, El Paso Community College, Ft. Lewis College, Lamar Community College, Larimer County Vocational-Technical School, Mesa College, Morgan Community College, Northeastern Junior College, Otero Junior College, San Juan Basin Area Vocational-Technical School, San Luis Valley Area Vocational School, Trinidad State Junior College, University of Colorado -- Colorado Springs, University of Northern Colorado, University of Southern Colorado, and Western State College.

While it is difficult to generalize or to arrive at any conclusions at the midpoint of a two-year study, several observations based on the tours are appropriate.

(1) Colorado has an impressive physical plant for its colleges and universities and it appears that the physical plants at many institutions are largely in place. It may be that decisions on program, roles, and mission will be more significant in future considerations than has been the case in the past.

(2) Those colleges which are succeeding in providing quality programs and in attracting students are those colleges which have recognized that each institution cannot be all things to all people. The successful institutions have identified clearly their specific roles and have a vision of where they intend to be in five or ten years.

(3) Several community colleges in rural areas have created specialized offerings to attract students and to sustain their enrollments. Trinidad State Junior College, as an example, has one of the few associate-degree programs in gunsmithing offered anywhere in the United States. Northeastern Junior College offers agribusiness, and Lamar Community College has a program unique in the nation in horse training and management. The future of the small rural community colleges seemingly depends on their developing a specialized area of national or regional interest, in addition to their general academic or vocational course offerings.

(4) Critical relationships have been built between colleges and the community in which they are located. Almost without exception, the committee found strong support for the colleges from the communities throughout the state. The college campuses have become the social and cultural centers of the region, as well as being critical to the economic well-being of the area, and the communities take great pride in "their" institutions.

(5) The percentage increase in enrollments at many institutions has leveled-off or has declined from a period of growth through the 1960's and early 1970's. Several colleges are operating below the capacity which their physical plant would allow and for which they had planned a few years ago.

(6) The tours of the campuses and the responses to questions were said to be particularly helpful to the staff of the Commission on Higher Education in the preparation of the preliminary master plan for higher education to be submitted to the General Assembly February 1, 1978. During the 1978 interim, the committee will review the master plan to arrive at specific conclusions concerning the governance structure and the appropriate role for each institution.

(7) Efforts are being made at the present time to provide greater coordination of the resources available in higher education in Colorado. The newly created Trustees of State Colleges and University

Consortium is taking a leading role in developing the sharing of services of faculty, students, and other resources among the five institutions which it governs. Other institutions have also arranged cooperative programs which should result in greater cost effectiveness and less duplication than would be the case if institutions attempted to do everything by themselves. It appeared to the committee that much more can be done in this area, but it will take strong leadership and a spirit of cooperation on the part of all concerned to involve more institutions in consortium arrangements.

While the topics of governance, role, and mission of Colorado's institutions of higher education and accessibility of higher education to the citizens of the state were the principal issues addressed by the committee during the tours of the colleges, other major issues facing higher education were also reviewed. These topics were: (1) the current student financial aid policy; (2) the role of Colorado's private colleges and universities in the higher education system; (3) the state's current method for calculating tuition and alternatives to the current formula; and (4) the level of fees charged students and controls which might be exerted on the assessment of fees. With some exceptions, the committee is not recommending major revision to the current policy in these areas but has identified several issues which may have implications for higher education over the next few years.

Student Financial Aid

The committee heard testimony from the staff of the Colorado Commission on Higher Education (CCHHE) concerning student financial aid.

It was reported that state funding for scholarships, loans, grants, and work studies in all likelihood will remain stable in 1978, with no need for dramatic increases or decreases in funding. Total state funding of student aid since FY 1972 is as follows:

| <u>Year</u> | <u>State Appropriation</u> | <u>Percent Increase Over Prior Year</u> |
|-------------|----------------------------|---|
| 1971-72 | \$ 8,118,600 | |
| 1972-73 | 9,307,448 | 14.6% |
| 1973-74 | 10,388,265 | 11.6 |
| 1974-75 | 14,070,573 | 35.4 |
| 1975-76 | 14,590,194 | 3.7 |
| 1976-77 | 16,855,784 | 15.5 |
| 1977-78 | 17,803,466 | 5.6 |

The CCHHE staff suggested the creation of a state loan guarantee agency. This agency would: (1) guarantee student loans made by banks; (2) assist in collections of student loans if the bank cannot obtain repayment; (3) contract with the federal government, which would rein-

sure loans guaranteed by the state; and (4) establish requirements for students, lenders, and institutions participating in the program. The loans would provide assistance to middle income families in the \$10,000-\$30,000 income range. According to the CCHE staff, the state loan guarantee agency would be self-supporting after one year, so the state would only need to make a one-time appropriation to cover the agency's operating expenses and to establish a reserve fund. This proposal is currently under consideration by CCHE, and no written proposal was submitted to the committee.

Several issues may be raised regarding student financial aid.

(1) Currently, there is only a tacit agreement among members of the Joint Budget Committee and other members of the General Assembly to increase student aid to correspond with tuition increases. Should there be a formal agreement to increase financial aid when a tuition increase occurs?

(2) Colorado's current financial aid program is heavily weighted toward grants. For example, in FY 1977-78, 78.3 percent of the total state appropriation for student aid was for grants and scholarships, 14.2 percent for work study and 7.5 percent for loans. Is this the proper balance?

(3) Current aggregate information on the level of federal funding of student financial assistance is not available at the state level. Should the General Assembly have this information during the process of appropriating state dollars for student aid?

(4) Students in area vocational-technical schools now only receive work study financial aid. Should grants, scholarships, or loans be made available to students attending these institutions?

(5) Tuition waivers for graduate research assistantships and graduate teaching assistantships are not included as student financial aid in the state budgeting process. Should they be?

Private Colleges and Universities

The committee discussed the current relationships between public and private higher education and reviewed the recommendations of the 1973 CCHE Task Force on the Private Sector. The recommendations of the task force include:

- 1) Authorization for the CCHE to contract with each private college to provide educational services to Colorado resident students;
- 2) Authorization for a state appropriation to the CCHE for student grants to Colorado resident students, both under-graduate and graduate, attending Colorado private colleges. Such grants would include both need-based and

no-need awards (excluding athletic scholarships), under the same guidelines applicable in the public sector;

- 3) Authorization for a state appropriation to the CCHE to match federal funds for student loans made at Colorado's private colleges, as they are presently matched in the public sector;
- 4) An amendment to the statute directing the CCHE to establish a Colorado work-study program in institutions of higher education to include authorization for state appropriations to be used in work-study grants in the private sector; and
- 5) Implementation of the Colorado Student Loan Program for both the public and private sectors.

The committee is following the legal and financial implications of Senate Bill 398, adopted in the 1977 session, which authorizes the CCHE to extend student aid to resident students, on the basis of need, who attend non-public, non-sectarian institutions of higher education. Until the bill was enacted, the state had provided aid only to students at public institutions so this bill represents a major policy departure for the state financial aid program.

Tuition Policy

The committee reviewed the current tuition policy which provides that non-resident tuition be set at 100 percent of the prior year's on-campus state operating costs and resident tuition at 25 percent in the four-year colleges and universities and 22.5 percent in the two-year colleges.

The committee reviewed a number of options or modifications to the current system and discussed policy issues for and against changes in the present arrangement.

I. Inclusion of capital outlay in tuition calculations

A. Major reasons for:

1. More accurately reflects state costs.
2. Increases tuition income. Would add to tuition charges approximately \$30 per non-resident and \$7.50 per resident and increase cash revenue by about \$600,000.
3. Tends to involve students in decisions on kinds of equipment bought.

B. Major reasons against:

1. Capital outlay expenditures can vary significantly year to year.
2. Much of capital outlay is funded through construction projects.
3. Increased tuitions will tend to further limit access.

II. Differentiated tuition for graduate and undergraduate students

A. Major reasons for:

1. Students could pay for what they gain in earning potential as a result of their graduate degrees.
2. Due to high cost of graduate tuition, institutions might be forced to limit graduate offerings and to reduce duplication to reduce tuition to a level that would attract students.
3. As more graduate students are non-residents, it would tend to shift more of the cost from the general fund to tuition charges.

B. Major reasons against:

1. Would tend to limit access to graduate school to only those persons able to pay.
2. Graduate school offerings might be shifted to lower cost programs which may not be in the best interest of the state.
3. Does not consider the benefits to undergraduates of having graduate and research faculties available.

III. Uniform tuition charges by college sector

A. Major reasons for:

1. Tends to reduce tuition at the smaller, more expensive institutions.
2. Tends to make tuition less subject to wide swings due to enrollment changes.
3. Allows students to make decisions within public institutions in the sectors without regard to cost.

B. Major reasons against:

1. Separates each institution's cost from its tuition.
2. Requires students at low cost institutions to subsidize those at high cost institutions.
3. Requires students at strictly undergraduate institutions to subsidize graduate programs.

IV. Charge tuition on a unit price basis

(Students would be charged on a uniform basis per credit hour. There would be no differentiation of full-time versus part-time students for tuition purposes. Each credit hour would be charged at a uniform rate of 1/15 of the current "full-time" rate.)

A. Major reasons for:

1. Part-time charge would be more consistent among institutions.
2. Allows the student more flexibility.
3. Simplifies tuition calculations at the central level.

B. Major reasons against:

1. Requires the student carrying more than fifteen hours to pay higher tuition.
2. Makes it more difficult to estimate enrollments and tuition income.
3. Eliminates the one area with regard to tuition where the governing boards now have flexibility.

One bill submitted by the committee would establish a pilot project for the reduction of summer school tuition at selected institutions which have experienced reduced summer school enrollments in recent years. Bill 28 is outlined on page 19 of this report.

Student Fees

Student fees are charged at all state public higher education institutions. Fees range from sixteen dollars to \$208 per year and are used to pay costs of student health services, student union operations, student activities, part of intercollegiate athletics, and to pay the bonded indebtedness on student oriented facilities, such as

student unions, health facilities, and other capital improvements. The level of fees is controlled by the governing boards for each institution which generally seek student government opinion in setting fees.

The committee observed that at some institutions the level of student fees approaches the tuition charge. In some of the two-year colleges the state's policy of encouraging low tuition may be offset by high student fees. While some fees are unavoidable because of bonded indebtedness obligations, the situation needs to be carefully considered so that the fee structure does not price students out of the education market.

Bill 27 on page 31 defines student institutional fees and student activity fees and sets state imposed requirements for student institutional fees used for student facilities.

~~Governance of Institutions of Higher Education~~

A proposal by Senator Hugh Fowler was reviewed which would establish separate governing boards for each institution of higher education. Members of the boards would be non-partisan and elected at a general election. Board members would be representative of local as well as state-wide interests and the boards would have responsibilities similar to those currently exercised by the Board of Regents of the University of Colorado or the Trustees of the University of Northern Colorado. The CCHE's responsibilities would be expanded to include approval of institutional budget requests.

The committee was not asked to take formal action on this proposal.

Committee Recommendations

Administration of the Offering of College Degrees by Colleges and Universities - Bill 24

Bill 24 will transfer the administration of out-of-state degree granting institutions from the Department of Education to the Department of Higher Education, thus giving the Department of Higher Education tighter control over the quality of programs offered by out-of-state institutions. Currently, the Department of Education monitors out-of-state degree granting institutions on a complaint basis only. This shift in administrative duties to the Department of Higher Education will allow the department to determine whether out-state, as well as in-state institutions, are qualified to issue diplomas.

Appointment of the State Board for Community Colleges and Occupational Education -- Bill 25

The State Board for Community Colleges and Occupational Education (SBCCOE) is presently the only governing board for higher education for which the appointees are not subject to confirmation by the Senate. This proposal will require the consent of the Senate for the appointment of members to the SBCCOE.

Membership on the State Advisory Council for the State Board for Community Colleges and Occupational Education -- Bill 26

In order to comply with the federal "Educational Amendments of 1976", this bill will provide that the Governor, rather than the SBCCOE, appoint a state advisory council to assist the board in carrying out its responsibilities regarding occupational education. The membership of the council will include one member from each category required by the federal "Educational Amendments of 1976," and at least one member who is familiar with occupational education needs, and one member each representing agriculture, organizations of school boards or school administration, and the state Board of Education. This bill will also include on the council one senator and one representative as representatives of the enumerated categories.

Fees Assessed Students Upon Registration at State Institutions of Higher Education for Noninstructional and Nonadministrative Purposes -- Bill 27

The purposes of Bill 27 are to separate student institutional fees from student activity fees and to provide definitions for these terms. Student institutional fees are those fees assessed students upon registration at a state institution of higher education to be used for the repayment of indebtedness on or for the operation and maintenance of student facilities. The governing board would control the institutional fees, but students would have the right to vote in a student election before such fees could be pledged in the repayment of any new indebtedness on a student facility.

Fees assessed students, other than student institutional fees, are student activity fees. This bill would further provide that student activity fees are to be assessed and disbursed according to the policy of the governing board, and that a process of appeals shall be established for students who object to any changes made by the governing board in the budget for activities supported by the student activity fees.

Enrollment Incentives at State-Supported Colleges and Universities -- Bill 28

A number of institutions of higher education have experienced

low summer-session enrollments in recent years. By adjusting tuition levels downward for summer sessions, the Colorado Commission on Higher Education could assess the impact of adjusted tuition levels on actual enrollments. Under the provisions of this bill, the commission will designate not more than four state-supported colleges and universities which have experienced low summer enrollments to begin a one-year pilot study on the effects on enrollments of reduced tuition for non-resident students.

The Classification for Tuition Purposes of Minor Children of Parents Departing the State -- Bill 29 2/

Under this bill a minor child of a departing parent would be able to enroll at a Colorado institution of higher education as an in-state student upon graduation from a Colorado high school if the child enrolls within six months after graduation from high school. The purpose of Bill 29 is to protect those parents, having lived in Colorado and supported institutions of higher education through their tax dollars, from paying out-of-state tuition fees for their minor child.

A "departing parent" is defined as a parent who has been domiciled in Colorado and whose minor child, except for the fact that the parent is leaving the state, would be classified upon registration at a Colorado institution of higher education, as an in-state student. A limit on the period of time the child may attend as a resident student is included in the bill, based on the length of time the parent was domiciled in Colorado.

2/ At the meeting of the Legislative Council on November 28, 1977, the Legislative Council did not vote to recommend Bill 29 to the Governor for inclusion on his call to the 1978 session of the General Assembly.

Questions Asked of Institutions Visited By
Committee on Higher Education

General Questions for All Institutions

1. What is the most appropriate governance system for public higher education in Colorado? Is your institution currently placed under the proper governing board? What roles do you recommend for CCHE?
2. Is the present system, with multiple governing boards and the CCHE, responsive to your needs, particularly to those of your immediate community?
3. Do problems exist in the transfer of credits between your institution and other two-year, four-year, or graduate degree institutions?
4. What is the extent of cooperation between your institution and the other institutions in your region or under the same governing board? Have any steps been taken, for example, to eliminate duplication of course offerings or to share services and facilities?
5. What is the primary geographic area you serve?
6. What are the long-range plans for your institution? Should there be a change in your current role as defined by the CCHE?
7. What have been the trends in enrollment from 1970 to date, and what are the future projections?

Example of Specific Questions (University of Southern Colorado)

1. What percentage of your student body is enrolled in upper division courses? Do a high percentage of USC students change schools after the first two years? Which institutions do they attend for their upper division work? Do many students not continue in academic work after the first two years?
2. Excluding students at USC who are enrolled in vocational education programs, what are the program offerings and the number of students enrolled in the programs at USC?
3. Can you point to areas of cooperation between USC and the University of Colorado, Colorado Springs, to meet the needs for higher education in Southern Colorado?
4. What are the long-range plans for use of the Orman Campus (the original campus of Pueblo Junior College)?
5. Are there duplications in the lower division course offerings between the Orman and Belmont campuses? (Belmont is the site of the new campus of USC).

COMMITTEE ON HIGHER EDUCATION

BILL 24

A BILL FOR AN ACT

1 CONCERNING DEGREES OFFERED BY COLLEGES AND UNIVERSITIES, AND
2 RELATING TO THE ADMINISTRATION OF STATUTORY PROVISIONS
3 RELATING THERETO, 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.)

Specifies that community colleges are state colleges for the purposes of article 2 of title 23, C.R.S. 1973, and transfers the administration of said article from the department of education to the department of higher education. Makes an appropriation to fund such transfer.

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

5 SECTION 1. 23-2-102 (5), Colorado Revised Statutes 1973, is
6 amended to read:

7 23-2-102. Definitions. (5) "State college or university"
8 means an institution of higher education, including a COMMUNITY
9 AND junior college COLLEGES, established and existing pursuant to
10 law as an agency of the state of Colorado and supported wholly or
11 in part by tax revenues.

12 SECTION 2. 23-2-104, Colorado Revised Statutes 1973, is
13 amended to read:

1 23-2-104. Administration of article - injunctive
2 proceedings. The department of HIGHER education is charged with
3 the administration of this article. The department, acting
4 through the attorney general, may proceed by injunction against
5 any violation of this article, but no such proceeding and no
6 order issued therein or as a result thereof shall bar the
7 imposition of any other penalty imposed for violation of this
8 article.

9 SECTION 3. Appropriation. There is hereby appropriated,
10 out of any moneys in the state treasury not otherwise
11 appropriated, to the department of higher education, for the
12 fiscal year commencing July 1, 1978, the sum of _____
13 dollars (\$), or so much thereof as may be necessary, for
14 the administration and implementation of section 2 of this act.

15 SECTION 4. Effective date. This act shall take effect July
16 1, 1978.

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

COMMITTEE ON HIGHER EDUCATION

BILL 25

A BILL FOR AN ACT

1 CONCERNING APPOINTMENT OF THE STATE BOARD FOR COMMUNITY COLLEGES
2 AND OCCUPATIONAL EDUCATION.

Bill Summary

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

Requires consent of the senate for appointments made to the state board for community colleges and occupational education; deletes the requirement that the governor appoint a chairman and vice-chairman; and makes selection of an executive secretary discretionary rather than mandatory.

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

4 SECTION 1. 23-60-104 (2) (a), Colorado Revised Statutes
5 1973, as amended, and as further amended by chapter 289, Session
6 Laws of Colorado 1977, is amended to read:

7 23-60-104. State board for community colleges and
8 occupational education - student advisory council - state
9 advisory council. (2) (a) The board shall consist of nine
10 members, appointed by the governor WITH THE CONSENT OF THE
11 SENATE. ~~The---governor---shall---appoint---a---chairman---and---a~~
12 ~~vice-chairman.~~ The members of the board shall MAY select an
13 executive secretary, who shall serve as secretary of the board

1 and administrative officer and who shall not be a member of the
2 board. The board shall appoint a director of occupational
3 education and a director of community and technical colleges with
4 the qualifications and background specified by the board. The
5 board from time to time shall define and prescribe the duties and
6 functions of the directors. No appointed member shall be an
7 officer or employee of any junior college, state institution of
8 higher education, or private vocational school in the state. The
9 board shall at no time have more than five appointed members of
10 any political party. The board shall at all times include one
11 member representing agriculture, one member representing labor
12 organizations, one member representing business, and one member
13 representing private vocational schools, as defined in section
14 12-59-103 (11), C.R.S. 1973. The board shall at all times have
15 one member from each congressional district in the state. At
16 least one member shall be a resident of the western slope of the
17 state, defined in this section as that western part of the state
18 separated from the eastern part of the state by the continental
19 divide. A state student advisory council of student members who
20 are enrolled for a minimum of nine hours shall be elected, one
21 each, from and by the student bodies of each of the campuses
22 governed by the board.

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

COMMITTEE ON HIGHER EDUCATION

BILL 26

A BILL FOR AN ACT

1 CONCERNING THE MEMBERSHIP ON THE STATE ADVISORY COUNCIL FOR THE
2 STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL
3 EDUCATION.

Bill Summary

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

Conforms appointment to and membership on the state advisory council for the state board for community colleges and occupational education to federal requirements; specifies additional members; and requires that there be two legislative members on the state advisory council.

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

5 SECTION 1. 23-60-104 (3), Colorado Revised Statutes 1973,
6 is amended to read:

7 23-60-104. State board for community colleges and
8 occupational education - student advisory council - state
9 advisory council. (3) The board GOVERNOR shall appoint a state
10 advisory council to assist the board in carrying out its
11 responsibilities regarding occupational education ~~and may appoint~~
12 ~~such other advisory groups as it deems necessary~~ WHICH SHALL
13 INCLUDE ONE MEMBER FROM EACH CATEGORY REQUIRED BY THE "EDUCATION

1 AMENDMENTS OF 1976", 20 U.S.C. 2305. IN ADDITION TO THE MEMBERS
2 REQUIRED BY SAID "EDUCATION AMENDMENTS OF 1976", the advisory
3 council shall include ~~at least two members~~ ONE MEMBER who are IS
4 familiar with the occupational education needs of management in
5 the state by virtue of recent actual experience, ~~two members~~ ONE
6 MEMBER who are IS familiar with the occupational education needs
7 of labor in the state by virtue of recent actual experience, ~~two~~
8 ~~members~~ ONE MEMBER representing agriculture in the state, ~~two~~
9 ~~members-respectively~~ ONE MEMBER representing organizations of
10 school boards and OR school administration, AND one member
11 ~~nominated-by~~ REPRESENTING the state board of education, ~~and--two~~
12 ~~members---who--are--representative--of--community--and--technical~~
13 ~~colleges;--local--junior---colleges;---or---other---programs---of~~
14 ~~occupational--education;~~ each of whom shall have had recent
15 association with and shall be familiar with occupational
16 education programs. THE ADVISORY COUNCIL SHALL INCLUDE, AS
17 REPRESENTATIVE OF THE ENUMERATED CATEGORIES, ONE SENATOR AND ONE
18 REPRESENTATIVE APPOINTED BY THE GOVERNOR FROM A LIST SUBMITTED BY
19 THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
20 REPRESENTATIVES, RESPECTIVELY, BUT IF ANY LEGISLATIVE MEMBER
21 CEASES TO BE A MEMBER OF THE GENERAL ASSEMBLY, HIS MEMBERSHIP ON
22 THE ADVISORY COUNCIL SHALL TERMINATE. MEMBERS SHALL BE APPOINTED
23 FOR TERMS OF THREE YEARS AND VACANCIES SHALL BE FILLED FOR THE
24 REMAINDER OF THE UNEXPIRED TERM, BUT OF THE MEMBERS FIRST
25 APPOINTED, ONE-THIRD SHALL BE APPOINTED FOR TERMS OF ONE YEAR,
26 ONE-THIRD FOR TERMS OF TWO YEARS, AND ONE-THIRD FOR TERMS OF
27 THREE YEARS.

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 HIGHER EDUCATION

BILL 27

A BILL FOR AN ACT

1 CONCERNING FEES ASSESSED STUDENTS UPON REGISTRATION AT STATE
2 INSTITUTIONS OF HIGHER EDUCATION FOR NONINSTRUCTIONAL AND
3 NONADMINISTRATIVE PURPOSES TO PROVIDE STATE-IMPOSED
4 REQUIREMENTS FOR STUDENT INSTITUTIONAL FEES USED FOR STUDENT
5 FACILITIES.

Bill Summary

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

Specifies that student institutional fees are to be used only for certain purposes and requires a vote of the student body before such fees may be pledged for indebtedness or operating and maintenance expenses. Outlines procedures and limits on such election. Provides that all other noninstructional fees are deemed to be student activity fees and shall be assessed and disbursed as provided by the governing board. Establishes an appeal procedure when student organization or activity budgets are changed by the governing board.

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

7 SECTION 1. 23-5-102, Colorado Revised Statutes 1973, is
8 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

9 23-5-102. Funding of student facilities - student fees.

10 (1) (a) As used in this section, "student facility" means any

1 auxiliary facility at a state institution of higher education not
2 related to the instructional or administrative operation of such
3 institution, including but not limited to housing facilities,
4 dining facilities, recreational facilities, health facilities,
5 parking facilities, student center facilities, and any other
6 facility necessary or desirable in connection with the
7 noninstructional and nonadministrative operation of a state
8 institution of higher education.

9 (b) "Student institutional fees" means fees assessed
10 students upon registration at a state institution of higher
11 education to be used for the repayment of indebtedness on or for
12 the operation and maintenance of student facilities.

13 (2) Except as provided in subsection (3) of this section,
14 in order to obtain funds for constructing, otherwise acquiring,
15 and equipping student facilities and for the acquisition of land
16 for such purposes, the governing board of any state institution
17 of higher education is authorized, after notification to the
18 Colorado commission on higher education, to enter into contracts
19 with any person, corporation, or state or federal agency for the
20 advancement of moneys for any such purpose and to provide for the
21 repayment of such advancements with interest at a specified net
22 effective interest rate.

23 (3) (a) If student institutional fees are to be used in the
24 repayment of new indebtedness entered into on or after July 1,
25 1978, on a student facility, no revenue from any student
26 institutional fee may be pledged, otherwise committed, or
27 expended for the financing, as provided in subsection (2) of this

1 section, or for the operation or maintenance of any student
2 facility on or after July 1, 1978, unless such pledge,
3 commitment, or expenditure has first been approved by a majority
4 of the students voting at a student election held on the question
5 of such use of student institutional fees.

6 (b) The governing board of the affected institution of
7 higher education, or campus or branch thereof, shall promulgate
8 rules governing the conduct of such election, and the conduct of
9 such election shall conform, as nearly as possible, to the
10 conduct of student elections held for other purposes. The ballot
11 for such election shall specify the student facility project to
12 be voted on, the approximate dollar amount of any student
13 institutional fee charged which is attributable to said project,
14 the duration of the indebtedness, and the date on which the
15 assessment of the student institutional fee attributable to said
16 project will begin.

17 (c) Any action questioning the legality of the student
18 election concerning the incurring of indebtedness to be funded in
19 whole or in part by student institutional fees shall be brought
20 within thirty days of such election, and no such action shall be
21 brought after such thirty-day period.

22 (d) Prior to registration at any state institution of
23 higher education, each student who is currently enrolled or has
24 been accepted by such institution shall receive a notice of the
25 fees to be charged at registration, including specification of
26 those fees that are student institutional fees, and an
27 explanation of such fees. At registration, the amount of any

1 student institutional fee attributable to any specific student
2 facility shall be clearly identified and distinguished from any
3 other fee assessed.

4 (4) (a) The limitations of subsection (3) of this section
5 shall apply only to student institutional fees. Any other fees
6 assessed students registering at a state institution of higher
7 education for noninstructional purposes shall be deemed to be
8 student activity fees and shall be assessed and disbursed
9 according to policy established by the governing board of such
10 institution of higher education.

11 (b) Any change made by the governing board of a state
12 institution of higher education in the budget for an organization
13 or activity financed in whole or in part by student activity fees
14 may be appealed by the student government preparing the budget,
15 the organization whose budget was changed, or any student having
16 a direct relation to the activity for which the budget was
17 changed within thirty days after such change was made. The
18 governing board shall schedule a hearing within ten days after
19 receipt of such appeal at which testimony concerning such change
20 shall be taken. No later than twenty days after the close of the
21 hearing the governing board shall affirm, modify, or reverse its
22 action changing such budget, stating the reasons therefor, which
23 action shall be final.

24 SECTION 2. 23-5-103, Colorado Revised Statutes 1973, is
25 amended BY THE ADDITION OF A NEW SUBSECTION to read:

26 23-5-103. Pledge of income. (5) As used in this section,
27 the terms "income", "fees", and "revenues" mean revenues derived

1 directly from the use of facilities, charged at the time of or in
2 connection with the use of such facilities, and do not mean
3 student institutional fees assessed as provided in section
4 23-5-102.

5 SECTION 3. Effective date. This act shall take effect July
6 1, 1978.

7 SECTION 4. 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 HIGHER EDUCATION

BILL 28

A BILL FOR AN ACT

1 CONCERNING ENROLLMENT INCENTIVES AT STATE-SUPPORTED COLLEGES AND
2 UNIVERSITIES THROUGH ADJUSTED TUITION FOR SUMMER SESSIONS.

Bill Summary

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

Establishes a pilot program at four state colleges and universities to assess the impact of differentiated tuition for in-state and out-of-state students for the summer session.

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

4 SECTION 1. Article 7 of title 23, Colorado Revised Statutes
5 1973, as amended by Session Laws of Colorado 1977, is amended BY
6 THE ADDITION OF A NEW SECTION to read:

7 23-7-104. Enrollment incentive program. In order to assess
8 the impact of differentiated tuition levels on enrollment during
9 the summer session at state-supported colleges and universities,
10 the Colorado commission on higher education shall designate, for
11 the academic year 1978-1979, not more than four state-supported
12 colleges and universities which have experienced low
13 summer-session enrollments within the past three years for an
14 enrollment incentive program. The tuition level for the summer

1 session at the designated colleges and universities during said
2 academic year shall be adjusted for nonresident students
3 registering for such summer session. This section shall be
4 repealed effective September 1, 1979.

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.

COMMITTEE ON HIGHER EDUCATION

BILL 29

A BILL FOR AN ACT

1 CONCERNING HIGHER EDUCATION, AND PROVIDING FOR THE CLASSIFICATION
2 FOR TUITION PURPOSES OF MINOR CHILDREN OF PARENTS DEPARTING
3 THE STATE. .

Bill Summary

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

Defines the circumstances and time constraints under which a minor child, having lost status as an in-state student for tuition purposes due to the departure from the state of his parent, may qualify for classification as an in-state student.

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

5 SECTION 1. 23-7-102, Colorado Revised Statutes 1973, is
6 amended BY THE ADDITION OF A NEW SUBSECTION to read:

7 23-7-102. Definitions. (1.5) "Departing parent" means a
8 parent who has been domiciled in Colorado and whose minor child,
9 except for the fact that the parent is departing the state, would
10 qualify for registration at a Colorado institution of higher
11 education as an in-state student.

12 SECTION 2. Article 7 of title 23, Colorado Revised Statutes
13 1973, as amended by Session Laws of Colorado 1977, is amended BY

1 THE ADDITION OF A NEW SECTION to read:

2 23-7-104. Status of a minor child of a departing parent.

3 (1) On and after July 1, 1978, a minor child of a departing
4 parent shall qualify for registration at a Colorado institution
5 of higher education as an in-state student if said minor child
6 graduates from a high school located in Colorado and enters a
7 Colorado institution of higher education within six months after
8 graduation from high school.

9 (2) A minor child of a departing parent continues to remain
10 qualified for registration at a Colorado institution of higher
11 education as an in-state student for the period specified in
12 subsection (3) of this section if said minor child attends a
13 Colorado institution of higher education for no less than eight
14 months of each twelve-month period after initial registration.

15 (3) The period for which a minor child of a departing
16 parent may attend a Colorado institution of higher education as
17 an in-state student shall not exceed the period for which the
18 departing parent was domiciled in Colorado.

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

LEGISLATIVE COUNCIL
COMMITTEE ON GOVERNMENTAL EXPENDITURES

Members of the Committee

| | |
|--|--------------------------|
| Sen. Robert Allshouse, Chairman | Rep. Polly Baca-Barragan |
| Rep. W. H. "Bill" Becker, Vice Chairman | Rep. Carl Bledsoe |
| Sen. Donald Harding | Rep. Robert DeNier |
| Sen. William J. Hughes | Rep. Nancy Dick |
| Sen. Al Meiklejohn | Rep. Daniel Schaefer |
| Sen. Ron Stewart | Rep. Paul Swalm |
| Sen. Christian Wunsch | Rep. Arie Taylor |
| | Rep. King Trimble * |

Council Staff

David Hite
Principal Analyst

Dennis Jakubowski
Research Associate

*Replacing Rep. Bob Kirscht who resigned in October, 1977.

COMMITTEE ON GOVERNMENTAL EXPENDITURES

The study directive to the Committee on Governmental Expenditures called for:

"[a] review of the expenditure levels of all governmental units of the state, including state institutions, governmental programs, school districts, and other political subdivisions. The study shall examine the causes of the current levels of governmental spending and evaluate ways in which the spending might be reduced. The study shall identify the assumptions upon which governmental programs are based, as well as the validity of the program objectives and the personnel and funding levels necessary for the implementation of such programs. In addition, the study shall identify alternatives in program objectives and other factors that could reduce the burden of taxation".

In addition, the committee was directed to study the state personnel system with an emphasis on hiring and termination practices; determination of salary schedules, fringe benefits, and reimbursement schedules; and proper deployment of personnel throughout the system.

The Committee's Focus

The Committee on Governmental Expenditures, having worked solely on elementary and secondary education (with an emphasis on the latter) during the 1977 interim, realizes that it has not completed all of the investigation that is necessary to fulfill the directive from the General Assembly. The committee took as its mission an analysis of elementary and secondary education not only because a significant share of tax dollars at state and local levels of government are spent on this function, but also because the committee was concerned about how well citizens' tax monies have been spent to prepare youth for either higher education or vocational employment.

Vermont's Governor recently noted that "education is the least accountable and the most expensive of all our social services." Nationwide, its cost has risen eleven-fold since 1950. In Colorado, the expenditure increases have been even more dramatic. In 1950, Colorado state and local support for elementary and secondary education totaled \$49.4 million, double the figure for 1940. By 1950, the state was funding twenty percent (\$10 million) of the total support. For 1977, total projected revenues for the support of Colorado school districts are \$1.2 billion of which the state's share will total nearly \$400 million.

The state constitution's charge that the General Assembly establish and maintain a "thorough" system of public education adds another dimension to the issue. There is continuing public speculation regarding what is a "good education". There have been years of experimentation regarding the most effective manner in which to educate youth and still there is no clear agreement among educators as to what constitutes a thorough system as a "uniform" end product. High school test scores show a wide divergence. Some school districts are experiencing continuous improvement in test scores; other districts show stable or mixed results while still others have declining scores. We find this situation unsatisfactory.

The fact that some \$2 million is spent annually on remedial education at state colleges and universities is also of concern to the committee, although it is reported that less than \$40,000 of the total is spent at the state's three principal institutions. 1/ These are indications that the taxpayers are not always getting what they should expect from their school systems.

Finally, the committee is concerned that, while significant progress has been made, only half of the state's 181 school districts are doing a good job of complying with the provisions of the state's accountability law. The committee notes that those districts that have been slow to comply with the law have also experienced low student achievements. Those districts well into the accountability process are demonstrating solid improvements.

Local Control Tradition

To add perspective to the committee's concern, the strong "local control" tradition in Colorado was discussed. Section 1 of Article IX of the state constitution provides that "the general supervision of the public schools of the state shall be vested in a board of education whose powers and duties shall be as now or hereafter prescribed by law." To implement this mandate, the State Department of Education, under the direction of the State Board of Education, has engaged in a broad range of activities which can generally be defined as providing leadership and support services to local school districts, and secondly, distributing state and federal aid moneys to local school districts.

It was the consensus of the committee that the tradition of local control should be maintained in Colorado. A majority of committee members believe that the state should not prescribe how local districts organize the specific content of their educational programs. However, the state should no longer allow some local districts to remain unresponsive to public concerns about educational quality.

1/ The University of Colorado, Colorado State University, and the University of Northern Colorado.

Committee Recommendations

To clarify the state's position in this area, and to prompt a response from those directly involved in education, the Committee on Governmental Expenditures' recommendations are outlined below.

(1) Basic skills. Greater emphasis should be placed on basic skills education in all the public elementary and secondary schools of the state. This recommendation is directed to the State Board of Education and the Commissioner of Education, as well as the local school boards of the state.

Recognizing that there is little agreement among educators regarding what constitutes "basic skills", the committee defines the term simply as reading, writing, and arithmetic. The committee concludes that the concern over the apparent failure of the public schools to ensure that students reach reasonable levels of basic skills proficiency comes from a vast segment of society.

The primary sources of criticism have been those institutions which rely upon the secondary schools to provide graduates capable of functioning at respectable levels in the basic skills, namely colleges and universities, and the business community. Many parents, too, are expressing dismay over their low-performing children. One result: the State Board of Education has made "improving computation and communication skills" its first priority for the 1977-78 fiscal year. Some local school districts have adopted substantially the same goal.

In its deliberations, the committee considered the range of ways to implement the recommendation, from mandating basic skills instruction through legislative enactment, to tying its implementation to the state's financial support of public schools. Based on the recommendations of a member of the State Board of Education and the Commissioner of Education, the committee rejected any proposals for statutory change at this time.

Instead, the committee endorsed a proposal (outlined in greater detail in recommendation (5) below) that the issue of proficiency in the basic skills be a primary subject of study by a task force organized by the State Department of Education. The committee will await the task force recommendation in this area before making any further recommendations regarding basic skills education.

(2) Accountability law. All school districts are to comply with the provisions of the state's accountability law as denominated in Article 7 of Title 22, C.R.S. 1973. In support of this recommendation, the committee is of the opinion that the State Board of Education should consider the withholding of accreditation, or the use of any other means within their authority, to see that the provisions of this law are fully implemented. The committee does not oppose the withholding of accreditation by the State Board of Education.

The committee spent a considerable amount of time this interim discussing the state's accountability law. Although there was not agreement concerning the degree of involvement by the State Department of Education in the accountability program, the committee recognized the importance of defining and measuring quality in education, and assisting school patrons in determining the relative value of their school program as compared to its cost. Presently, the accountability law is the most effective statutory mechanism to achieve these objectives.

Under the law, districts and local school boards carrying out the accountability-planning process are able to set priorities, develop an educational plan, evaluate the progress of pupils and programs, and report the results to their communities. The priorities that are set and the plans developed reflect the educational concerns of the citizens in each local district. The Department of Education reported that those districts well into the accountability process:

- tend to set priorities for improving pupil performance in basic skills;
- are, in general, not experiencing test score declines (on the contrary, pupils perform well in basic skills in these districts);
- report pupil performance information to their public;
- use test results to improve educational programs; and
- use the process at the building level.

The committee commends these districts.

(3) Assessment program. A pilot junior year assessment program should be undertaken by the Department of Education and the Commission on Higher Education. This program would be a voluntary testing of those students who think they want to attend a state college or university and are interested in knowing whether their abilities in English and mathematics meet the standards of the institutions of higher learning. The test, which would include a writing sample, would not be used for determining admission to a state college or university. Results of such a diagnostic examination would be communicated to the student and the local school and be used, if necessary, as a basis for planning the student's senior year program in such a way as to remediate any weaknesses in these two areas.

The exact cost of such a pilot program has not been determined by the Department of Education, although a preliminary figure of between \$20,000-\$30,000 was offered in discussions with the committee. The committee endorses a supplemental appropriation to the Department of Education for implementation of such an effort early in 1978. It is the committee's desire to evaluate the validity of the program

prior to the 1979 legislative session and thereby determine whether the pilot effort should be continued, expanded, or eliminated. To achieve this objective, the following timetable has been suggested by the Department of Education:

- December 15, 1977 -- organization of joint Department of Education-Commission on Higher Education committee to explore issues and develop test;
- February 1, 1978 -- test development completion date;
- February 15, 1978 -- selection of pilot site(s);
- March 15, 1978 -- mechanical issues resolved (test administration, test scoring, reporting of scores);
- April 15, 1978 -- actual test administration date; and
- May 15, 1978 -- data reported to local districts.

(4) Transition from high school to college. The committee strongly recommends that the Department of Education and the Commission on Higher Education collaborate in developing greater dialogue between local board members, administrators, high school staff members, college and university personnel, and high school graduates in regard to the admission and transition of such graduates into higher education programs. Specifically, attention should be given to: studying academic strengths and weaknesses of entering freshmen; communication relative to these factors to local high schools; curriculum discussions between high school and college personnel; freshmen dropout problems; and lastly, consideration of more formal organizational arrangements between local school districts, state educational agencies, and institutions of higher education to facilitate study and monitoring of student progress into postsecondary study. A report on this effort should be provided to this committee by September, 1978.

(5) Task force. The committee recommends that the State Board of Education move ahead in establishing a blue ribbon task force to examine more fully some of the issues raised in the interim committee discussions relative to the state's responsibility for general supervision of the public elementary and secondary schools of the state. It is the committee's intent that the task force not duplicate the duties assigned to the state's accountability advisory committee. The task force should be composed of local board members; leaders in business and industry, labor, and farming and ranching; professional educators; parents; and others committed to improving the educational quality of Colorado schools.

Such a task force should review the Colorado accountability law and its impact, educational needs as identified in the Department of Education's current survey of local, state, and national priorities,

and the approaches undertaken by other states in minimal competency requirements and state assessment programs. Such a task force would be valuable to the Department of Education and State Board of Education, and also to the legislature as it considers its responsibilities for education. A report from the task force should be made to the Committee on Governmental Expenditures by October, 1978.

(6) School discipline. While the atmosphere in most Colorado schools is tranquil, there are a few where there is anarchy in the classroom. This situation cannot be in the best interest of our children or their teachers. Violence directed at teachers -- nationally there were 70,000 attacks last year -- increases every year. Discipline and respect for others must prevail.

The Department of Education reported to the committee that no immediate statutory changes should be made to deal with this issue. There is sufficient authority regarding the use of physical force, a definition of criminal mischief, language regarding interference with staff, faculty, or students of education institutions, and a detail of grounds for suspension, expulsion, and denial of admission of public school students. However, discipline is not simply a problem with a statutory solution, but instead involves more complex interrelationships, such as student attitudes and the school environment. The socio-economic status of students and the amount of parental influence upon students' educational goals are primary factors over which the state cannot exercise an immediate influence.

It is the committee's desire that the task force recommended above will examine this issue closely and report its findings to the committee in the Fall of 1978.

Continuation of the Committee

A large task has been assigned to the Committee on Governmental Expenditures. During the 1977 interim, significant work was started in one of the many areas of concern to the committee. Some fundamental questions have been raised and discussed regarding elementary and secondary education in Colorado. As a result, additional topics for discussion have been interjected into the dialogue between the State Board of Education and the Commissioner of Education, and local school boards and school administrators.

The committee believes that its concerns are being heard and discussed at the local school district level. The committee wants to receive the findings and recommendations of the task force organized by the State Board of Education, evaluate the recommendations, and make a report to the General Assembly. In addition, the committee should examine other areas of governmental expenditures, both state and local. For these reasons, the committee recommends its continuation during the 1978 legislative interim.

LEGISLATIVE COUNCIL
COMMITTEE ON MINED LAND

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COMMITTEE ON MINED LAND

The Colorado Mined Land Reclamation Act of 1976, (34-32-108(2), C.R.S. 1973, as amended) required that the initial rules and regulations promulgated by the Mined Land Reclamation Board were to be submitted to the General Assembly at the first regular session of the fifty-first General Assembly. This review was intended to provide the General Assembly with the opportunity to determine the conformity of these rules and regulations with the legislative intent of the act. Because the rules and regulations were not received until the end of the 1977 session, however, there was insufficient time for a committee of reference to review them. Consequently, Senate Joint Resolution No. 28 was adopted to provide for an in-depth legislative review of these initial rules and regulations during the interim.

In connection with this review, the act also provides that any rules or portions of those rules which are found not to be in conformance with the act's legislative intent may be disapproved through the passage of a joint resolution. The committee's primary tasks were to ascertain the conformance of the rules and regulations and, if necessary, develop a resolution disapproving those nonconforming rules.

The Colorado Mined Land Reclamation Act

This act is intended to provide a uniform framework of regulation through which surface disturbances, caused by essentially all types of mining operations, may be remedied or reduced. Broadly stated, the act requires the operator of each mining operation conducted in this state to secure a permit from the State Mined Land Reclamation Board in order to begin or continue that operation. To obtain this permit, the operator must file an application containing some form of a reclamation plan, which then must be approved by the board.

The act establishes three types of mining operations permits intended to recognize the differing scope and character of many operations in this state. These three types are: 1) a special operations permit, limited to any sand, gravel, or quarry aggregate operation conducted to obtain materials for highway, road, utility, or similar construction projects under a government contract, and which affects or disturbs ten acres or less; 2) a limited impact operation permit, which mining operation affects less than ten acres per calendar year and extracts less than seventy thousand tons of mineral or overburden per calendar year; and 3) a regular operation permit, intended to be issued to those operators of mines who affect more than ten acres of land and extract more than seventy thousand tons of mineral or overburden per calendar year.

In addition to the permits referred to previously, the act provides mechanisms for the control of surface disturbances created by exploration activities. Section 34-32-113,* C.R.S. 1973, requires that any person desiring to conduct a prospecting operation must, prior to that operation, file a notice of intent to prospect with the board. However, it should be emphasized that the act, through its definition of a prospecting operation, excludes many forms of prospecting from any regulation.

Special operations are identified by the limited nature of the resultant surface disturbance and the length of time within which they are to be carried out. The provisions regarding special permits and their attendant requirements were apparently inserted in order to deal with a special, limited form of mining operation. It appears that the intent of this section was to provide a mechanism to assure the reclamation of an area, while at the same time reducing the disruption to various public construction projects which might otherwise be affected by a lengthy permit process.

A limited impact operation is one which disturbs or affects less than ten acres and extracts less than seventy thousand tons of mineral or overburden per calendar year. While operators granted permits under this section (34-32-110) must comply with those reclamation measures required of larger activities, the limited impact operations permits are intended to reduce the permit application procedures and, in turn, the initial expenses of a mining operation. Accordingly, the application which must be filed requires substantially less information than that of a regular permit.

The third type of permit must be obtained by those proposing to engage in any mining operation which disturbs more than ten acres and extracts more than seventy thousand tons of overburden or mineral per calendar year. These regular operations permits may be obtained upon submission and approval of an application which must consist of: 1) five copies of the application form; 2) a reclamation plan submitted with each of the applications; 3) an accurate map of the affected land; and 4) the appropriate application fee.

The act, in section 34-32-116 imposes several reclamation duties upon operators holding any of the three mining operation permits, and on those prospectors who are required to file a notice of intent. A number of the duties may be considered to be minimum performance requirements which must be completed by the operator if they are applicable to the type of reclamation the operator proposed as part of the reclamation plan which he submitted.

* All section numbers in this report refer to the Colorado Mined Land Reclamation Act of 1976, which is Article 32 of Title 34, Colorado Revised Statutes, 1973, as amended.

In conjunction with these minimum performance requirements, each operator must meet certain additional requirements resulting from his selection of a final land use reclamation plan for the affected area. Section 34-32-116 (1) (k) authorizes the operator, in consultation with the landowner where possible and subject to the approval of the board, to determine which parts of the affected area are to be reclaimed for forest, range, or crop lands, horticultural purposes, homesites, recreational or industrial uses, or other uses including wildlife habitat.

Committee Findings

It is the consensus of the committee that certain portions of the board's initial rules and regulations substantially exceed the act's legislative intent. Two general areas are of major concern to the committee. First, the rules presently require that an operator's application forms contain information which is, in many instances, in excess of that which was contemplated by the General Assembly in passing the act. These application requirements impose a significant burden upon the operator which are unnecessary to accomplish the act's purpose. This finding may be applied to each type of permit provided for in the act.

Second, the committee finds that several provisions of the rules and regulations regarding reclamation performance standards also exceed the authority granted to the board by the act. These portions of the rules impose extensive performance requirements which are again in excess of those anticipated in the act.

In addition, testimony received by the committee suggested that certain portions of the act are themselves defective, and contributed to the promulgation of rules which are inconsistent with the act's legislative intent. It was further suggested that correction of these defects would result in the appropriate revision of the rules and the committee concurs with this assessment. The committee, therefore, finds that portions of the act should be amended to rectify these shortcomings.

Committee Recommendations

Deletion of Objectionable Rules -- Bill 30

Bill 30, a joint resolution, will delete certain portions of the rules and regulations adopted by the board. This resolution will affect six of the eight sections into which the rules are divided. Generally, these recommendations are intended to bring the rules and regulations more closely into accord with the intent of the statutes. Several rules were deemed to be beyond the board's authority to promulgate, or which place a significant and excessive burden upon the

applicant. The major provisions of this resolution are summarized below.

Special operations permits. The principal recommendations are that the following three sections of Rule 4 be deleted:

- 1) Rule 4.11 (10) -- Narratives are required to be contained in the application form describing wildlife, water resources, vegetation, and soils;
- 2) Rule 4.11 (11) -- A "reclamation plan" must be submitted by the applicant describing those reclamation activities which an operator proposes to undertake regarding grading, seeding, fertilization, revegetation, and topsoiling;
- 3) Rules 4.21 and 4.22 -- Public notice procedures are detailed which must be followed by an applicant prior to consideration of his application by the board.

None of these requirements appear in section 34-32-111, which provides for special permit operations.

Limited impact operations. Recommendations in this area are that the following sections of Rule 3 be deleted:

- 1) Rule 3.11 (10) -- Narratives are required to be contained in the application form describing wildlife, water resources, vegetation, and soils;
- 2) Rule 3.11 (11) -- A "reclamation plan" must be submitted by the applicant describing those reclamation activities which an operator proposes to undertake regarding grading, seeding, fertilization, revegetation, and topsoiling.

Again, no reference to these items is found in section 34-32-110 regarding limited impact operations.

Regular operations. The four following major recommendations are submitted with respect to Rule 2. These items are recommended to be deleted:

- 1) Rule 2.12 (5) (b) -- This rule requires a comparison of the proposed post-mining land uses to other adjacent land uses, and an alternate vegetation plan is to be submitted if the operator proposes to reclaim an area as an industrial site;
- 2) Rule 2.12 (7) -- Several items of information are required regarding the use of water in the operation, and information regarding the applicant's water rights;

- 3) Rule 2.12 (9) -- The applicant is to provide, at the board's request, detailed analyses of the soils of the affected lands;
- 4) Rule 2.12 (14) -- The applicant must list all other applications for permits, or permits received, by the applicant (e.g., water pollution permits).

These rules are among the rules not required by the act, and this information, if needed for a particular operation, should be obtained by the mined land reclamation staff.

Reclamation performance standards. The resolution will delete the following portions of Rule 6, which require the applicant to describe the measures he proposes to undertake to meet reclamation performance standards described in the act:

- 1) Rule 6.1 -- This provision requires the reclamation plan to describe several procedures to be undertaken regarding the grading of the site;
- 2) Rule 6.2 -- The reclamation plan would be required to address several aspects of possible hydrologic effects on the area to be mined;
- 3) Rule 6.3 -- This rule concerns wildlife and requires the applicant to address such items as the critical periods in the life cycle of the wildlife in the area to be mined;
- 4) Rule 6.4 -- Several duties which the applicant is required to address in the area of topsoils are specified in this rule;
- 5) Rule 6.4 -- The applicant is to address revegetation of the site in very specific detail under this rule.

Legislation to Amend the Act -- Bill 31

The parts of the act in need of amendment to clarify their provisions, or otherwise rectify certain shortcomings, are noted below.

Issuance of reclamation permit. Rule 1.25 provides that the board may act on a matter "... by majority vote of members present, except that four affirmative votes are required for any amendment of these Rules." Further, according to an oral opinion of the Attorney General, a tie vote on a motion to approve a permit constitutes a denial of that permit. Under such an interpretation, if only four board members are present (out of a total of seven), a permit could be denied by two negative votes. Section 1 of Bill 31 is intended to effect such a change by inserting the appropriate language in section 34-32-105.

Duplication of bonding requirements between state agencies. There appears to exist a duplication of effort between the Mined Land Reclamation Board and the State Board of Land Commissioners regarding the posting of reclamation bonds for prospecting operations conducted on state school lands. This conflict apparently results from a duplication of state statutory provisions which charge both agencies with certain responsibilities regarding the reclamation of lands within the state. Section 34-32-109 states that no governmental office of the state, other than the board, shall have the authority to require any surety for a mining operation, which may include prospecting. However, section 36-1-140 authorizes the State Board of Land Commissioners to lease portions of state land for mineral exploration and development. Pursuant to this authority, the state board requires all lessees to file a surety bond to cover possible damage resulting from these operations on state lands. Section 2 of Bill 31 is intended to clarify the respective duties of the agencies by specifically providing that surety for prospecting operations may not be required by any other governmental office of the state.

Issuance of governmental permits. There are a number of sections throughout the act which require that granting a mining operations permit be contingent upon first obtaining several other licenses or permits that may be required by local, state, or federal laws and regulations. Various state, local and federal agencies involved reportedly have shown some reluctance to issue their respective permits until the appropriate reclamation permit is issued by the board. This apparent desire on the part of governmental agencies to retain a final "sign-off" authority was cited as a reason for slowing the permit procedure.

The committee recommends amendments to the act to reduce this administrative disruption. This section will require local and state agencies to respond within a given number of days of notification that an application affecting them has been filed. Failure to make some sort of response may then be interpreted by the board as approval by these agencies. No specific number of days is recommended, but will be inserted in the 1978 session.

Definition of a limited impact operation. Testimony indicated that the current definition of a limited impact operation is inappropriate in two respects. First, it was suggested that the current language, which defines a limited impact operation to include one which extracts up to 70,000 tons of mineral or overburden per calendar year, should be deleted. Witnesses maintained that this current tonnage limitation is only marginally related to the actual surface damage which might take place during a mining operation. Additionally, it was suggested that, for the purposes of a mined land reclamation act, the only legitimate criteria which should be applied in defining a small operation is the amount of surface disturbance resulting from that operation.

In addition, those areas disturbed by the construction of access roads on or to a mine site should be excluded from the determi-

nation of the amount of land affected by a mining operation. This factor may be crucial in determining whether an operation would be classified as a limited impact or regular operation. It was suggested that including the area disturbed by the construction of roads in identifying the land affected may inappropriately inflate the size of the operation, thereby disqualifying it for a limited impact permit. For example, while the area actually affected by the mining operation itself may only consist of five acres, roads constructed on or to the site may affect an additional seven acres. This operation would therefore be considered a regular operation, and as a result, would subject the operator to the lengthy application requirements provided for these operations.

Section 3 of Bill 31 will define a limited impact operation as one which affects less than ten acres of land per calendar year, exclusive of roads. It should be emphasized that this exclusion of roads will only be for the purposes of determining the application procedures with which an operator must comply. The operator would still be required to reclaim the areas affected by his operation under the terms of the act.

Annual fees. Presently, section 34-32-110 requires an annual fee of \$50 to be filed by the operator of a limited impact operation. Likewise, section 34-32-116 requires an annual fee of \$350 for an open mining operation and \$275 for other types of regular operations to be filed with the board. The committee determined that these fees are excessive, particularly with respect to underground operations which produce little additional surface disturbance from year to year. Under sections 3 and 7 of Bill 31 these fees will be reduced in order to ease the burden placed upon the operator. No specific dollar figure is included in these sections because the committee did not have the opportunity to fully assess the fiscal impact of changes in fees.

Special permits -- governmental subdivisions. Presently, governmental subdivisions are required to secure a special permit from the board for those operations qualifying under the definition of such operations. It was pointed out that these requirements are especially burdensome to these subdivisions which have recently been subject to increased road maintenance costs due to inflation. Section 4 of Bill 31 provides that subdivisions which conduct special mining operations which affect less than two acres be exempt from the provisions of section 34-32-111. These governmental units must notify the board in writing that such operations are occurring and accept responsibility for the reclamation of the affected land upon termination of the operation.

Protection of confidential information. The present law provides what was described as limited protection of specific confidential information which may be submitted in the application for a regular operations permit. Present section 34-32-112 (9) provides that the information contained in an application for a permit, relating to the location, size, or nature of the deposit, or information

concerning the depth and thickness of the ore body, may be marked confidential by the operator, and may not be released to the public unless the operator authorizes its release or the operation is terminated. It was suggested that the present provisions do not adequately protect information regarding mining processes which, if divulged, may compromise a company's competitive position.

Objections were also raised about the necessity of releasing this information at the end of an operation. In those cases in which an operator was forced to cease his activity for some period of time before the material had been fully extracted, release of this information would again damage his position. Section 5 of Bill 31 will amend section 34-32-112 (9) to include certain technical information concerning mining processes, and will delete the authority to release information upon termination of the operation.

Filing application with the county clerk. It was brought to the committee's attention that section 34-32-112 (10), which requires the filing of an application in the office of the county clerk and recorder, has been misinterpreted by some county clerks. In some counties these applications are being recorded as public documents, and accordingly, a \$2 per page filing fee is being levied against the applicants. In the case of limited impact operators this filing fees may represent an additional, unexpected financial burden. This interpretation is incorrect as the provision concerning filing was intended merely to require the clerk to retain a copy of these applications for public examination. Section 5 of Bill 31 will amend section 34-32-112 (10) to clarify the intent of the provision.

Notice of hearing. Presently, Rule 2.37 (1) (b) provides that if the board holds a hearing on the issues raised by written objections to an application, it shall give notice by mail of the date, time, and place of the hearing to any person filing objections or statements in support. It was suggested that this notice should be conveyed by other means when they are faster and more appropriate. This rule expands the current provisions of section 34-32-115 (2) which requires notice be given, but does not specify the means to be used. Section 6 of Bill 31 will provide that notice must be sent to the appropriate persons by means of mail or personal service, at least 20 days prior to the hearing. It is hoped that such an amendment will assure adequate time for interested persons to prepare for these hearings.

Duties of the operator. Based on the committee's review of the rules and regulations, it appears that the operator, in several instances, is required to develop information regarding his activity and proposed reclamation duties in excess of the act's intent. Current rules require that an operator develop information regarding the legality and dependability of his water rights, estimate the project water requirements, and detail those steps he proposes to take to avoid injury to senior water rights. These requirements appeared to be outside the scope of the act, and should be left to the provisions of the state water law. Consequently, section 7 of Bill 31 amends

section 34-32-116 (1) (h) to specifically relieve an operator of the requirement to provide the board with this information.

Duplication of bonding requirements between state and federal agencies. Operators conducting a mining activity on federal property may be subject to a duplication of bonding requirements between the state and certain federal agencies. For example, the Federal Bureau of Land Management may require an operator to post a bond to assure compliance with its reclamation requirements, while at the same time, the board may require the posting of a similar bond with the state. Section 8 of Bill 31 will rectify this by providing that the board is to deduct from the amount of surety it requires, that amount which the operator is maintaining with federal agencies.

Substitute surety. Section 34-32-117 (1) (b) provides that the board may accept from the operator a surety which might be something other than a corporate bond. In doing so the board is to take into consideration the following factors:

- 1) The operator's financial status;
- 2) The operator's assets within the state;
- 3) The operator's past performance on contractual agreements;
and
- 4) The operator's facilities available to carry out the reclamation.

In section 8 of Bill 31, the fourth factor listed above will be deleted as unnecessary. The other criteria listed should provide adequate surety protection.

Availability of surety. A major obstacle in securing the necessary reclamation bond is the apprehension on the part of surety companies that the reclamation duties of an operator may be changed unexpectedly to increase the surety's financial obligations. In order to remove this impediment, and thereby enhance the availability of these surety bonds, appropriate language is recommended for the act to prohibit reclamation requirements from exceeding those established by the reclamation plan submitted and approved by the board. Section 8 of Bill 31 also provides that, except for substantial changes in a reclamation plan, or at the request of the operator, the board is not to change the amount of surety required at the time of issuance of the permit.

Forfeiture of surety. Testimony indicated that both the rules and the act appear to empower the state with the ability to request the forfeiture of an operator's surety for violations of the administrative procedures of the act. Violations of this type are considered inappropriate, and the grounds for forfeiture should only pertain to violations of the act's reclamation requirements.

Section 34-32-118 provides that forfeiture proceedings may be initiated for violations of orders entered pursuant to section 34-32-124. This letter reference to an order, is apparently related to cease and desist orders which the board may issue if it determines that there exists any violation of any provisions of the act, or of violations of any notices, permits, or regulations issued under the act. It is conceivable that a forfeiture proceeding might be requested for violations of a purely procedural matter. Section 9 of Bill 31 will strike the reference to an "order entered pursuant to section 34-32-124", and insert a provision which makes reference to violations of the reclamation provisions of a permit.

Inspection of operations. Section 34-32-121 provides that the board, the Bureau of Mines, the Chief Inspector of Coal Mines, or their authorized representative may enter upon the operations for the purposes of inspection. The rules presently provide for this notice, but do not specify when it must be given. Section 10 of Bill 31 will provide two days notice of the inspection, unless the operator waived the need for this prior notice.

Civil penalties. The act provides a minimum civil penalty of \$100 per day for operating without a permit or in violation of a permit (\$50 in the case of a limited impact operation). Sections 11 and 12 of Bill 31 will remove these minimum penalties, leaving the amount to the judgment of the court. It was pointed out that these minimum fines are a considerable burden to the small operator.

The Federal "Surface Mining Control and Reclamation Act of 1977"

Aside from its primary directive of analyzing the rules and regulations promulgated by the board, the committee has also engaged in discussions regarding the federal "Surface Mining Control and Reclamation Act of 1977", enacted in August of this year. This act is intended to establish minimum national standards regarding the reclamation of areas disturbed by both surface and underground coal mine operations. It is generally agreed that Colorado's statutes are not as stringent, and thus do not comply with the federal act, particularly with respect to the reclamation standards which would be imposed upon an operator.

Enactment of legislation to remedy these conflicts would seriously damage the coal mining industry in this state, especially to small operations. The committee concludes that passage of this federal act was an unwarranted and unnecessary intrusion of the federal government into matters which are exclusively the concern of this state. The committee recommends that the General Assembly adopt the attached Bill 32 (a memorial to Congress) expressing its opposition to this new act, and asking that Congress reconsider this legislation.

Recognizing, however, that the provisions of this federal act may nevertheless be imposed on Colorado, the committee also adopted a resolution (Bill 33), which urges that the Governor place on his agenda for the 1978 legislative session, an item calling for the removal of coal mine operations from the provisions of the current reclamation act. If placed on the call, legislation can be considered establishing separate reclamation provisions with respect to coal mining operations. It is the committee's intent, however, that the provisions relating to coal mining operations would be similar to the requirements of Colorado statutes concerning other mining operations.

COMMITTEE ON MINED LAND

BILL 30

JOINT RESOLUTION NO.

1 WHEREAS, Section 34-32-108 (2), C.R.S. 1973, of the
2 "Colorado Mined Land Reclamation Act" requires that the initial
3 Rules and Regulations of the Mined Land Reclamation Board be
4 submitted to the Committee on Legal Services of the General
5 Assembly and to appropriate legislative committees of reference
6 for an opinion as to the conformity of the Rules and Regulations
7 to the legislative intent of the Act; and

8 WHEREAS, Said Rules and Regulations were adopted by the
9 Board on April 19, 1977, and filed on May 3, 1977, in the
10 Legislative Drafting Office for transmittal to the Committee on
11 Legal Services and said committees of reference; and

12 WHEREAS, Senate Joint Resolution No. 28, as adopted in the
13 1977 Session, provided for the House and Senate Committees on
14 Local Government to form an Interim Committee on Mined Land to
15 review in depth the initial Rules and Regulations of the Board
16 and to make a report thereon to the Second Regular Session of the
17 Fifty-first General Assembly; and

18 WHEREAS, The Committee on Legal Services submitted the Rules
19 and Regulations to the Interim Committee on Mined Land without
20 comment in anticipation of an exhaustive review of the Rules and
21 Regulations by the Interim Committee and in respect for the

1 expertise of the members of the Interim Committee in the
2 reclamation of mined land; and

3 WHEREAS, The Committee on Mined Land held public meetings in
4 Denver and in Grand Junction to examine the Rules and
5 Regulations, determined that certain portions of the Rules and
6 Regulations were in violation of the legislative intent of the
7 "Colorado Mined Land Reclamation Act", and recommended to the
8 General Assembly that such portions of the Rules and Regulations
9 be disapproved; now, therefore,

10 Be It Resolved by the _____ of the Fifty-first
11 General Assembly of the State of Colorado, the
12 concurring herein:

13 That the following portions of the _____ Rules and
14 Regulations of the Colorado Mined Land Reclamation Board are
15 repealed:

16 RULE 1: GENERAL PROVISIONS

17 1.1. Definitions

18 (4) -- "Calendar-year" means twelve consecutive months from
19 the date of issuance of the permit.

20 (10) -- "Filed", "Submitted", "Received", -- These words, -- as
21 respectively stated in Rules 2, 3 and 4, shall become operative
22 when the Division determines that an application received in its
23 offices contains the minimum information required by the Mined
24 Land Reclamation Act of 1976 and the Rules and Regulations
25 lawfully promulgated under this Act. This determination that the
26 application is procedurally complete (1, 3, "Filed", "Submitted",
27 or "Received") shall be communicated by letter to the applicant.

1 The applicant shall be deemed notified on the date of the letter
2 unless the applicant requests a later date within fifteen (15)
3 days of the date of the letter. The date of the letter shall
4 constitute the filing date and will initiate the running of the
5 time periods specified in Sections 1,52; 2,22; 3,22 and 4,22.
6 Provided, however, that if the Division fails to notify the
7 applicant by mailing the letter:

8 (a) within (10) days for a Limited Impact permit
9 application;

10 (b) within (3) days for a Special 10-day permit application;

11 (c) within (10) days for a Regular permit application;

12 of the reasons the application is deemed incomplete, the
13 application shall be treated as "filed", "submitted" or
14 "received" as of that date (i.e., ten days, or in the case of
15 special permits, three days after the date the application was
16 presented to the Division.) for purposes of calculating the time
17 periods specified in the law, but for no other purposes. It is
18 intended that operators may obtain local government approval
19 concurrent with the Division's processing of the application. To
20 do so, the operator must submit evidence which indicates that
21 local government approval is currently pending or will at least
22 be considered within a reasonably short time, by the appropriate
23 governing body. If, however, actual proof of local government
24 approval has not been received by the Division prior to the date
25 for Board consideration, then the Board can either extend the
26 time periods at the operator's request, or deny the application
27 on grounds of incompleteness as per Section 1,56(3) in these

28 water requirements including flow rates and annual volumes for

27 (c) The operator shall provide an estimate of the project

26 (7) EXHIBIT G - Water Information

25 implemented to meet each applicable requirement of RHB-6.

24 (c) A description of how the reclamation plan will be

23 vegetation plans:

22 can be achieved; the operator shall submit an alternate

21 whether commercial, industrial or residential reclamation goals

20 land use plans and programs; because of the uncertainty of

19 other land uses in the vicinity and to adopted state and local

18 (b) A comparison of the proposed postmining land uses to

17 (5) EXHIBIT E - Reclamation Plan

16 2.12 Maps and Exhibits

15 parent corporations:

14 operations currently or previously conducted by the operator and

13 1976 Colorado Hired Band Reclamation Act; all mining

12 construction purposes; strip coal (refer to RHB-2) ;

11 operations; strip sand; gravel; quarries; limestone; for

10 1973 Colorado Open Mining Band Reclamation Act; open mining

9 mines only;

8 1969 Colorado Open Cut Band Reclamation Act; coal strip

7 COLORADO list all operations subject to the following Acts:

6 (18) OTHER MINING PERMITS AND OPERATIONS IN THE STATE OF

5 The name and address of parent corporations, if any;

4 (6) PARENT CORPORATION

3 2.11 The application shall contain:

2 RULE 2: PERMITS FOR REGULAR OPERATIONS

1 Rules and Regulations:

1 the development, mining and reclamation phases of the project.

2 (d) The operator shall indicate the water rights or sources
3 of water to supply the project water requirements and discuss the
4 dependability of these sources, both physically and legally.

5 (f) If the development, mining and reclamation phases of
6 the project are expected to cause measurable, material injury to
7 senior water rights, describe the steps to be taken to resolve
8 the injury to such water rights. Such steps shall be reviewed
9 and commented upon by the State Engineer's office in a timely
10 manner, prior to the board's consideration of the application.

11 (9) EXHIBIT I - Soils Information

12 In consultation with the Soil Conservation Service or other
13 qualified person the operator shall indicate on a map (in EXHIBIT
14 C) or by a statement, the general type, thickness and
15 distribution of soil over the affected land. Such description
16 will address suitability of topsoil (or other material) for
17 establishment and maintenance of plant growth. The above
18 information shall satisfy "completeness" requirements for
19 purposes of determination of date of filing.

20 If necessary, in its discretion, the Board may require
21 additional information on soils or other growth media to be
22 stockpiled and used in revegetation to be submitted subsequent to
23 the filing and notification of "completeness" of the application.
24 This information could include any of the following: (See
25 Section 1.1(9) for definition of "filed.")

26 Soil Analysis

27 1. pH (determination on paste),¹

28 2. Conductivity in mhos/cm on saturation extract,¹

- 1 3,--Moisture-saturation-percentage,1
- 2 4,--SAR--(Sodium-Absorption-Ratio)-Ca, Mg, and-Na-from-procedures
- 3 4, 5, 8-6,1
- 4 5,--Organic-matter,2
- 5 6,--Plant-available-phosphorous,3
- 6 7,--Plant-available-potassium,4
- 7 8,--Particle-size-distribution
- 8 (a)--Texture5
- 9 (b)--Coarse-fragments-percent-of-sample-----2mm-diameter-and
- 10 percent-of-coarse-fragments-in-size-range-of-2mm-3^u,--3^u-10^u--and
- 11 10^u,6

12 (11) EXHIBIT K - Climate

13 A description of the significant climatological factors in
 14 the locality, including average seasonal precipitation and
 15 seasonal temperature ranges if site-specific data is not
 16 available. information-from-the-nearest-weather-station--will--be
 17 acceptable.

18 (14) EXHIBIT N --- Listing of Other Permits or Licenses (Or
 19 Applications Thereto)

20 The applicant should list all other applications for permits
 21 or licenses --- OR --- permits or licenses received required by
 22 federal, state, county, or local governments (e.g., NPDES, Air
 23 Quality). The operator shall make copies of the permit, license,
 24 or application thereto available to the Board upon request.

25 RULE 3: PERMITS FOR LIMITED IMPACT OPERATIONS

26 3.11 The application shall contain:

- 27 (4) A letter from the local government specifying

1 conformance-with-existing-mining-operations,
2 (5)--Source-of-legal-right-to-enter,
3 (10)--The--application-shall-include,-but-not-necessarily-be
4 limited-to,-narratives-to-describe-the-following:
5 a,Wildlife--present-occurrence,-if-any,-and--seasonal--use
6 by-game-and-non-game-species,
7 b,Water-Resources--occurrence-of-surface-water-drainage-on
8 affected-lands-and-ground-water-presence,-if-any,
9 c,Vegetation---i--description--of--present--vegetation--on
10 affected-land-naming-types-and-estimated-cover,
11 d,Soils---a-description-of-soils-on-the-affected-land,--in
12 its-discretion,-the-Board-may-request--specific--soils--analyses.
13 Such-discretionary-information-shall-not-affect-"completeness"-of
14 the-application.
15 The--applicant--is--advised--to-confer-with-the-appropriate-State
16 agencies-for-assistance-(e.g.,-Soil-Conservation--Service,--State
17 Engineer,--Division-of-Wildlife,-etc,-)or-other-qualified-persons
18 in-preparing-such--statements--and--provide--factual--information
19 sufficient-to-substantiate-the-proposed-measures,-and
20 (11) A-reclamation-plan-addressing the measures to be taken
21 to comply with the applicable provisions of Rule 6. In-preparing
22 the-reclamation-plan,-the-operator-should-be-specific-in-terms-of
23 addressing--such--items--as--final--grading-(including-drainage),
24 seeding,-fertilising,-revegetation--(trees,-shrubs,-etc,-)--and
25 topsoiling. Operators are encouraged to allow flexibility in
26 their-plans by committing themselves to ranges of numbers (e.g.,
27 6" - 12" of topsoil) rather than specific figures.

- 1 The plan shall include descriptions of the following:
- 2 (i) Final grading specify maximum anticipated slope
3 gradient or expected ranges thereof;
- 4 (ii) Seeding specify types, mixtures, quantities, and
5 expected time(s) of seeding and planting;
- 6 (iii) Fertilisation if applicable, specify types,
7 mixtures, quantities and time of application;
- 8 (iv) Revegetation specify types of trees, shrubs, etc.,
9 quantities, size and location;
- 10 (v) Topsoiling specify anticipated minimum depth or range
11 of depths for those areas where topsoil will be replaced.

12 RULE 4: PERMITS FOR SPECIAL OPERATIONS

13 4.11 The application shall contain:

14 (5) Source of legal right to enter;

15 (6) A map showing information sufficient to determine the
16 location of the affected land on the ground and existing and
17 proposed roads or access routes to be used in connection with the
18 mining operation. Names of all immediately adjacent surface
19 owners of record shall also be shown;

20 (10) The application shall include, but not necessarily be
21 limited to, narratives to describe the following:

22 a. Wildlife present occurrence, if any, and seasonal use
23 by game and non-game species;

24 b. Water Resources occurrence of surface water drainage on
25 affected lands and ground water presence, if any;

26 c. Vegetation description of present vegetation on
27 affected land naming types and estimated cover;

1 d, Soils -- a description of soils on the affected land, -- In
2 its discretion, the Board may request soil analysis information,
3 The operator is advised to confer with the appropriate State
4 agencies for assistance (e.g., Soil Conservation Service, State
5 Engineer, Division of Wildlife, etc.) or other qualified persons
6 in preparing such statements and provide factual information
7 sufficient to substantiate the proposed measures.

8 (11) A reclamation plan addressing the measures to be taken
9 to comply with the applicable provisions of Rule 6. In preparing
10 the reclamation plan, the operator should be specific in terms of
11 addressing such items as final grading (including drainage),
12 seeding, fertilizing, revegetation (trees, shrubs, etc.), and
13 topsoiling. Operators are encouraged to allow flexibility in
14 their plans by committing themselves to ranges of numbers (e.g.,
15 6" - 12" of topsoil) rather than specific figures.

16 The plan shall include descriptions of the following:

17 (i) Final grading ---- specify maximum anticipated slope
18 gradient or expected ranges thereof;

19 (ii) Seeding ---- specify types, mixtures, quantities, and
20 expected time(s) of seeding and planting;

21 (iii) Fertilisation ---- if applicable, specify types,
22 mixtures, quantities and time of application;

23 (iv) Revegetation ---- specify types of trees, shrubs, etc.,
24 quantities, size and location;

25 (v) Topsoiling -- specify anticipated minimum depth or range
26 of depths for those areas where topsoil will be replaced;

27 4.2: Notice Procedures

1 4.21--The following rules apply to applications for:
2 (1)--Special permits;
3 (2)--Conversions of 1973 Act permits qualifying as special
4 permits; and
5 (3)--Amendments of special permits.
6 4.22--The operator shall:
7 (1)--Upon filing the application, place for public review a
8 copy of the application less confidential items, with the clerk
9 or recorder of the county or counties in which the affected land
10 is located.
11 (2)--Upon filing the application, publish one notice in a
12 newspaper of general circulation in the locality of the proposed
13 mining operation, containing:
14 a.--Name and address of applicant;
15 b.--Location of the proposed mining operation by section,
16 township and range and street address, where applicable;
17 c.--Proposed dates of commencement and completion of the
18 operation;
19 d.--Proposed future use of affected land;
20 e.--Location where additional information on the operation
21 may be obtained;
22 f.--Location and, if known, the final date for filing
23 objections with the Board; and
24 g.--Date, time, and place set for consideration by the
25 Board, if known.
26 (3)--Upon or prior to filing, mail a copy of the information
27 required by Section 4.22(2) to:

1 a.--All--owners--of--record--of--surface--rights--to--the--affected
2 lands,-and

3 b.--All--owners--of--record--of--surface---rights---to---the
4 immediately-adjacent-lands,

5 (4)--Prior-to-Board-consideration-of-the-application,-submit
6 proof--of--publication--and--mailing--or--personal-service-of-all
7 required-notices,

8 4.23--The-Board-shall,-upon-filing,-give-notice-by-the--most
9 expeditious---method,-of--the--date,-time--and--place--set--for
10 consideration-of-the-application-to:

11 (1)--The-operator,

12 (2)--The-county(s)-in-which-the-proposed-mining-operation-is
13 to-be-located;

14 (3)--Any-municipality-within-2-miles-of-the-proposed--mining
15 operation,-and

16 (4)--The--public,-by--newspaper--release,-and--posting--as
17 prescribed-in-Section-1.26(1)(c):

18 4.4--Annual-Report

19 The-operator-shall-file,-on--the--anniversary--date--of--the
20 permit,-an--annual--report--which--shall--include-a-fee-of-fifty
21 dollars-and-a-map-or-statement-that-shall-indicate:

22 (1)--The-land-affected-during-the-preceding-year,

23 (2)--The-land-to-be-affected-during-the-coming-year,-and

24 (3)--Any-land-reclaimed-during-the-preceding-year.

25 RULE 6: RECLAMATION PERFORMANCE STANDARDS

26 6.1 Grading

27 Grading shall be carried on so as to create a final

1 topography appropriate to the final land use selected in the
2 reclamation plan.

3 ~~a. When backfilling is a part of the plan, the operator~~
4 ~~shall replace overburden and waste materials in the mined area~~
5 ~~and shall insure adequate compaction for stability and to prevent~~
6 ~~leaching of toxic materials.~~

7 b. All grading shall be done in a manner to control erosion
8 and siltation of the affected lands, to protect areas outside the
9 affected land from slides or other damage. ~~If not eliminated, all~~
10 ~~highwalls shall be stabilized.~~

11 ~~c. All backfilling and grading shall be completed as soon~~
12 ~~as feasible after the mining process. The operator shall~~
13 ~~establish reasonable timetables consistent with good mining and~~
14 ~~reclamation procedures.~~

15 d. All refuse and acid-forming or toxic producing materials
16 that have been mined shall be handled and disposed of in a manner
17 that will control unsightliness and protect the drainage system
18 from pollution.

19 e. Any drill or auger holes that are part of the mining
20 operation shall be plugged with noncombustible material, which
21 shall prevent harmful or polluting drainage. Admits and shafts
22 should be sealed, and where practicable, backfilled and graded.

23 f. Maximum slopes and slope combinations shall be
24 compatible with the configuration of surrounding conditions and
25 selected land use. In all cases where a lake or pond is produced
26 as a portion of the reclamation plan, all slopes, unless
27 otherwise approved by the Board, shall be no steeper than a ratio

1 of-2+1-(horizontal-to-vertical-ratio);-except-from-5--feet--above
2 to--10--feet--below-the-expected-water-line-where-slopes-shall-be
3 not-steeper-than-3+1,-If-a--swimming--area--is--proposed--as--a
4 portion--of--the--reclamation--plan;-the-slope;-unless-otherwise
5 approved-by-the-Board;-shall-be-no-steeper-than--5+1;-throughout
6 the--area--proposed-for-swimming;-and-a-slope-no-steeper-than-2+1
7 elsewhere-in-the-pond;

8 6.2 Water

9 a. Hydrology and Water Quality: Disturbances to the
10 prevailing hydrologic balance of the affected land and of the
11 surrounding area and to the quantity of water in surface and
12 groundwater systems both during and after the mining operation
13 and during reclamation shall be minimized by-measures-such-as:

14 1.-Compliance-with-applicable-Colorado-water-laws-and
15 regulations-governing-injury-to-existing-water-rights;

16 2.-Compliance-with-applicable-federal-and-Colorado-water
17 quality-laws-and-regulations;

18 3.-Compliance-with-applicable-federal-and-Colorado-dredge
19 and-fill-requirements;

20 4.-Removing-temporary-or-large-siltation-structures-from
21 drainways-after-disturbed-areas-are-revegetated-and-stabilized;
22 if-required-by-the-reclamation-plan;-and

23 5.-In-all-mining-operations;-minimising-the-disturbance-to
24 the-hydrological-functions-of-alluvial-valley-floors-of-affected
25 lands-and-surrounding-areas;

26 6.3 Wildlife

27 a.-All-aspects-of-the-mining-and-reclamation-plan-shall

1 take-into-account-the-safety-and-protection-of--wildlife--on--the
2 mine--site, at-processing-sites-and-along-all-access-roads-to-the
3 mine-site-with-special-attention-given-to-critical-periods-in-the
4 life-cycle-of-these-species-which-require--special--consideration
5 (e.g., --elk--calving, migration-routes, peregrine-falcon-nesting,
6 grouse-strutting-grounds);

7 b, --If-compatible-with-the-subsequent-beneficial-use-of--the
8 land, the-proposed-reclamation-plan-shall-provide-for-protection,
9 rehabilitation, or-improvement-of-wildlife-habitat,

10 c, --Habitat---management---and---creation, --if--part--of--the
11 reclamation--plan, --shall--be--directed--toward--encouraging--the
12 diversity--of--both--game--and--non-game--species. Operators are
13 encouraged to contact the Colorado Division of Wildlife and/or
14 federal agencies with wildlife responsibilities to see if any
15 unique opportunities are available to enhance habitat and/or
16 benefit wildlife which could be accomplished within the framework
17 of the reclamation plan and costs.

18 6.4 Topsoiling

19 b, --Woody--vegetation--present--at-the-site-shall-be-removed
20 from-or-appropriately--incorporated--into--the--existing--topsoil
21 prior--to--excavation--within--the--affected--area, --The-operator
22 should--make--a--reasonable--effort--to--insure---that---existing
23 vegetation-is-put-to-a-beneficial-use-such-as-firewood, mulching,
24 lumber, -etc,

25 c, --Topsoil---stockpiles--shall--be--stored--in--places--and
26 configurations-to-minimize-erosion-and--located--in--areas--where
27 disturbance-by-ongoing-mining-operations-will-be-minimized, --Such

1 stockpile--areas--must--be--included--in--the--affected--areas--and
2 subject--to--all--reclamation--requirements,--The--Board--may--require
3 immediate--planting--of--an--annual--and/or--perennial--on--topsoil
4 stockpiles--for--the--purpose--of--stabilization;

5 d,--Unnecessary--compaction--and--contamination--of--the--topsoil
6 stockpiles--shall--be--prevented,--Once--stockpiled,--the--topsoil
7 shall--be--rehandled--as--little--as--possible--until--replacement--on--the
8 regraded,--disturbed--area,--unless--otherwise--approved--by--the--Board;

9 e,--The--operator--shall--take--measures--necessary--to--assure--the
10 stability--of--replaced--topsoil--on--graded--slopes--such--as--roughing
11 in--final--grading--to--eliminate--slippage--zones--that--may--develop
12 between--the--deposited--topsoil--and--heavy--textured--spoil--surfaces;

13 g,--When--growing--media--is--replaced,--it--shall--be--done--in--as
14 even--a--manner--as--possible,--Fertilizer--or--other--soil--amendments
15 shall--be--added,--if--required--in--the--reclamation--plan--or--as--the
16 soil--tests--indicate;

17 h,--Vegetative--piles--shall--be--removed--from--the--area--or
18 utilized--in--accordance--with--the--reclamation--plan;

19 6.5 Revegetation

20 d. The--revegetation--plan--shall--provide--for--the--greatest
21 probability--of--success--in--plant--establishment--and--vegetation
22 development--by--considering--environmental--factors--such--as--seasonal
23 patterns--of--precipitation,--temperature--and--wind,--soil--texture--and
24 fertility,--slope--stability,--and--direction--of--slope--faces,
25 Similar--attention--shall--be--given--to--biological--factors--such--as
26 proper--inoculation--of--legume--seed,--appropriate--seeding--and
27 transplanting--practices,--care--of--forest--planting--stock,--and

1 ~~restriction--of--grazing--during--initial--establishment.~~ The Board,
2 in consultation with the landowner and the local soil
3 conservation district, if any, shall determine when grazing may
4 start.

5 ~~f,--Methods--of--weed--control--shall--be--employed--for--all~~
6 ~~prohibited--noxious--weed--species,--and--whenever--invasion--of--a~~
7 ~~reclaimed--area--by--other--weed--species--seriously--threatens--the~~
8 ~~continued--development--of--the--desired--vegetation;--Weed--control~~
9 ~~methods--shall--also--be--used--whenever--the--inhabitation--of--the~~
10 ~~reclaimed--area--by--weeds--threaten--further--spread--of--serious--weed~~
11 ~~pests--to--nearby--areas;~~

12 RULE 7: SURETY

13 7.12 The amount of surety, established by the Board at the time
14 of permit approval, except those limited by law, shall be
15 sufficient to fully reimburse the state for all expenses
16 ~~including--administrative--costs,~~ it would incur in completing the
17 reclamation plan in the event of default by the operator. In
18 determining the amount of surety, the Board shall consider:

- 19 (1) Magnitude, type and costs of reclamation;
20 (2) Nature, extent and duration of the mining operation.

COMMITTEE ON MINED LAND

BILL 31

A BILL FOR AN ACT

1 CONCERNING MINED LAND RECLAMATION.

Bill Summary

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

Eliminates tonnage requirement and consideration of roads from definition of a limited impact operation; provides for concurrent processing of permit applications by affected governmental subdivisions; and clarifies the role of the mined land reclamation board with respect to surety requirements.

Exempts sand and gravel operations of less than two acres from permit requirements if a governmental subdivision is the operator; removes minimum amounts from penalty provisions; reduces certain annual fees; and makes other miscellaneous amendments concerning county filing requirements, confidentiality, procedural matters, and water rights.

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

3 SECTION 1. 34-32-105, Colorado Revised Statutes 1973, as
4 amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

5 34-32-105. Mined land reclamation board - created.

6 (5) The board shall take action on a permit for a mining
7 operation under the provisions of this article only by the vote
8 of a majority of a quorum of the entire membership of the board.

9 SECTION 2. 34-32-109 (6) and (8), Colorado Revised Statutes

1 1973, as amended, and as further amended by chapter 445, Session
2 Laws of Colorado 1977, are amended to read:

3 34-32-109. Necessity of permit - application to existing
4 permits. (6) No governmental office of the state, other than
5 the board, nor any political subdivision of the state shall have
6 the authority to issue a permit or to require any surety for
7 mining operations OR TO REQUIRE ANY SURETY FOR PROSPECTING
8 OPERATIONS. However, the board shall not grant a permit in
9 violation of city, town, county, or city and county zoning or
10 subdivision regulations or contrary to any master plan for
11 extraction adopted pursuant to section 34-1-304 unless a prior
12 declaration of intent to change or waive the prohibition is
13 obtained by the applicant from the affected governmental
14 subdivisions.

15 (8) The board shall not grant a permit for a new mining
16 operation if the operator's reclamation plan for an area is
17 inconsistent with an adopted plan by any county, city and county,
18 city, or town unless a prior declaration of intent to change or
19 waive the prohibition is obtained by the applicant from the
20 affected governmental subdivisions. However, the operator shall
21 not be required to install improvements to or on the area
22 reclaimed. After the filing of any application for a permit
23 under this article, the board shall notify each county in which
24 the area proposed to be mined is located, and each municipality
25 located within two miles of the area to be mined, ~~of--the--filing~~
26 ~~of--the--application~~ AND EACH OTHER STATE OR LOCAL GOVERNMENTAL
27 SUBDIVISION WHICH MAY BE AFFECTED BY THE PERMIT APPLICATION

1 CONCERNING THE FILING OF THE APPLICATION. IF NO RESPONSE IS
2 RECEIVED BY THE BOARD, FROM THE GOVERNMENTAL SUBDIVISIONS SO
3 NOTIFIED, WITHIN _____ DAYS, THE APPLICATION SHALL BE DEEMED
4 APPROVED BY THE AFFECTED GOVERNMENTAL SUBDIVISIONS.

5 SECTION 3. 34-32-110 (1) and the introductory portion to
6 34-32-110 (4), Colorado Revised Statutes 1973, as amended, are
7 amended to read:

8 34-32-110. Limited impact operations. (1) Any mining
9 operation which affects less than ten acres, ~~and-extracts-less~~
10 ~~than-seventy-thousand-tons-of-mineral-or-overburden~~ EXCLUSIVE OF
11 ROADS, per calendar year shall be subject to the provisions of
12 this section. Any new or existing underground mining operation
13 being conducted on previously mined land with existing
14 unreclaimed land disturbance shall not be required to reclaim
15 such existing unreclaimed land disturbance which was incurred by
16 a previous operator.

17 (4) Except as provided in section 34-32-103 (6) (a) (II),
18 the operator shall annually file on the anniversary date of the
19 permit a notice of intent to continue mining operations. The
20 notice of intent shall contain an annual fee of **fifty** _____
21 dollars and a map or statement that shall indicate:

22 SECTION 4. 34-32-111 (7), Colorado Revised Statutes 1973,
23 as amended, is amended to read:

24 34-32-111. Special permits - ten-day processing. (7) In
25 the case where a governmental subdivision, acting as an operator,
26 requires a permit solely for the purpose of mining construction
27 materials for the construction of public roads under a contract

1 with the state department of highways, or otherwise, the
2 governmental subdivision shall be exempted from the requirements
3 of paragraphs (c) and (d) of subsection (2) of this section;
4 EXCEPT THAT, WHERE THE MINING OPERATION AFFECTS LESS THAN TWO
5 ACRES, THE GOVERNMENTAL SUBDIVISION SHALL BE EXEMPTED FROM ALL OF
6 THE REQUIREMENTS OF THIS SECTION. WHENEVER A GOVERNMENTAL
7 SUBDIVISION COMMENCES AN OPERATION WHICH FALLS WITHIN THE TWO
8 ACRES EXEMPTION OF THIS SUBSECTION (7), THE GOVERNMENTAL
9 SUBDIVISION SHALL NOTIFY THE BOARD IN WRITING THAT SUCH OPERATION
10 IS OCCURRING AND SHALL SUBMIT A STATEMENT ACCEPTING
11 RESPONSIBILITY FOR RECLAMATION UPON TERMINATION OF THE OPERATION.
12 In the case where an operator requires a permit solely for the
13 purpose of mining construction materials to fulfill a contract
14 with the state department of highways, he shall be exempted from
15 the requirements of paragraph (c) of subsection (2) of this
16 section after he has complied with the other provisions of this
17 section.

18 SECTION 5. 34-32-112 (9) and (10) (a), Colorado Revised
19 Statutes 1973, as amended, are amended to read:

20 34-32-112. Application for permit - bond - fee - notice.
21 (9) Information provided the board in an application for a
22 permit relating to the location, size, or nature of the deposit,
23 INFORMATION CONCERNING TECHNICAL MINING PROCESSES EMPLOYED BY THE
24 OPERATOR, or information required by subsection (5) of this
25 section and marked confidential by the operator shall be
26 protected as confidential information by the board and not be a
27 matter of public record in the absence of a written release from

1 the operator. ~~or-until-such-mining-operation-has-been-terminated-~~
2 A person who willfully and knowingly violates the provisions of
3 this subsection (9) and section 34-32-113 (3) commits a class 2
4 misdemeanor and shall be punished as provided in section
5 18-1-106, C.R.S. 1973.

6 (10) (a) Upon the filing of his application for a permit
7 with the board, the applicant shall file a copy of such
8 application for public inspection at the office of the board and
9 in SHALL DELIVER A COPY OF SUCH APPLICATION TO the office of the
10 county clerk and recorder of the county in which the affected
11 land is located, WHERE IT SHALL BE AVAILABLE FOR PUBLIC
12 INSPECTION. The information exempted by subsection (9) of this
13 section shall be deleted from such file copies.

14 SECTION 6. 34-32-115 (2), Colorado Revised Statutes 1973,
15 as amended, is amended to read:

16 34-32-115. Action by board. (2) Prior to the holding of
17 any such hearing, the board shall provide notice to any person
18 previously filing a protest or petition for a hearing or
19 statement in support of an application pursuant to section
20 34-32-114 and shall publish notice of the time, date, and
21 location of the hearing in a newspaper of general circulation in
22 the locality of the proposed mining operation once a week for two
23 consecutive weeks immediately prior to the hearing. SUCH NOTICE
24 SHALL BE SERVED PERSONALLY OR BY MAILING BY FIRST-CLASS MAIL TO
25 THE LAST ADDRESS FURNISHED THE BOARD BY THE PERSON TO BE
26 NOTIFIED, AT LEAST TWENTY DAYS PRIOR TO THE HEARING. The hearing
27 shall be conducted as a proceeding pursuant to article 4 of title

1 24, C.R.S. 1973. A final decision on the application shall be
2 made within one hundred twenty days of the receipt of the
3 application. In the event of serious unforeseen circumstances or
4 significant snow cover on the affected land that prevents a
5 necessary on-site inspection, the board may reasonably extend the
6 maximum time sixty days.

7 SECTION 7. 34-32-116 (1) (a) and (1) (h), Colorado Revised
8 Statutes 1973, as amended, are amended to read:

9 34-32-116. Duties of operator. (1) (a) On the anniversary
10 date of the permit each year, the operator shall submit a
11 reclamation plan and map showing the affected land and other
12 pertinent details, such as roads and access to the area and
13 reclamation accomplished. All maps shall show quarter-section,
14 section, township, and county lines within the scope of the map,
15 access to the area from the nearest public road, a meridian, a
16 title containing the name of the operator and his address, the
17 scale of the map, the name of the person or engineer who prepared
18 the map, the date, and the township, range, and county. The
19 reclamation plan prepared by the operator shall be based upon
20 provisions for, or satisfactory explanation of, all general
21 requirements for the type of reclamation chosen. The details of
22 the plan shall be appropriate to the type of reclamation
23 designated by the operator and based upon the advice of
24 technically trained personnel experienced in that type of
25 reclamation on affected lands and upon scientific knowledge from
26 research in reclaiming and utilizing such lands. Except for
27 operators having permits under section 34-32-110, the operator

1 shall submit, in addition to the plan and map, an annual fee of
2 ~~three--hundred--fifty--dollars--if--the--operation--is--an--open--mining~~
3 ~~operation--or--two--hundred--seventy--five~~ _____ dollars for any
4 other operation.

5 (h) Disturbances to the prevailing hydrologic balance of
6 the affected land and of the surrounding area and to the quality
7 and quantity of water in surface and ground water systems both
8 during and after the mining operation and during reclamation
9 shall be minimized, BUT NOTHING IN THIS PARAGRAPH (h) SHALL
10 REQUIRE AN OPERATOR TO DOCUMENT THE LEGALITY OR PHYSICAL
11 DEPENDABILITY OF HIS WATER RIGHTS, TO ESTIMATE THE PROJECT WATER
12 REQUIREMENTS DURING ANY PHASE OF THE PROJECT OTHER THAN
13 RECLAMATION, OR TO SET FORTH STEPS TO BE TAKEN TO AVOID INJURY TO
14 SENIOR WATER RIGHTS.

15 SECTION 8. 34-32-117 (1) (a) and (1) (b), Colorado Revised
16 Statutes 1973, as amended by chapter 445, Session Laws of
17 Colorado 1977, are amended, and the said 34-32-117 (1), as
18 amended, is further amended BY THE ADDITION OF A NEW PARAGRAPH,
19 to read:

20 34-32-117. Surety of operator - amount - sufficiency of
21 surety - violations - compliance. (1) (a) In determining the
22 amount and duration of surety to be required, the board shall
23 consider factual information as to the magnitude, type, and costs
24 of reclamation activities planned for the affected land and the
25 nature, extent, and duration of the mining operation. THE BOARD
26 SHALL DEDUCT FROM THE AMOUNT OF SURETY REQUIRED THAT AMOUNT OF
27 SURETY WHICH THE OPERATOR IS MAINTAINING WITH FEDERAL AGENCIES

1 FOR THE PURPOSE OF RECLAMATION.

2 (b) In determining whether the surety of an operator must
3 be guaranteed by a corporate surety bond and in determining the
4 form of surety to be provided by the operator if other than a
5 bond, the board shall consider, with respect to the operator,
6 such factors as his financial status, his assets within the
7 state, AND his past performance on contractual agreements. and
8 ~~his-facilities-available-to--carry--out--the--planned--work.~~ The
9 operator shall supply evidence of financial responsibility for
10 all surety other than a bond.

11 (e) Except for changes in surety necessitated by
12 substantial changes in a reclamation plan, the board shall not
13 change the amount or form of surety approved at the time of
14 issuance of the permit for the life of the mine except where such
15 change is requested by the operator.

16 SECTION 9. 34-32-118, Colorado Revised Statutes 1973, as
17 amended by chapter 445, Session Laws of Colorado 1977, is amended
18 to read:

19 34-32-118. Surety forfeiture proceedings - prerequisites -
20 penalties. The attorney general, upon request of the board,
21 shall institute proceedings to have the surety of the operator
22 forfeited for violation by the operator of ~~an-order-entered~~
23 ~~pursuant--to--section--34-32-124~~ THE RECLAMATION PERFORMANCE
24 REQUIREMENTS CONTAINED IN HIS PERMIT. Before making such request
25 of the attorney general, the board shall notify the operator in
26 writing of the alleged violation of or noncompliance with such
27 ~~order~~ REQUIREMENTS and shall afford the operator the right to

1 appear before the board at a hearing to be held not less than
2 thirty days after the receipt of such notice by the operator. At
3 the hearing the operator may present for the consideration of the
4 board statements, documents, and other information with respect
5 to the alleged violation. After the conclusion of the hearings,
6 the board shall either withdraw the notice of violation or shall
7 request the attorney general to institute proceedings to have the
8 surety of the operator forfeited as to the land involved. A
9 corporate surety shall have the option to reclaim the lands in
10 question or forfeit the bond penalty.

11 SECTION 10. 34-32-121, Colorado Revised Statutes 1973, as
12 amended, is amended to read:

13 34-32-121. Entry upon lands for inspection. The board, the
14 bureau of mines of the state of Colorado, the chief inspector of
15 coal mines, or their authorized representatives may enter upon
16 the lands of the operator at all reasonable times for the purpose
17 of inspection to determine whether the provisions of this article
18 have been complied with. OPERATORS SHALL BE PROVIDED
19 NOTIFICATION TWO WORKING DAYS PRIOR TO SUCH INSPECTIONS, EXCEPT
20 WHEN AN OPERATOR AGREES TO CONCURRENT INSPECTION WITHOUT NOTICE.

21 SECTION 11. 34-32-123 (2), Colorado Revised Statutes 1973,
22 as amended, is amended to read:

23 34-32-123. Operating without a permit - penalty. (2) Any
24 operator who operates without a permit or a prospector who
25 prospects without filing a notice of intent shall be subject to a
26 civil penalty of not ~~less than one hundred dollars per day nor~~
27 more than one thousand dollars per day during which such

1 violation occurs; except that any operator eligible for a permit
2 under section 34-32-110 shall be subject to a civil penalty of
3 not ~~less-than-fifty-dollars-nor~~ more than two hundred dollars per
4 day during which such violation occurs.

5 SECTION 12. 34-32-124 (7), Colorado Revised Statutes 1973,
6 as amended, is amended to read:

7 34-32-124. Failure to comply with the conditions of an
8 order, permit, or regulation. (7) Any person who violates any
9 provision of any permit issued under this article shall be
10 subject to a civil penalty of not ~~less-than-one--hundred--dollars~~
11 ~~per--day--nor~~ more than one thousand dollars per day for each day
12 during which such violation occurs; except that any operator who
13 operates under a permit issued under section 34-32-110 shall be
14 subject to a civil penalty of not ~~less--than--fifty--dollars--nor~~
15 more than two hundred dollars per day for each day during which
16 such violation occurs.

17 SECTION 13. Effective date - applicability. Sections 5,
18 11, and 12 of this act shall take effect May 1, 1978, and shall
19 apply to all acts committed on or after said date.

20 SECTION 14. 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 MINED LAND

BILL 32

JOINT MEMORIAL NO.

1 WHEREAS, The Congress of the United States has enacted the
2 "Surface Mining Control and Reclamation Act of 1977" which
3 establishes a comprehensive federal program of reclamation upon
4 those private and public lands subjected to the surface mining of
5 coal; and

6 WHEREAS, Such Act provides that either states may establish
7 their own coal mining reclamation program if such a program
8 complies with various criteria mandated by the Act or the federal
9 government will administer such a program for the states; and

10 WHEREAS, The Fiftieth General Assembly of the State of
11 Colorado enacted a comprehensive reclamation program for all
12 types of mining during its Second Regular Session in 1976, known
13 as the "Colorado Mined Land Reclamation Act"; and

14 WHEREAS, The 1977 Interim Committee on Mined Land has held
15 public meetings to consider the problems and successes
16 encountered in the administration of the Colorado reclamation
17 program and as a result of this consideration has recommended
18 certain administrative and legislative changes; and

19 WHEREAS, The complexity of reclamation and its close
20 relationship to land use are areas of utmost concern to the
21 states and are better handled on a local basis than on a

1 nationwide basis in light of geographical diversities; and

2 WHEREAS, The increased costs added to the price of coal
3 from the burdens of complying with overlapping state and federal
4 reclamation programs hinders the progress of industrial
5 conversion from other energy sources to coal; and

6 WHEREAS, The State of Colorado, not only having already
7 implemented a reclamation program but also having already taken
8 corrective measures to improve such a program, resents the
9 imposition of federally mandated requirements on its existing
10 program; now, therefore,

11 Be It Resolved by the of the Fifty-first General
12 Assembly of the State of Colorado, the
13 concurring herein:

14 That we, the members of the Fifty-first General Assembly of
15 the State of Colorado do hereby request the Congress of the
16 United States to halt its intrusion into areas of state concern
17 and to reconsider its action on the "Surface Mining Control and
18 Reclamation Act of 1977".

19 Be It Further Resolved, That copies of this Resolution be
20 transmitted to the President of the United States, the Secretary
21 of the Department of the Interior, and each Member of Congress
22 from the State of Colorado.

COMMITTEE ON MINED LAND

BILL 33

RESOLUTION NO.

1 WHEREAS, The Congress of the United States has enacted the
2 "Surface Mining Control and Reclamation Act of 1977" which
3 establishes a comprehensive federal program of reclamation upon
4 those private and public lands subjected to the surface mining of
5 coal; and

6 WHEREAS, Such Act provides that either states may establish
7 their own coal mining reclamation program if such a program
8 complies with various criteria mandated by the Act or the federal
9 government will administer such a program for the states; and

10 WHEREAS, The Fiftieth General Assembly of the State of
11 Colorado enacted a comprehensive reclamation program for all
12 types of mining during its Second Regular Session in 1976, known
13 as the "Colorado Mined Land Reclamation Act"; and

14 WHEREAS, The 1977 Interim Committee on Mined Land has held
15 public meetings to consider the problems and successes
16 encountered in the administration of the Colorado reclamation
17 program and as a result of this consideration has recommended
18 certain administrative and legislative changes; and

19 WHEREAS, The complexity of reclamation and its close
20 relationship to land use are areas of utmost concern to the
21 states and are better handled on a local basis than on a

1 nationwide basis in light of geographical diversities; and

2 WHEREAS, The State of Colorado, not only having already
3 implemented a reclamation program but also having already taken
4 corrective measures to improve such a program, resents the
5 imposition of federally mandated requirements on its existing
6 program; and

7 WHEREAS, The rules and regulations designed to set forth
8 the federal requirements deemed necessary to bring a state
9 reclamation program into compliance with the federal Act have not
10 yet been finally determined; and

11 WHEREAS, This delay in the determination of the federal
12 requirements for the reclamation of coal and coal-mining
13 activities hinders the implementation of the existing reclamation
14 program in Colorado; and

15 WHEREAS, Because of the uncertainties connected with the
16 federal rules and regulations, it is desirable to recommend that,
17 in order for the existing reclamation program in Colorado to
18 continue its progress, the control of coal and coal-mining
19 activities be placed under a separate program until the federal
20 requirements are finally determined; now, therefore,

21 Be It Resolved by the 1977 Interim Committee on Mined Land:

22 That we, the members of this Committee on Mined Land, do
23 hereby request the Governor of the State of Colorado to place
24 upon his agenda for the Second Regular Session of the Fifty-first
25 General Assembly legislation which would remove coal and
26 coal-mining activities from the scope of the existing Mined Land
27 Reclamation Act and which would set forth separate statutory

1 authority for the reclamation of coal and for coal-mining
2 activities containing the same requirements as those in the
3 existing Mined Land Reclamation Act.

4 Be It Further Resolved, That copies of this Resolution be
5 transmitted to the Governor of the State of Colorado.