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Report to the Colorado General Assembly:

**RECOMMENDATIONS FOR 1982
COMMITTEES ON:**

**Agriculture and Natural Resources
Legislative Procedures
The State Wage Survey
The State Lottery**



COLORADO LEGISLATIVE COUNCIL

**RESEARCH PUBLICATION No. 262
December, 1981**

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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 staffing standing committees, and, upon individual request, supplying legislators with personal memoranda which provides them with information needed to handle their individual legislative needs. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

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*Colorado. Legislative Council. Committee
" on Agriculture and Natural Resources.*

COLORADO LEGISLATIVE COUNCIL
" RECOMMENDATIONS FOR 1982

COMMITTEES ON:

Agriculture and Natural Resources

Legislative Procedures

The State Lottery

The State Wage Survey

Legislative Council

Report to the

Colorado General Assembly

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LEGISLATIVE COUNCIL

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To Members of the Fifty-second Colorado General Assembly:

Submitted herewith are the final reports of the Legislative Council interim committees for 1981. This year's report consolidates the individual reports of ten committees into four volumes of research publications: No. 262, No. 263, No. 264, and No. 265.

Respectfully submitted,

/s/ Representative John Hamlin
Chairman
Colorado Legislative Council

JH/pn

FOREWORD

The recommendations of the Colorado Legislative Council for 1981 appear in four separate volumes (Research Publication Nos. 262 through 265). The Legislative Council reviewed the reports contained in this volume (Research Publication No. 262) at its meeting on November 23, 1981. The Legislative Council voted to transmit the bills included herein to the 1982 Session of the General Assembly.

The committee 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. George Bogart assisted the Committee on Agriculture and Natural Resources; Doug Brown and Becky Lennahan assisted the Legislative Procedures Committee; Margaret Makar assisted the Committee on the State Lottery; and Matthew Flora assisted the Committee on the State Wage Survey.

December, 1981

Lyle C. Kyle
Director

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LEGISLATIVE COUNCIL
COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

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SUMMARY OF COMMITTEE ACTIVITIES,
RECOMMENDATIONS, AND FINDINGS

Charge

The interim Committee on Agriculture and Natural Resources was directed by House Joint Resolution 1034 to conduct a study of the powers, duties, and functions of the Department of Agriculture and of the Department of Natural Resources; review the performance audits of the Department of Agriculture and of the Department of Natural Resources conducted by the Legislative Audit Committee; and study the feasibility of utilizing the Torrens system of transferring title of real property in the transfer of water rights.

Performance Audit Review: Department of Agriculture
and Department of Natural Resources

Background

In 1979, the General Assembly adopted a proposal for legislative oversight of the functions performed by the executive branch of state government. The Legislative Audit Committee, through its staff, was charged with the responsibility of auditing the activities of three different principal executive departments every other year and sending its findings to the appropriate legislative oversight committee. The Department of Agriculture and the Department of Natural Resources were two of the three departments selected by the General Assembly for the initial review.

The focus of the performance audit of each department was on the application of four measurements set out in the law: public need, avoidance of duplication, efficient management, and compliance with state statutes. The performance audits for both departments were reviewed by the Legislative Audit Committee during public hearings at which time the executive directors of each department responded to the reports' recommendations. No actions were taken by the Legislative Audit Committee on any of the recommendations made in the reports. The reports were then forwarded by the audit committee to the interim Committee on Agriculture and Natural Resources for further review.

Of the eighty-five recommendations contained in the performance audit of the Department of Natural Resources, seven recommendations were identified as requiring statutory change, sixty-five had been implemented or were to be implemented by the Department of Natural Resources, and twelve were identified as recommendations with which the department disagreed. A large number of the recommendations concerned internal administrative matters or intradepartmental concerns, all matters that could be resolved by actions that do not require changes in the statute.

The performance audit of the Department of Agriculture contained eighteen recommendations; eight recommendations required statutory changes. Of the eighteen recommendations, six were rejected by the department while two had been implemented or were to be implemented.

After reviewing the recommendations in both reports that were identified as requiring legislative action, and hearing the testimony of interested parties, the committee agreed that two areas are in need of attention by the General Assembly, namely, the statutory authorization for the state's soil conservation districts, and the current weaknesses in the state's grain warehouse law.

Committee Findings

Soil Conservation Districts. The involvement of Colorado's state government in soil conservation began in 1937. In response to the erosion of land throughout the United States, a uniform state soil conservation district law was submitted to governors by President Roosevelt. The legislation encouraged the states to give farmers and ranchers the authority to organize soil conservation districts. Colorado responded by enacting a state soil conservation act in 1937. Today, there are eighty-two soil conservation districts in the state covering ninety-five percent of the land surface of the state.

Colorado state government's role in administering the law is accomplished through the work of the State Soil Conservation Board and a staff of four state employees. The board's fiscal year 1982 budget is \$357,000 from the state's General Fund. The appropriated funds are used in three general areas: administration and support, soil surveys, and direct assistance to local districts. The main program areas of state board involvement are management and training of local district personnel, dissemination of information, and sponsorship of special conservation projects. The soil surveys are joint projects between the state and the United States Department of Agriculture involving the publishing of soil survey maps for the state (to date, about sixty percent of the state has been mapped). The direct assistance funding, about \$1,700 to each district, is used by the districts for travel by supervisors, clerical help, and office expense.

The state board's primary function is to coordinate the programs of the eighty-two soil conservation districts toward preserving underground water reserves, controlling wind and water erosion and reducing flood damage to agricultural land. The board and its staff is assisted by some 4,000 local district supervisors and 20,000 non-paid, volunteer ranchers and farmers who are cooperators of the local conservation districts.

Since the state's soil conservation statute was enacted in 1937, no substantive attempts have been made to alter the law. A portion of the statute was declared unconstitutional by the Colorado

Supreme Court in 1959, but since that date no action has been taken to bring that portion of the act into compliance with the constitution.

Agricultural warehousing. There are 218 grain storage facilities in Colorado subject to surveillance by the Colorado Department of Agriculture. The department is charged by state law with the enforcement of regulatory controls over a business which has experienced in recent years thefts, embezzlements, and frauds in which grain producers in Colorado have incurred severe monetary losses (see Appendix B for a detail of the state's most recent warehouse failures). The committee heard from individual farmers and officials of the Colorado Grain and Feed Association, as well as the state's program administrators on the subject. The consensus of opinion among those appearing before the committee was that three changes should be made to the state statute.

- 1) The current \$200,000 bond ceiling on grain warehousing facilities should be raised.
- 2) A warehouse inspection fee should be established with the fee proceeds used to increase the number of state warehouse inspectors.
- 3) A new statutory requirement should be adopted to require that grain warehouse operators annually submit to the department a financial audit of their businesses.

Recommendations

Soil Conservation Districts -- Bill 1. After hearing the concerns of state and soil conservation officials and recognizing the need to make various changes and revisions to the "Colorado Soil Conservation Act", the committee recommends Bill 1. Among the key provisions of the bill are the following:

- deletion of obsolete references to the names of numerous local districts;
- authorization to the state soil conservation board to set up and administer trust funds for projects undertaken by the board;
- revision of procedures for organizing a soil conservation district and conducting elections;
- a provision for special elections, rather than elections at district meetings, for all board supervisors and on questions concerning tax levies or assessments and consolidation;
- revision of provisions on assessments, consolidation, and dissolution;

- deletion of provisions referring to voting by proxy and a provision for voting by absentee ballot;
- a provision for a maximum one-half of one mill on all tax levies or assessments;
- stipulation that any appeal of a decision of a board of supervisors be made to the state board rather than the district board of appeals which is abolished; and
- clarification and revision of procedures for withdrawal of land from a district.

A section-by-section explanation of Bill 1 may be found in Appendix A.

Agricultural warehousing -- Bill 2. In response to the testimony, the committee recommends Bill 2 which makes changes in the present law in each of the three enumerated areas of concern.

The committee recommends that the current \$200,000 bond ceiling be raised to \$500,000 and that a minimum bond of \$25,000 be established. With the size of storage facilities, the value of grain, and the potential for significant losses to producers if a facility closes, the committee concludes that raising the bond is necessary.

The 218 state grain storage facilities in Colorado are scheduled to be inspected at least annually under the state warehouse program. The Department of Agriculture is appropriated enough funds to employ three inspectors. The committee heard repeated testimony that more and better qualified inspectors are needed. As a result, the committee recommends that the Commissioner of Agriculture be authorized by statute to fix and collect fees for the inspection of warehouse facilities and that the General Assembly recognize the need to hire additional inspectors with an objective of intensifying departmental inspections of warehouse facilities. Currently there is a \$50 annual license fee, but no inspection fee. The Commissioner of Agriculture reports that the average tenure of the three state inspectors is about one year. Industry has been receptive to a request for joint training programs as a first step in a program to upgrade the ability of state inspectors and hopefully increase their tenure.

Bill 2 contains a final provision that should strengthen the Department of Agriculture's oversight of warehouse facilities. The requirement is that grain warehouse operators annually submit a financial audit of their operations to the Department of Agriculture. Such a procedure will hopefully give the department a warning of impending financial trouble for warehouse operators and allow the department to act to protect the interests of the producers.

Committee Findings on Registration of Water Right Ownership

The committee was directed to explore "the feasibility of utilizing the Torrens system ... in the transfer of water rights." The Torrens title systems for conveyance of titles were developed in the British possessions toward the end of the 19th Century. The systems have been adopted by a number of states including, for the conveyance of land titles, the State of Colorado. The basic purpose is to establish a system for the registration of titles which will be represented by an official certificate which shows the status of the title and the name of the person in whom it is vested. The transfer of land is thus accomplished by the transfer of a certificate.

The state water engineer reports that present records of ownership, in many cases, have not been updated. The General Assembly has required that owners of water rights be notified for a variety of purposes by the state engineer, the water courts, or other officials in at least twenty-eight sections of the law. Yet, with the over-appropriation of streams and the growing competition for a limited supply of water, the required determination of ownership becomes more and more important. Today the value of water rights often represents eighty percent or more of the total value of a real estate parcel. With the growing number of changes in water rights, the necessity for a rapid identification of ownership becomes important if proper water administration is to take place and if losses of valuable property rights are to be avoided.

The state engineer cited several specific instances of the need for legislation to require the registration of water rights ownership. The examples can be summarized as follows.

1. The law requires that well owners who have failed to file statements of beneficial use be given twenty days to supply such information. Failure to do so results in cancellation of the well permit and closure of the well. The state engineer estimates that approximately 2,000 wells in the state's Northern High Plains designated water basin are subject to this drastic action even though they have been used for irrigation for many years. Attempts to notify these well owners have failed in fifteen to forty percent of the cases because the address was outdated. Enforcement of this law would result in the closure of an estimated 800 wells.
2. In developing the proposed abandonment list for the 1978 water rights tabulation as required by law, 934 water rights were selected for abandonment. Registered letters were mailed to the last known owner. Approximately fifty percent of those letters were returned because the addressee could not be found. Since no requirement for water right ownership registration is now required, it is likely that purchasers of these rights will find them abandoned by the Water Court upon adjudication of the tabulation.

3. In 1975, the state engineer's office was notified pursuant to law that a dam in western Colorado was in an unsafe condition. Upon inspection, it was determined that the structure was in imminent danger of failing if water was not immediately released. The water commissioner attempted to open the outlet works but found access to the controls inaccessible. Inquiry of adjacent property owners did not reveal the owner's identity. The water commissioner was required to search county clerk records for land ownership. Before ownership was determined, the structure failed causing property damage.
4. The 1969 Water Rights Determination and Administration Act requires a water referee to notify persons he believes might be affected by applications filed in the water court. Because of the lack of up-to-date water right ownership, this provision of the act is generally ignored. The result is that numerous actions in court take place without knowledge of affected water users. The suggested alternative is that water users pay to receive all resumes, which are generally incomprehensible to the layman, or to retain a water attorney to continuously monitor all applications.

A majority of the water attorneys appearing before the committee during the interim discouraged adoption of the Torrens system for water rights. Their reasons may be summarized as follows.

1. Any attempt by the state to determine the title to all of the water rights in the state will be tremendously expensive.
2. The results of an attempt to determine title will almost certainly be erroneous.
3. The state water engineer conceded that questions requiring a special effort to determine who has title to a water right are rare. In only five percent of the cases would a Torrens-like system, established by statute, be necessary to determine the holder of a water right.
4. Such an approach may result in the termination of rights of the "true owner" without notice.
5. If an owner does have knowledge of ownership proceedings he could be compelled to incur substantial legal expense to prevent divestment of his rights.
6. The Torrens system is inappropriate for the many varieties of water rights that exist in Colorado.

Recommendation

Registration of water rights -- Bill 3. Recognizing the conflicting points of view on the subject, the committee recommends Bill 3 which establishes a system within the state engineer's office for the registration of water rights ownership, but does not make such statements presumptions or evidence of the validity of a water right or ownership of a water right. In short, the proposal does not establish a Torrens system for the recording of water rights.

The proposal authorizes the state engineer to prepare and publish a statement of ownership of water rights based upon the registrations and instruments transferring ownership of water rights filed with the engineer's office. Failure to register ownership would preclude an owner of a water right from the privileges and protections offered by the "Water Right Determination and Administration Act of 1969", including the services of the state or division engineers in making a demand for water based upon a priority of right to water.

BILL 1

A BILL FOR AN ACT

1 CONCERNING SOIL CONSERVATION DISTRICTS.

Bill Summary

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

Makes various changes and revisions to the "Colorado Soil Conservation Act", including but not limited to the following: Deletes obsolete references to the names of numerous local districts; authorizes the state soil conservation board to set up and administer trust funds for projects undertaken by the board; rewrites and revises procedures for organizing a soil conservation district and conducting elections; provides for special elections, rather than elections at district meetings, for all board supervisors and on questions concerning tax levies or assessments and consolidation; revises provisions on assessments, consolidation, and dissolution; deletes provisions referring to voting by proxy and provides for voting by absentee ballot; provides a maximum one-half of one mill on all tax levies or assessments; provides that any appeal of a decision of a board of supervisors be made to the state board and abolishes the district board of appeals; clarifies and revises procedures for withdrawal of land from a district; and repeals provisions in conflict with changes made to the act, a provision relating to supervision of the state board and local districts by the department of agriculture, provisions relating to land use ordinances, and a provision concerning the withdrawal of land by the board.

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

1 SECTION 1. 35-70-103 (1) (c) and (1) (e), Colorado
2 Revised Statutes 1973, are amended to read:

3 35-70-103. State soil conservation board - composition
4 - powers. (1) (c) The Arkansas river watershed, two members,
5 one from the upper Arkansas river watershed consisting of the
6 Black-Squirrel,--central-COLORADO,--Custer,--Double-Et,--Fountain
7 valley,--Fremont,--Lake--county,--Prairie,--Teller-Park,--upper
8 Arkansas,--and-upper-Huerfano-soil-conservation--districts and
9 one member from the lower Arkansas river watershed; consisting
10 of--the--Bent,--Bessemer,--Branson-Trinchera,--east-otero,--Kiowa
11 county,--northeast--Prowers,--Olney-Boone,--Prowers,--Pueblo,
12 Purgatoire,--southeast--Baca-county,--Spanish-Peaks,--Stonewall,
13 Timpas,--Turkey-creek,--Two-Buttes,--west-otero,--and-western-Baca
14 county-soil-conservation-districts;

15 (e) The Republican and South Platte river watersheds,
16 two members, one from the upper South Platte river watershed
17 consisting of the--Agate,--Big--Thompson,--Boulder---valley,
18 Beertrail,--Douglas---county,--east---Adams,--Fort--Coffins,
19 Jefferson,--Kiowa,--Longmont,--Morgan,--Platte--valley,--southeast
20 Weld,--west--Adams,--west--Arapahoe,--and--west--Greeley--soil
21 conservation-districts and one member from the Republican
22 river and lower South Platte river watersheds; consisting of
23 the-Akron,--Burlington,--Cheyenne,--Cope,--Flagler,--High--Plains,
24 Rock---creek,--Yuma,--Yuma--county,--Haxton,--Padroni,--Peetz,
25 Sedgwick,--and-South-Platte-soil-conservation-districts;

26 SECTION 2. 35-70-103 (6) is amended BY THE ADDITION OF A

1 NEW PARAGRAPH to read:

2 35-70-103. State soil conservation board - composition -
3 powers. (6) (j) To place any funds it receives pursuant to
4 paragraph (e) of this subsection (6) into a trust and to
5 administer and expend any moneys in such trust.

6 SECTION 3. 35-70-104, Colorado Revised Statutes 1973, is
7 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

8 35-70-104. Petition for organization of district -
9 qualified electors. (1) Proceedings to determine whether or
10 not a soil conservation district shall be organized shall be
11 instituted by a petition addressed to the state board which
12 shall be signed by not less than twenty-five percent or two
13 hundred of the owners of land within the district, whichever
14 is smaller. A determination after hearing by the state board
15 that the requisite number of landowners have signed such
16 petition shall be final and conclusive unless objection is
17 made to the sufficiency of such petition and appeal is taken
18 from the determination of the board.

19 (2) The petition shall include:

20 (a) The name of the proposed district;

21 (b) Two maps or plats showing the boundaries of the
22 proposed district;

23 (c) Narrative statement giving the legal description of
24 the area to be included within the proposed district by legal
25 subdivisions or by metes and bounds;

26 (d) Brief statements of the character of the lands

1 within the boundaries of the proposed district and the need
2 for the establishment of such district.

3 (3) Every person who is a qualified elector of this
4 state and who owns land within the proposed or existing
5 district is entitled to vote at any election of a proposed or
6 existing district on any matter concerning the organization,
7 operation, consolidation, or dissolution of such district.

8 (4) (a) A "qualified voter" or "qualified elector", as
9 referred to in this article, means any qualified elector or
10 corporation owning land within the proposed or existing
11 district, as shown by the records in the office of the
12 appropriate county clerk and recorder, and any heir or devisee
13 of such land of a deceased landowner.

14 (b) A corporation owning land within a proposed or
15 existing district is entitled to vote if such corporation duly
16 authorizes an agent to vote in the election in its behalf.

17 SECTION 4. 35-70-105 (1), (5), (6), and (7) Colorado
18 Revised Statutes 1973, are REPEALED AND REENACTED, WITH
19 AMENDMENTS, to read:

20 35-70-105. Hearing on petition - election. (1) Within
21 sixty days after it receives a petition, the state board shall
22 cause notice by publication to be made of the pendency of the
23 petition. Such notice shall state:

24 (a) That a petition has been filed for the organization
25 of a soil conservation district and the name of the proposed
26 district;

1 (b) The date (not less than twenty days from the date of
2 such notice), hour, and place that a hearing will be had to
3 determine the sufficiency of the petition and the necessity
4 and advisability of the formation of the proposed district;

5 (c) That said petition, map, or plat of the proposed
6 district and related material are on file and may be seen and
7 examined by any interested person at the office of the state
8 board or other designated place within the period between the
9 date of the notice and the date of the hearing;

10 (d) That anytime after the filing of the petition for
11 the organization of a soil conservation district, but no later
12 than five days before the day fixed for the hearing thereon,
13 the owner of any real property within the proposed district
14 may file a petition with the state board stating reasons why
15 said property should not be included therein and requesting
16 that said real property be excluded therefrom. Such petition
17 shall be duly verified and shall describe the property sought
18 to be excluded. The state board shall hear said petition and
19 all objections thereto at the time of the hearing on the
20 petition for organization and shall determine whether, in the
21 best public interest, said property should be excluded or
22 included in the proposed district.

23 (5) (a) If it is determined that the petition and the
24 map or plat are sufficient and the proposed district is
25 necessary, the state board shall call an election. The state
26 board shall select the date, time, and place for the holding

1 of the election, such date to be not less than twenty days nor
2 more than forty days from the time the state board's
3 determination becomes final.

4 (b) The state board shall give notice by publication of
5 the date, time, and place of such election, together with a
6 statement of the matters which will be considered at the
7 election. This notice shall also describe the outer
8 boundaries of the proposed district and any exclusions of land
9 within such boundaries, state that the qualifications of
10 voters shall be as described in section 35-70-104 (3), state
11 that the petition is on file at the office of the county clerk
12 and recorder, and state the procedures for nominating
13 supervisors and the place where absent voters' ballots can be
14 obtained. Such publication shall be made not less than ten
15 days nor more than thirty days before the date of such
16 election.

17 (c) At such election the qualified voter shall vote for
18 or against the organization of the soil conservation district.

19 (d) The state board shall conduct the proceedings of the
20 election provided for in this subsection (5) and shall be the
21 judge of all matters in connection therewith. It has the
22 authority to appoint one or more of its own members or other
23 proper persons to act for it and in its stead in such matters.
24 After the organizational election, all subsequent elections
25 and administrative actions concerning the operation of the
26 district, except as otherwise provided in this article, shall

1 be conducted as provided in the local district's bylaws.

2 (e) (I) If the canvass of votes at any organization
3 election discloses that one-half or more of the votes cast are
4 against organization of the district, the result of the
5 election shall be recorded in the minutes of the state board,
6 and the proposal shall be dismissed. If the canvass discloses
7 that more than one-half of the votes cast are for the
8 organization of the district, the result shall be recorded in
9 the minutes of the state board, and the board shall proceed as
10 provided in section 35-70-106.

11 (II) The candidates, according to the number of
12 supervisors to be elected, receiving the most votes cast shall
13 be elected. The supervisors elected shall take office upon
14 the taking of an oath and, if required by the state or local
15 board, the filing of a bond in the same manner as specified in
16 section 32-1-901, C.R.S. 1973. Failure to take the oath or
17 furnish a bond, if required, except for good cause shown,
18 shall create a vacancy in the office, and the vacancy shall be
19 filled by the next candidate receiving the highest number of
20 votes in the case of a new district or by the remaining
21 supervisors as specified in section 35-70-107 (4).

22 (6) For the purposes of this section, "publication"
23 means printing, once a week for two consecutive weeks, by two
24 publications in one newspaper of general circulation in the
25 proposed soil conservation district if there is such a
26 newspaper, and, if not, then in a newspaper in the county in

1 which the proposed soil conservation district is located. It
2 is not necessary that publication be made on the same day of
3 each week.

4 (7) (a) Except as may be otherwise provided in this
5 article, the state board and each local district board of
6 supervisors in the conduct of all elections shall follow, as
7 much as practicable, the election procedures set forth in
8 sections 32-1-804 and 32-1-808 to 32-1-834, C.R.S. 1973.

9 (b) Whenever reference is made to the secretary or board
10 of a special district, it shall be deemed to mean the
11 secretary or board of supervisors of the local district or
12 state board, as applicable.

13 SECTION 5. 35-70-106, Colorado Revised Statutes 1973, as
14 amended, is amended to read:

15 35-70-106. Creation of district - certification. Within
16 sixty days after the holding of such election, if the
17 ~~qualified-voters-voting-in-person-or-by-proxy-have-voted~~ MORE
18 THAN A MAJORITY OF THE VOTES CAST ARE for organization of such
19 proposed district; the state board shall certify to the
20 division of local government in the department of local
21 affairs a statement of such election and the result thereof,
22 together with a map or plat showing the area included within
23 such district. The director of said division shall thereupon
24 execute and deliver to the state board a certificate declaring
25 the area within the boundaries of such district to be a lawful
26 soil conservation district under its name as shown in the

1 records, and thereafter such district shall be a public body
2 corporate and shall have all the powers and duties imposed
3 upon such districts under the provisions of this article.

4 SECTION 6. 35-70-107, Colorado Revised Statutes 1973, is
5 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6 35-70-107. Board of supervisors - election - term.

7 (1) (a) The governing body of the district shall consist of a
8 board of five supervisors, referred to in this article as
9 "supervisors", who shall be elected by the qualified electors
10 of the district at an election conducted as provided in
11 section 35-70-105. The supervisors of a district organized on
12 or after January 1, 1983, shall be elected, one for a one-year
13 term, two for two-year terms, and two for three-year terms in
14 the initial election, and thereafter each supervisor shall be
15 elected for a three-year term. Commencing January 1, 1983,
16 each successor of an appointed supervisor serving a term on
17 said date, and his successors, shall be elected for three-year
18 terms.

19 (b) No one shall be eligible to become a candidate for
20 election as a member of the board of supervisors of any such
21 district unless he is a landowner in and a qualified elector
22 of the district or the duly authorized representative of a
23 corporation owning lands within the district.

24 (2) The business of the district shall be transacted by
25 the supervisors as provided in this article and in the
26 district's bylaws.

1 (3) Members of the board of supervisors shall be
2 entitled to travel and other expenses necessarily incurred in
3 the discharge of their duties, such reimbursement to be
4 payable only from the income of the district. No supervisor
5 shall be personally liable for the consequences of his
6 official acts; nor shall he receive, by virtue of his office,
7 any benefits from the conduct of the affairs of the district
8 other than the benefits any landowner may be entitled to
9 receive from the operation of the district.

10 (4) If a vacancy occurs on the board of supervisors the
11 remaining supervisors shall appoint a successor for the
12 remainder of the term of the seat vacated. In the event any
13 supervisor ceases to be a qualified voter of and landowner in
14 the district or the corporation which he represents ceases to
15 be an owner of lands within the district, the supervisors
16 shall thereupon declare a vacancy and proceed to appoint a
17 successor.

18 SECTION 7. 35-70-109 (2), Colorado Revised Statutes
19 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

20 35-70-109. Assessments - amendments to bylaws. (2) If,
21 in the judgment of the qualified voters of a district or the
22 supervisors, a tax levy or assessment is essential to
23 accomplish the purposes of the district, the levy may be
24 assessed as follows:

25 (a) The supervisors shall prepare a budget and
26 distribute the amount thereof over the lands within the

1 district in proportion to the benefits which the individual
2 tracts, in the judgment of the supervisors, will receive from
3 the operation of the district, but in no event shall the
4 assessment against any lands be in excess of one-half of one
5 mill or the reasonable value of the benefits to such lands,
6 whichever is less.

7 (b) Prior to setting a date for an election as provided
8 in paragraph (c) of this subsection (2), the supervisors shall
9 hold a public hearing concerning the imposition of a tax levy
10 or assessment. Thereafter, if the board of supervisors
11 decides to proceed with an election, it shall give notice by
12 publication, as provided in section 35-70-105 (6), setting
13 forth the date of the election, the rate or amount of such
14 levy or assessment, a statement as to why such levy or
15 assessment is necessary, and other information concerning the
16 holding of the election.

17 (c) No tax levy or assessment shall be imposed within a
18 district unless it is first submitted to the qualified
19 electors of the district and approved by a majority of the
20 votes cast. Any such election shall be conducted as provided
21 in section 35-70-105 (7). Any increase in the tax levy or
22 assessment, if the existing levy or assessment does not equal
23 the one-half mill maximum, shall also be proposed and approved
24 at an election in the same manner as provided in this
25 paragraph (c). An existing tax levy or assessment may be
26 continued from year to year or decreased as determined by the

1 board of supervisors and approved by the state board.

2 (d) If, in the judgment of the qualified voters of a
3 portion of a district or in the judgment of the supervisors, a
4 tax levy or assessment is essential on real property in said
5 portion of a district for the installation, maintenance, and
6 operation of flood prevention and watershed improvement
7 measures and practices or to otherwise accomplish the purposes
8 of the district within said delineated portion of the
9 district, an assessment or tax levy for such portion of the
10 district may be levied on real property as provided for in
11 this subsection (2), but only the qualified voters owning
12 lands within the aforesaid delineated parts of the district
13 may vote upon the question as to whether or not such levy or
14 assessment shall be imposed.

15 SECTION 8. 35-70-109 (3), Colorado Revised Statutes
16 1973, is amended to read:

17 35-70-109. Assessments - amendments to bylaws. (3) The
18 bylaws of any soil conservation district may be altered,
19 amended, or repealed or additions made thereto at any regular
20 or regularly called special meeting of the district, upon
21 compliance with the following requirements: A petition whose
22 text sets forth the proposed amendment in full, signed by not
23 less than three percent of the qualified voters of the
24 district, must be filed with the supervisors; the complete
25 text of the proposed amendment must be published in the notice
26 of the meeting at which it is to be considered, which notice

1 must be published at least once in a newspaper of general
2 circulation within each county in which property included
3 within the district is located, not less than ten days prior
4 to the said meeting; and those present in-person-or-by-proxy
5 at the said meeting at which the proposed amendment is to be
6 considered shall constitute a quorum for the consideration of
7 the proposed amendment, and the affirmative vote of a majority
8 thereof shall be required to adopt the proposed amendment.

9 SECTION 9. 35-70-110 (1), (2), and (3), Colorado Revised
10 Statutes 1973, are amended to read:

11 35-70-110. Appeals to state board. (1) If the owner of
12 any lands within the district desires, he may appeal from any
13 decision of the supervisors to the ~~district-board-of-appeals~~
14 ~~as-constituted-in-section-35-70-113~~ STATE BOARD. To establish
15 such an appeal, he must submit his appeal in writing to the
16 ~~district-board-of-appeals~~ STATE BOARD within thirty days after
17 the date of the action of the supervisors from which the
18 appeal was taken. ~~No--notice--of--the--action--taken--by--the~~
19 ~~supervisors--shall--be--required;--since--the--notice--of--the--meeting~~
20 ~~required--by--section--35-70-109--is--sufficient--to--notify--the~~
21 ~~landowner--of--the--full--extent--of--the--action--which--may--be--taken~~
22 ~~by--the--supervisors:~~ The notice of appeal shall state the
23 particular part of the decision of the supervisors from which
24 an appeal is being taken, if less than the entire decision is
25 being appealed from, and shall state in simple and concise
26 language the reasons why the owner considers the decision to

1 be improper.

2 (2) Within twenty days following the receipt of such
3 written appeal, the ~~district--board--of--appeals~~ STATE BOARD
4 shall notify, in writing by registered mail, the person making
5 such appeal ~~that--the--district--board--of--appeals~~ AND THE LOCAL
6 BOARD OF SUPERVISORS OF THE TIME AND PLACE IT will hear the
7 appeal. ~~at--some--place--convenient--to--all--parties.~~ Such
8 hearings shall be held not less than ten days nor more than
9 twenty days following the mailing of the notice. ~~to--the--person~~
10 ~~making--such--appeal.~~

11 (3) At the time and place set forth in the written
12 notice for such meeting, the ~~district--board--of--appeals~~ STATE
13 BOARD shall hear any persons in interest who desire to be
14 heard in favor of or against the order as finally entered by
15 the supervisors and shall make their decision thereon, which
16 shall be entered in the minutes of the ~~district--board--of~~
17 ~~appeals--and--shall--control--unless--an--appeal--to--the--state--board~~
18 ~~is--taken~~ STATE BOARD.

19 SECTION 10. 35-70-115 (1) (b), (2), (3), (4), the
20 introductory portion to 35-70-115 (7), and 35-70-115 (7) (b),
21 Colorado Revised Statutes 1973, as amended, are amended, and
22 the said 35-70-115 is further amended BY THE ADDITION OF A NEW
23 SUBSECTION, to read:

24 35-70-115. Additions and withdrawals. (1) (b) If the
25 supervisors find that all of the owners of the lands within
26 such proposed addition have signed the petition and if they

1 approve the addition of such lands to the district, they shall
2 notify the owners of such lands, in writing, of the fact that
3 their lands are included in the district and ARE ENTITLED TO
4 THE SERVICES AND subject to the ~~rules-and-by-laws~~ AUTHORITY of
5 the district. The supervisors shall cause to be filed with
6 the county clerk and recorder of the county in which any of
7 such land may be located a certificate describing the legal
8 boundaries of the land and stating that such land has been
9 added to and included within such district, and the owner of
10 such land shall pay to the district the cost of recording such
11 certificate.

12 (2) In the event five or more owners of land adjoining
13 or in the immediate vicinity of the boundary of an established
14 soil conservation district desire to have their own and
15 neighboring lands added to and included within such district,
16 they shall first secure the written consent of the supervisors
17 of such district and may then petition the state board
18 substantially in the form and with the supporting data
19 required by section 35-70-104, and thereafter the state board
20 shall proceed as to the owners of land within the proposed
21 addition substantially as provided in section 35-70-105 (5)
22 ~~(a)~~ ~~and~~ ~~(5)~~ ~~(c)~~ AND (7); except that the sole question to be
23 voted upon at the meeting of the landowners shall be the
24 question of whether or not the lands within the boundaries of
25 the proposed addition to the district shall be so included.

26 (3) If a majority of the ~~qualified~~ ~~voters~~ ~~voting~~ ~~in~~

1 ~~person-or-by-proxy-vote~~ VOTES CAST ARE against such inclusion,
2 the state board shall record the fact in its minutes, and the
3 election shall adjourn; but, if a majority ~~voting-in-person-or~~
4 ~~by-proxy--vote~~ OF THE VOTES CAST ARE in favor of such
5 inclusion, the state board shall note that fact in its minutes
6 and shall certify to the director of the division of local
7 government in the department of local affairs the fact that
8 such additional lands have been included within such district,
9 and the director of said division shall issue his certificate
10 describing the legal boundaries of the lands and stating that
11 such land has been added to and included within the district.

12 (4) Within thirty days after the date of such
13 certificate, the supervisors of the district shall cause the
14 same to be recorded in the books of the county clerk and
15 recorder of the county in which the lands so added are located
16 in whole or in part. From the date of such certificate, the
17 lands thereby included within the district shall be ~~subject-to~~
18 ~~control~~ ENTITLED TO THE SAME SERVICES AND SUBJECT TO THE SAME
19 AUTHORITY OF THE DISTRICT as are other lands of the district.
20 ~~and-the-owners;-tenants;-and-others-charged-with-the-operation~~
21 ~~of-such-lands-shall-be-subject-to-the-same-rules-and-the--same~~
22 ~~penalties--that--apply--to-owners;-tenants;-and-others-charged~~
23 ~~with-the-operation-of-lands-within-the-district-as--originally~~
24 ~~organized-~~

25 (7) In the event that any lands included within a
26 district cease to be used PRIMARILY OR ZONED for agricultural

1 purposes and are thereafter ZONED FOR ANY OTHER USE OR devoted
2 ~~exclusively~~ PRIMARILY to commercial or industrial uses or
3 other NONAGRICULTURAL uses ~~related-to--urban--development;--or~~
4 ~~are--subdivided--for-residential-purposes;~~ or become a part of
5 the area included within an incorporated municipality such
6 lands may be withdrawn from a soil conservation district as
7 follows:

8 (b) The supervisors shall examine the facts presented in
9 said application for withdrawal and such other evidence as it
10 deems desirable, and, if they find that the lands are
11 excludable under this section and ~~that~~ existing contractual
12 obligations, tax levies, and other assessments against the
13 land will be fully and promptly discharged, they ~~may~~ SHALL
14 grant the request for withdrawal. Proceedings and actions
15 taken under this section shall be stenographically recorded,
16 and a transcript thereof shall be filed and retained in the
17 district office.

18 (10) No land within a soil conservation district shall
19 be deemed withdrawn from the district until the procedures set
20 forth in subsection (7) or (9) of this section have been met.

21 SECTION 11. 35-70-118 (1), (2), (3) (b), and (4),
22 Colorado Revised Statutes 1973, as amended, are amended to
23 read:

24 35-70-118. Dissolution - procedure. (1) No proceeding
25 for the dissolution of a soil conservation district shall be
26 initiated within five years after the date of the organization

1 of the district. Anytime after the expiration of such
2 five-year period, proceedings to determine whether or not a
3 soil conservation district shall be dissolved may be
4 instituted by a petition addressed to the state board, which
5 shall be signed by not less than twenty-five percent of the
6 owners of land within the district and approved by a majority
7 of the supervisors of such district. Such petition shall
8 state the reasons for the dissolution and the proposed
9 disposition of all contracts, assets, and liabilities held or
10 owed by the district and shall request that the state board
11 proceed to hold a hearing and call an election to determine
12 whether or not such district shall be dissolved. Attached to
13 such petition shall be a statement, duly certified by the
14 county assessor, that the list previously filed with the state
15 board showing the owners of lands within the district,
16 together with their last known addresses, is substantially
17 correct or making such additions and corrections to such list
18 as may be necessary to include all landowners within the
19 district as of the date of the certification:

20 (2) Within sixty days after receipt of such petition,
21 the state board shall cause to be mailed to each owner of
22 lands within the district, to be determined by the list
23 provided for in subsection (1) of this section; a notice GIVE
24 NOTICE BY PUBLICATION, AS SPECIFIED IN SECTION 35-70-105 (6),
25 of the filing of such petition; of the date (not less than
26 twenty days after the date of such notice), time, and place

1 when a hearing shall be had to determine the sufficiency of
2 the petition and the advisability of dissolving the district;
3 that all complaints and objections that may be made in writing
4 concerning the sufficiency of the petition and the
5 advisability of the dissolution of the district, by the owners
6 of any land within such district will be heard and determined
7 before final action thereon; and that all owners of land
8 within the district shall have the right to attend such
9 hearing and be heard.

10 (3) (b) If, following the hearing, it is the opinion of
11 the state board that the petition is sufficient and that the
12 dissolution is advisable, the state board shall call an
13 election in the manner provided for in section 35-70-105 (5)
14 (a); ~~(5)-(c); and (5)-(d)~~ AND (7), but the only question to be
15 determined at such election shall be whether or not the
16 district shall be dissolved. ~~The voting shall be by secret~~
17 ~~ballot.~~

18 (4) (a) If a majority of the ~~qualified voters vote in~~
19 ~~person or by proxy~~ VOTES CAST ARE against dissolution of the
20 district, ~~the election shall adjourn; and~~ the district shall
21 continue to exist as though no petition had been filed and no
22 election held. Thereafter, no petitions for dissolution shall
23 be considered by the state board at intervals of less than
24 three years.

25 (b) If a majority of the ~~qualified voters vote in person~~
26 ~~or by proxy~~ VOTES CAST ARE for dissolution of the district,

1 the state board shall, within sixty days after such election,
2 certify to the division of local government in the department
3 of local affairs a statement of such election and the result
4 thereof. The director of said division thereupon shall
5 execute and issue to the state board a certificate of
6 dissolution, and thereafter the existence of the district
7 shall cease. The state board shall forthwith cause the
8 certificate of dissolution to be recorded in the books of the
9 county clerk and recorder of the county in which such district
10 was located in whole or in part.

11 SECTION 12. 35-70-119 (1), Colorado Revised Statutes
12 1973, as amended, is REPEALED AND REENACTED, WITH AMENDMENTS,
13 to read:

14 35-70-119. Consolidation of districts. (1) Two or more
15 established districts may be consolidated into a single
16 district by the following procedure:

17 (a) The supervisors of the districts desiring to
18 consolidate, acting upon their own initiative or upon the
19 petitions of a substantial number of the qualified landowners
20 in their districts, may jointly prepare and submit to the
21 state board a request for authority to consolidate. Such
22 request shall be accompanied by maps showing the geographical
23 boundaries and locations of the districts to be consolidated
24 and of the proposed consolidated district. If the state board
25 finds that the proposed consolidation is in the best interests
26 of the districts affected, it shall notify the supervisors of

1 the districts that they have authority to proceed.

2 (b) Upon receiving such notification to proceed, the
3 supervisors of the districts shall hold a public hearing
4 concerning the proposed consolidation. Thereafter, if the
5 supervisors decide to proceed with the consolidation, each
6 board of supervisors shall request that the state board
7 prepare a notice of election on the proposed consolidation,
8 setting forth the circumstances of the proposed consolidation
9 and the date, time, and place of a special election to be held
10 in each of the districts at which the question of
11 consolidation will be voted upon. The notice shall be
12 published as specified in section 35-70-105 (6), in a
13 newspaper of general circulation in each of the districts not
14 more than thirty days nor less than ten days before the
15 election and posted at several places in each of the
16 districts. The election shall be conducted by the state board
17 as provided in section 35-70-105 (7).

18 (c) If a majority of the votes cast in each of the
19 districts are against such consolidation, the state board
20 shall dismiss the proceedings, and the district shall proceed
21 as though no such election had been held. If a majority of
22 the votes cast in each of the districts are in favor of
23 consolidation, the board of supervisors of each district shall
24 certify jointly that fact to the state board, which shall in
25 turn certify it to the division of local government in the
26 department of local affairs. Upon such final certification,

1 the districts so consolidated shall cease to exist as separate
2 districts.

3 (d) (I) After an election approving a consolidated
4 district, the supervisors of each board of a consolidated
5 district shall constitute the organizational board of the
6 consolidated district, regardless of the number of
7 supervisors. This organizational board shall remain as the
8 board of the consolidated district until such time as the
9 first board of the consolidated district is selected as
10 provided in this paragraph (d).

11 (II) The organizational board, within six months after
12 the date of the consolidation election, shall select and
13 determine the terms of the supervisors of the first board of
14 the consolidated district. In making such determination, the
15 organizational board shall fix the terms of the first board as
16 follows: The terms of two directors of the first board having
17 the fewest years to serve on the board to which they were
18 originally elected shall expire at the first election after
19 the consolidation, and the terms of the remaining three
20 directors having the greatest number of years to serve on the
21 board to which they were originally elected shall expire at
22 the second election. If the terms of the supervisor so
23 selected to the first board of the consolidated district
24 expire on the same date, the terms of such supervisors shall
25 be determined by the organizational board. Such terms shall
26 be determined, however, so that two supervisors shall have

1 terms expiring in two years and three supervisors shall have
2 terms expiring in three years. Thereafter, each supervisor
3 shall have a term of three years.

4 (III) The members of the organizational board of the
5 consolidated district not selected to act as the members of
6 the first board of the consolidated district may act, however,
7 as advisory members to the first board until such time as the
8 terms of office for which they were originally elected would
9 have expired. Advisory members may be compensated equally
10 with compensation paid to the board of the consolidated
11 district for each meeting attended. Advisory board members
12 may not act as officers of nor bind the consolidated district
13 and shall have no vote on any matters before the board of the
14 consolidated district, but they may be employed by the board
15 of the consolidated district in any capacity.

16 (e) A consolidated district has all of the rights,
17 powers, and authority of each of the soil conservation
18 districts consolidated. After consolidation the district may
19 consolidate with any other soil conservation districts, and
20 all actions and proceedings of the consolidated district shall
21 be done without regard to the fact of consolidation.

22 SECTION 13. 35-70-121, Colorado Revised Statutes 1973,
23 is amended to read:

24 35-70-121. Cooperation between districts. Whenever, by
25 reason of location, similarity of problems, and need for
26 mutual assistance, the purpose of this article may be more

1 economically, completely, and satisfactorily performed and
2 accomplished thereby, two or more soil conservation districts
3 may cooperate with each other by the joint exercise of the
4 powers granted in section 35-70-108. The nature and extent of
5 such cooperation and the duties and obligations of and
6 benefits to the respective cooperating districts and interests
7 in property which may be jointly acquired and used shall be
8 determined by contract to be entered into between or among the
9 cooperating districts, subject to the ~~rules--and--regulations~~
10 and bylaws adopted by each of such districts and to the
11 direction of the qualified voters at any regular or regularly
12 called special meeting of each such district.

13 SECTION 14. Repeal. Sections 35-1-104 (1) (z),
14 35-70-108 (1) (g), 35-70-109 (1), 35-70-110 (4) and (5),
15 35-70-112, 35-70-113, 35-70-114, and 35-70-115 (7) (e), (7)
16 (f), (7) (g), and (7) (h), Colorado Revised Statutes 1973, are
17 repealed.

18 SECTION 15. Effective date. This act shall take effect
19 January 1, 1983.

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

BILL 2

A BILL FOR AN ACT

1 CONCERNING AGRICULTURAL PRODUCTS, AND RELATING TO DEALERS AND
2 WAREHOUSEMEN THEREOF.

Bill Summary

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

Authorizes the commissioner of agriculture to require the submission of a financial statement or audit as a prerequisite to granting a license to a facility that stores farm products. Authorizes the state agricultural commission to fix, assess, and collect fees for the inspection of facilities storing farm products. Increases bonding requirements imposed on dealers and brokers of agricultural products.

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

4 SECTION 1. 12-16-102 (2), Colorado Revised Statutes
5 1973, 1978 Repl. Vol., is amended to read:

6 12-16-102. Application and license. (2). The
7 application in each case shall state the class or classes of
8 farm products the applicant proposes to handle, the full name
9 of the person applying for such license, and, if the applicant
10 is a firm, exchange, association, or corporation, the full

1 name of each member of the firm or the names of the officers
2 of the exchange, association, or corporation. Such
3 application shall further state the principal business address
4 of the applicant in the state of Colorado and elsewhere and
5 the names of the persons authorized to receive and accept
6 service of summons and legal notices of all kinds for the
7 applicant. The applicant shall further satisfy the
8 commissioner of his character, responsibility, and good faith
9 in seeking to carry on the business stated in the application,
10 and the applicant shall make a statement that the convenience
11 and necessity of the industry and of the public will be
12 improved or require such business at the point stated in the
13 application. In determining a person's character, the
14 commissioner shall be governed by the provisions of section
15 24-5-101, C.R.S. 1973. IN THE CASE OF A FACILITY THAT STORES
16 FARM PRODUCTS, THE COMMISSIONER MAY REQUIRE THE SUBMISSION OF
17 A FINANCIAL STATEMENT OR AUDIT PREPARED BY A PUBLIC ACCOUNTANT
18 OR CERTIFIED PUBLIC ACCOUNTANT.

19 SECTION 2. Article 16 of title 12, Colorado Revised
20 Statutes 1973, 1978 Repl. Vol., as amended, is amended BY THE
21 ADDITION OF A NEW SECTION to read:

22 12-16-104.5. Inspection fees. (1) The state
23 agricultural commission, after conferring with interested
24 industry groups, is authorized to fix, assess, and collect
25 fees for the inspection of facilities storing farm products.

26 (2) These inspection fees shall be uniform for the

1 particular service rendered. The amount of these inspection
2 fees for services rendered under the provisions of this
3 article shall be determined by the commission as nearly as may
4 be to the end that these fees pay fifty percent of the
5 operational cost of the inspection service provided by this
6 article. These fees shall be paid by the person, firm,
7 corporation, or other organization requesting the service at
8 the time it is rendered or as otherwise provided and
9 authorized by the commission.

10 (3) All fees collected under the provisions of this
11 section shall be deposited in the state treasury and credited
12 to the general fund.

13 SECTION 3. 12-16-105 (2) (a), Colorado Revised Statutes
14 1973, 1978 Repl. Vol., is amended to read:

15 12-16-105. Commission merchants', dealers', and brokers'
16 bonds - exemptions. (2) (a) Before any license is issued to
17 any dealer or broker, the applicant shall execute and deliver
18 to the commissioner a bond in the sum of not less than two
19 ~~thousand-dollars-nor-more-than-two--hundred--thousand--dollars~~
20 TWENTY-FIVE THOUSAND NOR MORE THAN FIVE HUNDRED THOUSAND
21 DOLLARS, at the discretion of the commissioner, and executed
22 by the applicant as principal and by a surety company
23 qualified and authorized to do business in this state as
24 surety.

25 SECTION 4. Safety clause. The general assembly hereby
26 finds, determines, and declares that this act is necessary

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

BILL 3

A BILL FOR AN ACT

1 CONCERNING WATER RIGHT OWNERSHIP, AND RELATING TO REGISTRATION
2 AND TRANSFER REQUIREMENTS THEREOF, AND MAKING AN
3 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.)

Requires persons owning water rights on January 1, 1983, to register such ownership, together with a current address, with the state engineer by July 1, 1983.

Requires that copies of all instruments transferring water right ownership on or after January 1, 1983, be filed with the state engineer and filed and recorded by the county clerk and recorder.

Authorizes the state engineer to prepare and publish a statement of ownership of water rights based upon the registrations and instruments transferring ownership of water rights filed with his office.

Declares that registrations filed with the state engineer and the state engineer's statement of ownership shall not establish any presumption or evidence of the validity of a water right or ownership of a water right.

Allows the state engineer, the ground water commission, ground water management districts, state agencies, and political subdivisions to rely upon the registration records and statement of ownership of the state engineer in performing their duties.

Provides that failure to register ownership of a water right or to file and record a transfer of a water right, except shares in mutual ditch companies, would preclude such

owner from the privileges and protections under the "Water Right Determination and Administration Act of 1969".

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

2 SECTION 1. Article 92 of title 37, Colorado Revised
3 Statutes 1973, as amended, is amended BY THE ADDITION OF THE
4 FOLLOWING NEW PARTS to read:

5 PART 7

6 REGISTRATION OF WATER RIGHT OWNERSHIP

7 37-92-701. Registration of water right ownership with
8 the state engineer. (1) Every person owning a water right on
9 January 1, 1983, except shares in a mutual ditch company,
10 shall register such ownership with the office of the state
11 engineer by July 1, 1983. Such registration of ownership
12 shall include the owner's current address and such other
13 information as the state engineer deems necessary to identify
14 the water right. The registration of ownership shall be made
15 upon forms provided by the state engineer, and such forms
16 shall be made available at the office of the state engineer
17 and each division engineer and water clerk, and the office of
18 each county clerk and recorder. No charge shall be made for
19 such forms or registrations. A water right owner may also
20 include with the registration any supporting evidence of
21 ownership.

22 (2) Notwithstanding section 37-92-602, this part 7 shall
23 apply to all water rights.

1 37-92-702. Effect of registration - failure to register.

2 (1) The filing of a registration of ownership with the state
3 engineer's office shall not establish any presumption or
4 evidence of the validity of a water right or ownership of a
5 water right.

6 (2) A person who fails to register a water right
7 ownership as required in section 37-92-701 shall not be
8 entitled to the services of the state or division engineers in
9 making a demand for water based upon his priority of right or
10 to receive any of the privileges and protections provided
11 under this article.

12 (3) When any notice to owners of water rights or record
13 of such ownership is provided for or required to be made by
14 the state engineer, division engineers, a water judge or
15 referee, the ground water commission, a ground water
16 management district, any state agency, or a county or other
17 political subdivision of the state, such person or entity
18 making the notice is entitled to rely upon the record of
19 filings of registrations of ownership made with the state
20 engineer's office pursuant to section 37-92-701; except that
21 such notice or record shall also be made when water right
22 ownership is transferred in compliance with part 8 of this
23 article.

24 37-92-703. Maintenance of registrations of water right
25 ownership. The state engineer's office shall maintain a
26 current record of every registration of ownership filed with

1 it and shall make available to state agencies, political
2 subdivisions of the state, and the public any information in
3 such records. The state engineer may also publish such record
4 and sell copies or portions thereof.

5 PART 8

6 CONVEYANCE OF WATER RIGHT OWNERSHIP

7 37-92-801. Requirements for conveyance of water rights.

8 (1) Commencing January 1, 1983, no assignment, conveyance,
9 exchange, gift, or other transfer of the ownership of a water
10 right, other than a transfer by death or by operation of law
11 or a transfer of shares in a mutual ditch company, shall be
12 valid as against any persons, except between the parties
13 thereto and such as have notice thereof, until:

14 (a) An instrument of conveyance on a form provided by
15 the state engineer is executed and acknowledged by the person
16 making such assignment, conveyance, exchange, gift, or other
17 transfer;

18 (b) Such instrument of conveyance is recorded with the
19 county clerk and recorder of the county or counties in which
20 the point or points of diversion of the water right or water
21 rights covered by such instrument are located;

22 (c) One complete and accurate copy of such instrument of
23 conveyance is filed with the state engineer and one with the
24 clerk of the water division in which the point or points of
25 diversion of the water right or water rights covered by such
26 instrument are located.

1 (2) Any instrument in connection with the usage of a
2 water right in a mortgage or other security transaction shall
3 be recorded and filed in the manner prescribed in subsection
4 (1) of this section.

5 (3) Commencing January 1, 1983, any change of ownership
6 of a water right by death or operation of law other than a
7 transfer of shares in a mutual ditch company, shall be
8 evidenced by the same instruments as required for the transfer
9 of real estate by death or operation of law, and complete and
10 accurate copies of such instruments shall be recorded and
11 filed in the manner prescribed in subsection (1) of this
12 section. No change of ownership of a water right by death or
13 by operation of law shall be valid as against any persons,
14 except between the parties thereto and such as have notice
15 thereof, until such instruments have been filed and recorded.

16 (4) A transferee who fails to file and record the
17 transfer of ownership of a water right as required in this
18 section shall not be entitled to the services of the state or
19 division engineers in making a demand for water based upon his
20 priority of right or to receive any of the privileges and
21 protections provided under this article.

22 (5) No charge shall be made for the forms provided by
23 the state engineer for conveying water right ownership or for
24 filing and recording such forms pursuant to paragraph (c) of
25 subsection (1) of this section.

26 37-92-802. Statement of ownership of water rights. At

1 any time after July 1, 1983, the state engineer may compile
2 and have published a statement of ownership of water rights.
3 Such statement shall be based upon the registrations filed
4 with the office of the state engineer pursuant to section
5 37-92-701 and all instruments filed with his office pursuant
6 to section 37-92-801. The state engineer may revise and
7 republish such statement of ownership as often as he deems
8 necessary. Notice that a statement of ownership of water
9 rights has been completed and may be inspected or copies
10 obtained from the office of the state engineer, the water
11 clerk, the division engineer, or the county clerk and recorder
12 shall be published in such manner as is necessary to obtain
13 general circulation once in each county. Copies of the
14 complete statement of ownership of water rights may be
15 obtained at a reasonable cost based upon expense of
16 publication and mailing. Copies of pages of the statement of
17 ownership shall be provided on payment of a fee of one dollar
18 per page with a maximum charge equal to the cost of the
19 complete copy.

20 37-92-803. Effect of statement of ownership. (1) The
21 publishing of a statement of ownership of water rights shall
22 not establish any presumption or evidence of the validity of a
23 water right or ownership of a water right.

24 (2) When any notice to owners of water rights or record
25 of such ownership is provided for or required to be made by
26 the state engineer, division engineers, a water judge or

1 referee, the ground water commission, a ground water
2 management district, any state agency, or a county or other
3 political subdivision of the state, such person or entity
4 making the notice or recording such ownership is entitled to
5 rely upon the statement of ownership of water rights published
6 by the state engineer; except that such notice or record shall
7 also be made when water right ownership is transferred
8 subsequent to the date of such statement in compliance with
9 this part 8.

10 37-92-804. Clerical mistakes. Clerical mistakes in a
11 registration or statement of ownership of water rights may be
12 corrected by the state engineer on his own initiative or on
13 the petition of any person, and substantive errors therein may
14 be corrected by the state engineer on the petition of the
15 person to whom the error relates. Such mistakes or errors may
16 be corrected at any time. The state engineer shall order such
17 notice of any such correction as he deems to be appropriate to
18 advise all persons who may have an interest in such
19 correction.

20 SECTION 2. Appropriation. In addition to any other
21 appropriation, there is hereby appropriated, out of any moneys
22 in the state treasury not otherwise appropriated, to the
23 division of water resources in the department of natural
24 resources, for the fiscal year beginning July 1, 1982, the sum
25 of _____ dollars (\$), or so much thereof as may be
26 necessary, for the implementation of this act.

1 SECTION 3. Effective date. This act shall take effect
2 July 1, 1982.

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

COMMITTEE ON AGRICULTURE
AND NATURAL RESOURCES

APPENDICES

A

A Section by Section Explanation
of the Proposed Amendments to the
State's Soil Conservation Act

Section 1

Specific references to soil conservation districts are deleted leaving only the necessary references to water sheds. This change eliminates any potential legal problem that might result from the consolidation of districts or the changing of a district from one water shed to another water shed.

Section 2

An additional authority is given to the state board to place in trust when necessary those funds made available to the board by the United States Government or the State of Colorado for the purpose of planning, developing or putting into operation projects undertaken according to law.

Section 3

With an objective of simplifying the language of the statutes and the procedures detailed in the law, the following changes are made in the method followed for organizing a soil conservation district:

- a) current law requires that petitions to organize a district be signed by not less than twenty-five percent of the land owners within the proposed district. The bill specifies twenty-five percent "or two hundred of the owners", whichever is smaller;
- b) the precise wording of the petition is deleted from the law although no substantive change is made in the documentation now required as a part of the petition; and
- c) a provision of the current law which allows agents of governmental units owning land within the proposed or existing district to vote on a petition for organization is repealed.

Section 4

The following changes are made in the procedure governing a hearing and subsequent election for the formation of a district:

- a) notice of the receipt of a petition and notification of an election are now mailed to each landowner. The bill provides for "notice by publication" rather than mail;

- b) the specific wording of the ballot question for the district formation election is deleted;
- c) provision for voting by proxy is deleted and instead there is a granting of absentee voting;
- d) the section deletes the election of a board of supervisors and the adoption of bylaws as additional matters voted on at the time of the election for formation of a district; and
- e) the section establishes a procedure for petitioning the state board for exclusion from a proposed soil conservation district. The decision on the matter of exclusion is made by the state board. Currently a landowner is allowed to request a withdrawal of his land within a 15-day period after an election for the formation of a district.

Section 5

Amendatory language deletes references to voting by proxy in a district formation election. The bill also specifies that a majority vote is necessary for formation of a district.

Section 6

This section includes changes in the current law regarding the election of local boards of supervisors. Under current provisions of law, three supervisors are elected and two are appointed by the state board. All supervisors would be elected under provisions of the bill. A stipulation is deleted which currently authorizes a representative of a public agency owning land within the district to be an eligible candidate for election. Also deleted from current law is a provision that "supervisors may be removed from office for cause as provided in the bylaws".

Section 7

The bill places a one-half mill ceiling on any tax levy adopted by a local conservation district. Currently there is no mill limitation. The bill also changes the procedure by which an assessment or tax levy is voted. Currently a decision can be made by a majority vote of all qualified voters in the district by secret ballot at a special meeting of the district. The bill provides for an election in accordance with the state's special district election law.

Section 8

This section amends current law to stipulate that district bylaws may not be amended by proxy votes.

Section 9

This section states that appeals to the decisions of local supervisors be made to the state soil conservation board, not the district board of appeals as presently required.

Sections 10 and 11

The primary objective of changes in these sections is to clarify the law by adding certain words and deleting obsolete or unclear provisions. Changes in election procedures are made to conform with other sections of the bill.

Section 12

The law concerning the procedure for consolidation of districts is changed in the following manner:

- a) the supervisors of the districts are to hold a public hearing concerning the proposed district consolidation. This procedure is not in the present law;
- b) a vote on the consolidation is held at a special election conducted by the state board. Presently a decision on the matter may be made by a majority of those present in person or by proxy vote during a special meeting of each of the districts;
- c) provision is made for the supervisors of each board of a consolidated district to constitute the organizational board of the new district. The organizational board is given six months to select a five member board for the new district. Members of the organizational board may serve in an advisory role to the board.

Section 13

This amendment to current law conforms to other amendments.

Section 14

Section 35-1-104 (1) (z), repeals administrative authority delegated to the Department of Agriculture over the state soil conservation board. The board is now within the Department of Natural Resources.

Section 35-70-108 (1) (g), repeals authority of the local districts to "enter upon lands in the district for the purpose of treating same to prevent the spread of soil erosion and damage to other lands in such districts".

Section 35-70-109 (1), repeals the current authority of local supervisors to adopt and impose land use ordinances.

Section 35-70-110 (4) and (5), repeals subsections of the current law which will be in conflict with provisions of the bill which abolish the district boards of appeal.

Section 35-70-112, conforms with other repealed sections regarding land use ordinances imposed by local districts.

Section 35-70-113, conforms with the repeal of the existence of district boards of appeal.

Section 35-70-114, conforms with the repeal of all authority to impose land use ordinances.

Section 35-70-115 (7) (e), (f), (g), and (h), repeals the authority of supervisors to withdraw land from an established district.

B

M E M O R A N D U M

TO: Morgan Smith
FROM: Gailen Hainer
SUBJECT: Warehouse Failures
DATE: November 3, 1981

1. Dean Casselman, Haxton, Colorado

During the year of 1975, Mr. Dean Casselman of Haxton, Colorado, took bankruptcy. The producers of grain in the area lost approximately \$1,200,000 through this action. This loss was sustained by 144 producers.

There was no grain inventory on hand at the time of bankruptcy. Mr. Casselman did own a small warehouse and a small fleet of trucks, which were sold to satisfy certain liens.

After settlement through the bond, the producers recovered approximately three percent of their loss.

Mr. Casselman was contacted on various occasions by Department personnel as to his status as a grain dealer. His reply was that he was buying grain but not storing any.

The Department did not receive any complaints until the time of bankruptcy. There was no grain warehouse law in effect at that time. The Department cooperated with the FBI, District Attorney, and local law enforcement authority in the investigation.

2. Horizon Grain Company, Burlington, Colorado

The Horizon Grain Company took bankruptcy in 1976. The loss of \$200,000 was sustained by 24 producers. The producers recovered approximately 50 percent of their loss through the bond.

The Department personnel were involved in contacting each producer and also worked with the District Attorney to reach a final settlement. No warehouse law was in effect at this time.

3. Geranimo Elevator Company, Eads, Colorado

Failure of the Geranimo Elevator Company occurred in 1977. Eighteen producers sustained a loss totaling approximately \$95,000.

One bond for \$17,000 has been paid to the Department. Another bond for \$50,000 is being contested by the insurance company with the concept that since the grain was on a deferred payment contract until July 1, 1977, the bonding company should not be liable. Court action is pending through the Attorney General's office regarding this matter.

An examination of the warehouse by Department personnel was conducted on January 7, 1977, resulting in the disclosure that there was no grain on hand. The Department proceeded with appropriate action as set forth in the statutes.

4. Ure Grain Company, Kit Carson, Colorado

This company failed in 1981, after Mr. Ure, the owner, did not return from a trip.

Forty producers sustained losses totaling \$200,000. The Department obtained a cease and desist and later sold the grain in storage with the proceeds to be used as reimbursement for producer losses.

The Department witnessed all the transactions of the sale from measuring the grain on hand prior to the sale to checking weight tickets as grain was moved.

Mrs. Ure sold the remaining assets (warehouse and equipment). Monies from these sales were turned over to the Department for distribution to the producers.

Final proration of monies from grain sales, assets sales, and bond should be made in November with each producer receiving approximately 45 percent of his loss.

5. Big Thompson Mill and Elevator, Dacono, Colorado

In mid-1981, this company filed bankruptcy. The Department audited the storage of the company in May and have not determined any loss for grain, to date. The Department is keeping close contact with all proceedings to avoid any losses.

6. Bonlware Grain Company, Sheridan Lake, Colorado

Due to mismanagement in early 1981, this company voluntarily closed. The owner, Mrs. Bonlware, had trouble with managers.

The Department audited the warehouse storage and found no shortages. No losses have been reported to date.

LEGISLATIVE COUNCIL
COMMITTEE ON LEGISLATIVE PROCEDURES

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Council Staff

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Research Associate

SUMMARY OF COMMITTEE ACTIVITIES,
RECOMMENDATIONS, AND FINDINGS

Introduction

At the June 22, 1981, meeting of the Legislative Council, the council adopted a motion which provided that the Executive Committee of the Legislative Council should function as the Legislative Procedures Committee. At that time the council added Representative Strahle to the membership of the committee. The interim Committee on Legislative Procedures was directed to continue its examination of the procedures of the Colorado General Assembly and manage the remodeling of the State Museum Building and the rewiring of the State Capitol Building.

Committee Recommendations on Legislative Rules

Minority Conference Committee Reports -- Joint Resolution 1

Joint Rule 4 which outlines the legislative procedure for conference committee reports was reviewed by the committee. Two problems were addressed: the confidential nature of a minority report; and the sponsorship of such report.

The Legislative Drafting Office reported that a confidentiality problem occurs when a conference committee member requests a minority report after the committee has met and reached an agreement. The majority of the conferees are not aware that a minority report has been prepared until they are requested to sign the majority report by the drafting office staff. If a minority report is requested, the primary conference committee report is specifically titled majority report. Such a title will normally indicate that a minority report has also been prepared.

The committee also discussed the confusion which arises when a minority report is introduced in one house, but does not have a sponsor in the second house. Generally, each house has ruled that minority reports require one member of the conference committee from each house as sponsors of the minority report in order to introduce the report in both houses.

The committee recommends Joint Resolution 1. If adopted, Joint Rule 4 will specify that a minority conference committee report may be prepared by the Legislative Drafting Office if a member of the committee announces his intention to submit a minority report during the conference committee meeting. In addition, one member of the

conference committee from each house is required to consider a minority report in both houses.

Deadline for Introduction of Bills in Odd-Year Sessions -- Joint Resolution 2

Confusion has arisen regarding the date a bill must be introduced by a legislator after the drafting office has delivered a bill. Joint Rule 23 states that all bills delivered on or before the fiftieth legislative day must be introduced on or within ten legislative days. Bills delivered after the fifty-first legislative day and prior to the fifty-sixth day shall be introduced on or within five days of delivery. No bill shall be introduced after the sixtieth day with the exception of appropriation bills and bills for which the appropriate Committee on Delayed Bills has consented to extend the deadline. The committee agreed that the odd-year session deadline for bill introduction is confusing and cumbersome.

Therefore, the committee recommends Joint Resolution 2 which specifies that bills delivered on or after the fifty-first legislative day shall be introduced no later than the sixtieth legislative day. Also, the committee recommends that the Legislative Drafting Office stamp each bill delivered to legislators with the date it must be introduced under the rules.

Witnesses Subpoenaed by Committees of the General Assembly -- Joint Resolution 3

Rule 33 passed in 1979, provides for the summoning of witnesses by committees of the Colorado General Assembly. The rule specifies that the Senate or House of Representatives may vest in any committee thereof or any committee created by statute or by joint resolution, and the Legislative Council may vest in any subcommittee it appoints, the power to subpoena witnesses, to take testimony under oath, and to assemble records and documents with the same power and authority as courts of record. However, a subcommittee of the Legislative Council may subpoena an individual witness only upon a majority vote of a quorum of the subcommittee. A witness may have legal counsel present during proceedings brought pursuant to Joint Rule 33. Any person who fails or refuses to testify without just cause is guilty of contempt of the General Assembly and is subject to a fine not to exceed \$500, imprisonment in a county jail for not more than ten days, or both. Witnesses subpoenaed to appear before any committee or subcommittee receive the same fees and expenses as witnesses in civil cases. Joint Rule 33 expired at the convening of the Fifty-third General Assembly.

The committee recommends Joint Resolution 3 to reinstate Joint Rule 33 which expired on January 7, 1981. The committee further recommends that the rule be reinstated without an expiration clause.

Postponing a Bill Indefinitely -- Senate Resolution 1

During the course of the interim committee's deliberations, discussion ensued concerning the procedure for postponing bills indefinitely. House Rule 29 (g) (2) specifies that no further action may be taken on any bill indefinitely postponed by a committee of reference and delivered to the Chief Clerk of the House of Representatives. The Senate does not have a similar rule.

The committee recommends Senate Resolution 1. The resolution would amend the Senate Rule 22 (f) on committees by providing that no further action may be taken on any bill which has been indefinitely postponed by a Senate committee of reference and delivered to the Secretary of the Senate.

Voting on the Committee of the Whole Reports -- Senate Resolution 2

The committee refers Senate Resolution 2 without recommendation. If adopted, Senate Rules 17 (f) (12) and 25 (f) will change the voting procedure regarding committee of the whole reports. Senate Rule 17 (f) (12) will require eighteen votes for passage of an amendment to the committee of the whole report. Senate Rule 25 (f) will preclude any member from requesting a roll call vote on a bill considered in the committee of the whole prior to the adoption of the committee of the whole report.

Remodeling the State Museum Building

The committee reviewed the plans for the remodeling of the State Museum Building presented by the architectural firm of Pahl-Pahl-Pahl. Copies of the plans are available at the Legislative Council office.

The estimated cost of the project is \$1,268,780 plus a ten percent architectural fee based on the total construction costs. The Colorado General Assembly appropriated \$600,000 in 1980 and \$650,000 in 1981 for the remodeling project. Additional funds will be required to complete the project. The cost to remodel the building includes updating the electrical, mechanical, and air conditioning systems for all floors except the attic; reservicing the existing dumbwaiter to provide access to storage space in the attic; and cleaning the outside of the building. Since the building is on the National Historical Register, the remodeling project will be conducted in conformance with the national register's regulations.

The committee is awaiting a report on the chiller equipment for the building before proceeding with the remodeling project. The committee plans to meet with the architect on December 15, 1981. If

the chiller equipment requires renovation or replacement, additional funds will be necessary. Upon project completion, the committee recommends providing the renovated space to the Office of the State Auditor and the Colorado Department of Personnel.

Rewiring the State Capitol Building

The Colorado General Assembly provided \$550,000 in the 1981 Long Bill for the rewiring of the State Capitol Building after the 1982 legislative session. The committee reviewed the plans submitted by the architectural firm of Pahl-Pahl-Pahl.

The architectural firm has estimated the cost of the rewiring at \$440,000. The project will entail installing new wire sources for lighting and power in all areas of the building which have not been previously remodeled. The system will consist of low-voltage tape for the open areas of the grand corridors and MI cable for all other areas. The architect also recommended replacing the secondary electrical system.

The committee has agreed to request an appropriation of \$250,000 to install the secondary electrical system so that the entire project can be accomplished after the adjournment of the 1982 session and prior to the convening of the 1983 session.

Committee Review of Other Procedural Matters

Fiscal Notes

The interim committee reviewed Joint Rule 22 -- the fiscal note procedure -- as amended during the 1981 legislative session. The 1980 interim committee on Legislative Procedures conducted a detailed study of the fiscal note rule and the administration of the rule by the Office of State Planning and Budgeting. The 1980 interim committee recommended a number of changes to the fiscal note process.

The primary components of the joint rule, as amended in 1981, are as follows:

- Three copies of each bill and concurrent resolution is furnished to the Office of State Planning and Budgeting (OSPB) by the Chief Clerk of the House and the Secretary of the Senate.
- Within four legislative days, OSPB's Division of Budgeting reviews each measure and provides the chairman of the committee of reference with a "statement of probable fiscal impact". Such statement indicates whether a measure will have a fiscal impact on state government, local government, and the state's economy, or no impact.

- The committee of reference chairman or the bill sponsor may request that a full fiscal note be prepared before the measure is considered by the committee. The full fiscal note reflects the estimated increases or decreases in revenue and expenditures of state or local governments, any impact on the state's economy, any costs absorbed without additional funding, and, if possible, the long range fiscal implications of the measure.
- Upon requesting a fiscal note, the committee chairman indicates the approximate date the measure will be considered. After formally requesting a fiscal note, the chairman may serve notice that the Division of Budgeting must provide the fiscal note in three legislative days.
- The Division of Budgeting is responsible for updating fiscal notes to conform with committee of reference reports, and when appropriate after second and third reading.
- The Joint Budget Committee may be requested by the committee of reference chairman to review any fiscal note prepared by the Division of Budgeting. The committee chairman must obtain approval to request a review from the Committee on Delayed Bills of the house which is in possession of the measure.
- The sponsor of a resolution may request a statement of probable fiscal impact from the Division of Budgeting prior to its introduction. If a resolution is referred to a committee of reference, the committee may request a statement of probable fiscal impact.

The committee also examined the viability of transferring the responsibility for preparing fiscal notes from the executive branch to the legislative branch. The committee thoroughly discussed the possibility of assigning the administration of fiscal notes to the State Auditor's Office, the Joint Budget Committee staff, or the Legislative Council staff. In each instance the committee determined that the current workload of the legislative agencies precluded adding fiscal note preparation without hiring additional staff. Since the preparation of fiscal notes requires experience and knowledge of the executive departments and their budgets, OSPB appears to be the most appropriate office in the legislative or executive branch to prepare fiscal information. In addition, the committee recognizes the confusion created during the 1981 session because OSPB was operating under the assumption that the fiscal note rule amendments, recommended by the 1980 interim committee, would be adopted. The amendments to Joint Rule 22 were not adopted until May 14, 1981.

The committee finds that the General Assembly should follow Joint Rule 22 as amended in 1981. The committee determines that the fiscal note procedure should be analyzed for an entire legislative session before recommending further amendments. The committee suggests that the presiding officer of each house send a letter to all

standing committee chairman explaining the fiscal note rule and procedure prior to the 1982 legislative session.

Joint Rule 30 -- Joint Committee on the Legislative Budget Information System

In 1976, the General Assembly established a Joint Committee on the Legislative Budget Information System for the purpose of contracting with a consultant, on a yearly basis, for the development of a computerized budget information system. The committee's consultant developed a system called CLEAR -- Computerized Legislative Evaluation and Analysis Resource -- which has been in operation since the 1977 session. As stated in Joint Rule 30, "the committee shall be responsible for contracting, for a period not beyond July 31, 1979,...". In 1979, the CLEAR system came under the direction of the Executive Committee of the Legislative Council.

The committee deleted Joint Rule 30 from the Legislative Handbook since the rule states that the joint committee shall operate until July 31, 1979 and the CLEAR system is now under the auspices of the Legislative Council Executive Committee.

Legislative Drafting Office Policies

Verification of cosponsors for bills. Due to the amount of time and effort the Legislative Drafting Office uses to verify cosponsors for bills, the committee suggests that the member requesting a bill have any cosponsor notify the drafting office. The drafting office will add the cosponsor's name to the bill if the cosponsor provides written or oral consent. Cosponsors of a bill will not be added to a prefiled bill after December 20 because of the printing deadline.

Prefiled bill drafts limited to two. The interim committee agrees that the Legislative Drafting Office should adopt a policy of limiting the number of bill drafts for prefiled bills to two. The committee is cognizant of the need to reduce the number of rough drafts during December so that a maximum amount of prefiled bills can be drafted.

Bill titles. The interim committee suggests that the drafting office follow a policy of drafting narrow bill titles unless the sponsor specifically requests a broad title.

Remodeling of Capitol Cafeteria

Plans have been made to remodel the cafeteria in the State Capitol Building. The Division of Rehabilitation's Business Enterprise Program for the Blind is responsible for the remodeling project and the operation of the cafeteria. The budget for the

remodeling project totals \$175,000, eighty percent of which was provided by the federal government. The state provided twenty percent in the 1981 Long Bill. The remodeling plans have been prepared by the architectural and planning firm of Pahl-Pahl-Pahl. Copies of the plan are available at the Legislative Council office.

The committee agrees to proceed with the remodeling plans for the Capitol Cafeteria facilities. The committee directed that construction could begin prior to the 1982 legislative session only if the project could be completed before January, 1982. Otherwise, the remodeling project will begin after the adjournment of the 1982 legislative session.

Presidential Portraits

A complete collection of portraits of the United States Presidents have been donated to the State of Colorado. The collection, entitled "Gallery of Presidents", was donated to the state by Mr. and Mrs. Harry Sullivan of Reno, Nevada. The gallery is comprised of original oil paintings by portrait artist Lawrence Williams. The collection has been appraised at \$120,000 and insured gratis by the John Hancock Mutual Life Insurance Company. The "Gallery of Presidents" has been on display, primarily in schools, throughout the state.

The Colorado Department of Education, acting as custodians of the gallery, has suggested displaying the presidential portraits permanently in the State Capitol Building. Since many school children, state citizens and tourists visit the building, the committee agreed to display the portraits on the third floor of the State Capitol. The committee's decision is based on several factors. The portraits are of artistic and historical value; tours of the capitol building end on the third floor providing a visitor the unique opportunity to peruse the portraits at their leisure; the third floor has the least amount of decorations; and natural lighting is available from the dome and the skylights in the roof of the building. The State Historical Society has offered its assistance and expertise when the portraits are prepared for display.

Pay Copier

The committee agreed to install a pay copy machine in the anteroom of the legislative print shop. The copier will be available to lobbyists and other persons who require copy services during the session.

Vending Machines

The manager of the Division of Rehabilitation's Business Enterprise Program for the Blind and the current operator of the

capitol cafeteria have agreed to install a cigarette and soft drink machine on the second floor in the hallway outside the Secretary of the Senate's office. The vending equipment will be installed prior to the convening of the 1982 session.

Bulletin Boards

In recognizing the need to post interim and standing committee agenda, the interim committee has made arrangements for the installation of bulletin boards on the basement, second, and third floors of the capitol building. The boards would be placed on the east wall of each floor near the south elevator. Under the committee's plan, the sergeant-at-arms for each house is responsible for posting the daily committee schedule during the legislative session. The Legislative Council staff is responsible for posting interim committee agenda.

Amendment Screen for the Senate Chambers

The committee discussed the feasibility and practicality of installing an amendment screen in the Senate chambers. After reviewing the design of the chamber and the cost of an amendment screen, the committee agreed to consult the Senate caucuses. The caucuses have not notified the committee of their decision.

Security System for the State Capitol Building

While assessing the need for an electronic security system for committee rooms, the interim committee reviewed the security services for the State Capitol provided by the Colorado State Patrol and the Denver Police Department. The committee agreed that an electronic system was not cost efficient and the current security services seem adequate. The committee ascertained that security is available during and after work hours for legislators and staff.

Vacation and Compensatory Time for Legislative Staff

Policy for Accruing Vacation Time

All agencies of the legislative branch (Senate year-round employees, House year-round employees, Joint Budget Committee, Legislative Audit Committee, Committee on Legal Services, and the Legislative Council) except the Joint Budget Committee, follow the rules of the state personnel system in establishing the number of vacation days an employee can earn and accrue. The number of vacation days which can be accrued are as follows:

<u>Length of Service</u>	<u>No. of Vacation Days Earned in 12 Month Period</u>	<u>No. of Vacation Days to Be Carried Forward</u>
Less than 60 months (5 years)	12 (1 day per mo.)	24
61 months to 120 months (5 to 10 years)	15 (1 1/4 days per mo.)	30
121 months to 180 months (10 to 15 years)	18 (1 1/2 days per mo.)	36
181 months and over (over 15 years)	21 (1 3/4 days per mo.)	42

The Joint Budget Committee has adopted a policy of allowing employees, regardless of length of employment, to earn 1 1/4 vacation days per month, and to accumulate only thirty days total in accrued vacation time. This policy was adopted in 1977. Prior to that time the Joint Budget Committee followed the same policy as all the other legislative agencies.

Policy for Accruing Compensatory Time

As a general principle, most year-round employees of the legislative branch are not eligible for overtime compensation in accordance with the personnel and fiscal rules. However, the personnel rules provide for compensatory time for an employee who is required to work hours in excess of the normal work day or work week. The legislative process requires many year-round employees of the legislative branch to work extra hours. This is true particularly for the key personnel in each house, and the staff of the Joint Budget Committee, Legal Services Committee, and Legislative Council.

Current Practices in Legislative Agencies

The Legislative Audit Committee. The staff director reports that no compensatory time problem exists with that agency. All employees, except the State Auditor and his three deputies, are under the State Personnel System. All employees, including the employees in the four exempt positions, follow the personnel rules and take their compensatory time and/or accumulated vacation time within the appropriate time frame. Because the Auditor and his staff are not as involved in the day-to-day operations of the General Assembly it appears to be more feasible for the audit staff to schedule vacations and compensatory time within the year in which it has been accumulated.

The Joint Budget Committee. The staff director reports that no problem exists with his staff concerning accumulated vacation time or compensatory time. The Joint Budget Committee has adopted a policy of granting twenty days of compensatory time annually for each professional employee, and the employee must take the compensatory time in the year it is earned or lose it.

From approximately December 1 preceding the odd year session through the end of that session, and from approximately October 1 preceding the even year session through the end of the even year session, the Joint Budget Committee staff is required to put in many hours of overtime. Staff is able to take their vacation and compensatory days after each session and before the Joint Budget Committee resumes hearings prior to the following session.

Committee on Legal Services. In 1981, the committee adopted a policy for annual leave and compensatory time. In essence, the committee's policy is to follow the state personnel rules in the future. The major exception concerns compensatory and vacation time accumulated, but not taken prior to July 1, 1981. The staff is attempting to reduce the amount of time, previously accumulated, before January 1, 1982. The Legal Services Committee has agreed to reimburse staff for the remaining time accumulated prior to July 1, 1981 by amortizing the compensation payment over a five-year period.

Like other legislative employees, the employees of the Committee on Legal Services are very much involved in the legislative process. Much of the compensatory time accumulated is directly related to the pressure of drafting bills within the legislative timetable. Added time pressures exist at the end of the session when bills are enrolled and transmitted to the Governor. The assignment of rule and regulation review to the Committee on Legal Services and the pressure to publish the Digest of Bills, the Session Laws, and the Supplements as early as possible interferes with the ability to take time off.

Legislative Council. Council staff has followed the state personnel rules since its creation. Compensatory time is granted but has rarely amounted to very many hours above that which can be legitimately accumulated under the personnel rules.

Currently six council employees have vacation and compensatory time in excess of the maximum amount which can be carried forward. Five of the six have been employed by the council at least fifteen years. Four of these six, depending on the length of the 1982 session, will be able to eliminate the excess time accumulated prior to June 30, 1982.

The council staff is in much the same position as the staff of the Committee on Legal Services. Once the session is completed the council staff must start interim assignments, thus little time is available to use the compensatory time accrued during the session.

Accumulation of compensatory time has been reduced by council staff during the last three sessions. On a rotating basis, teams of three staffers are available when the General Assembly is in session at night. Also, the General Assembly has minimized the number of night sessions in recent years which has helped to reduce the amount of compensatory time accumulated.

Senate and House Year-Round Employees. The compensation policy has been changed recently. The primary change is the establishment of a monthly pay plan versus a seven-day per week pay plan. According to the Secretary of the Senate and the Chief Clerk of the House, they are the only employees who have accumulated days in excess of the number permitted to be accrued.

Summary of Staff Accumulated Compensatory and Vacation Time

In summary there are 184 full-time year-round employees in the legislative department as of October 31, 1981. Out of 184 employees twenty-four have accumulated combined vacation and compensatory time in excess of the number of days the state personnel system permits. Of those twenty-four employees who have accumulated the excess number of days:

- 16 are employees of the Committee on Legal Services (as of 6/30/81)
- 6 are employees of the Legislative Council
- 1 is an employee of the Senate
- 1 is an employee of the House
- 0 employees of the Joint Budget Committee
- 0 employees of the Legislative Audit Committee

Of those twenty-four employees:

- 4 have worked for the Colorado General Assembly in excess of twenty years
- 5 have been employed in excess of ten years but less than twenty
- 10 have been employed in excess of five years but less than ten
- 5 have been employed less than five years.

The committee finds that the accumulation of compensatory time has been concentrated in two agencies, Legal Services and Legislative Council. These agencies have definite plans to eliminate or at least

minimize the accumulated compensatory time. The committee recommends that each legislative agency determine its own compensatory time policy and that each director is required to report annually the amount of compensatory time accumulated by staff to the appropriate governing body and to the legislative leadership.

JOINT RESOLUTION 1

1 CONCERNING MINORITY CONFERENCE COMMITTEE REPORTS.

2 Be It Resolved by the Senate of the Fifty-third General
3 Assembly of the State of Colorado, the House of
4 Representatives concurring herein:

5 That Joint Rule No. 4 (b) of the Joint Rules of the
6 Senate and House of Representatives is amended, and the said
7 Joint Rule No. 4 is further amended BY THE ADDITION OF A NEW
8 SUBSECTION, to read:

9 JOINT RULE NO. 4

10 (b) Each such committee shall consist of three members
11 of the house appointing the same, with a chairman
12 designated, and the two committees jointly shall
13 constitute a conference committee. A majority of
14 the members of each committee appointed by each
15 house shall be necessary to approve a majority
16 report of any conference committee submitted to the
17 General Assembly. ~~but any lesser number of such~~
18 ~~members may submit a minority report:~~

19 (b.5) A minority conference committee report may be
20 drafted by the Legislative Drafting Office upon the
21 request of any member of a conference committee, if
22 the intention to submit the minority report was
23 announced in a meeting of the conference committee.
24 No minority conference committee report shall be
25 considered in either house unless it is approved by
26 one member of the conference committee from each
27 house.

JOINT RESOLUTION 2

1 CONCERNING THE DEADLINE FOR THE INTRODUCTION OF BILLS IN
2 ODD-YEAR SESSIONS.

3 Be It Resolved by the Senate of the Fifty-third General
4 Assembly of the State of Colorado, the House of
5 Representatives concurring herein:

6 That Joint Rule No. 23 (a) of the Joint Rules of the
7 Senate and House of Representatives is amended to read:

8 JOINT RULE NO. 23

9 (a) Deadline schedule. For the purposes of organizing the
10 legislative session, the schedule for the enactment of
11 legislation shall be as follows:

12 Odd-year Session

13 First House
14 Deadlines:

15 30th day Deadline for bill draft requests to the Legislative
16 Drafting Office.*

17 60th day Deadline for the introduction of bills. No bill
18 delivered by the Legislative Drafting Office on or
19 before the fiftieth legislative day shall be
20 introduced more than ten legislative days after
21 such delivery. Any bill delivered by the
22 Legislative Drafting Office on or after the
23 fifty-first legislative day ~~and---before---the~~
24 ~~fifty-sixth-legislative-day~~ shall be introduced not
25 later than ~~five--days-after-such-delivery;-except~~
26 ~~that-no-bill-shall-be-introduced-after~~ the sixtieth
27 legislative day.*

28 80th day Deadline for committees of reference to report
29 bills originating in their own house.*

1 95th day Deadline for final passage of bills in the house of
2 introduction.*

3 Second House
4 Deadlines:

5 110th day Deadline for committees of reference to report
6 bills originating in the other house.*

7 120th day Deadline for final passage of all bills originating
8 in the other house.

9 130th day Deadline for recess.

10 175th day Reconvene for adjournment sine die unless earlier
11 reconvened by joint notice by the President of the
12 Senate and the Speaker of the House of
13 Representatives.

14 *Appropriation bills are excluded from these deadlines.

15 Even-year Session

16 First House
17 Deadlines:

18 15th day Deadline for bill draft requests to the Legislative
19 Drafting Office.*

20 30th day Deadline for the introduction of bills. No bill
21 delivered by the Legislative Drafting Office on or
22 before the twentieth legislative day shall be
23 introduced more than ten legislative days after
24 such delivery. Any bill delivered by the
25 Legislative Drafting Office on or after the
26 twenty-first legislative day shall be introduced
27 not later than the thirtieth legislative day.*

28 45th day Deadline for committees of reference to report
29 bills originating in their own house.*

30 55th day Deadline for final passage of bills in the house of
31 introduction.*

32 Second House
33 Deadlines:

34 70th day Deadline for committees of reference to report
35 bills originating in the other house.*

36 80th day Deadline for final passage of all bills originating

1 in the other house.

2 105th day Deadline for recess.

3 150th day Reconvene for adjournment sine die unless earlier
4 reconvened by joint notice by the President of the
5 Senate and the Speaker of the House of
6 Representatives.

7 *Appropriation bills are excluded from these deadlines.

JOINT RESOLUTION 3

1 CONCERNING WITNESSES BEFORE LEGISLATIVE COMMITTEES AND
2 SUBCOMMITTEES.

3 Be It Resolved by the Senate of the Fifty-third General
4 Assembly of the State of Colorado, the House of
5 Representatives concurring herein:

6 That Joint Rule NO. 33 of the Rules of the Senate and
7 House of Representatives is RECREATED AND REENACTED, WITH
8 AMENDMENTS, to read:

9 JOINT RULE NO. 33

- 10 (a) The Senate or the House of Representatives may vest in
11 any committee thereof or any committee created by statute
12 or by joint resolution, and the legislative council may
13 vest in any subcommittee appointed pursuant to authority
14 contained in section 2-3-302 (1), C.R.S. 1973, the power
15 to subpoena witnesses, to take testimony under oath, and
16 to assemble records and documents, by subpoena duces
17 tecum or otherwise, with the same power and authority as
18 courts of record and may apply to courts of record for
19 the enforcement of these powers. A subcommittee of the
20 legislative council shall have the power to subpoena an
21 individual witness only upon a vote of a majority of a
22 quorum of the subcommittee, and under no circumstances
23 shall a committee chairman be able to act alone in
24 subpoenaing witnesses.
- 25 (b) A witness may have legal counsel present during
26 proceedings brought pursuant to this joint rule for the
27 purpose of being fully advised. Witnesses subpoenaed to
28 appear before any committee or subcommittee pursuant to
29 this joint rule shall receive the same fees and expenses
30 as witnesses in civil cases.
- 31 (c) Any person who fails or refuses to testify without just
32 cause is guilty of contempt of the General Assembly and
33 shall be punished by a civil penalty of not more than

1 five hundred dollars, or by imprisonment in the county
2 jail for not more than ten days, or by both such civil
3 penalty and imprisonment. The sheriff of any county
4 shall serve any subpoena on written order of any such
5 committee or subcommittee in the same manner as process
6 is served in civil actions.

SENATE RESOLUTION 1

1 Be It Resolved by the Senate of the Fifty-third General
2 Assembly of the State of Colorado:

3 That Rule No. 22 (f) of the Rules of the Senate is
4 amended to read:

5 22. COMMITTEE RULES

6 (f) After a committee of reference has taken its final action
7 on a measure, the chairman of the committee shall make a
8 report of such action to the secretary of the Senate
9 within five legislative days. Final action shall consist
10 of reporting a measure out of committee, with or without
11 amendments, for consideration by the committee of the
12 whole, a recommendation for reference to another
13 committee of reference, a report that the measure not
14 pass, or postponing the measure indefinitely. A motion
15 to postpone consideration of a measure for more than 30
16 days shall be considered a motion to postpone
17 indefinitely. Every bill shall be reported out of
18 committee for consideration by the committee of the whole
19 or indefinitely postponed by a committee of reference
20 prior to the adjournment sine die of the legislative
21 session, and a report to that effect shall be delivered
22 to the secretary. NO FURTHER ACTION MAY BE TAKEN ON ANY
23 BILL THAT HAS BEEN INDEFINITELY POSTPONED BY A COMMITTEE
24 OF REFERENCE AND DELIVERED TO THE SECRETARY.

SENATE RESOLUTION 2

1 Be It Resolved by the Senate of the Fifty-third General
2 Assembly of the State of Colorado:

3 That Rule No. 17 (f) (12) of the Rules of the Senate is
4 amended to read:

5 17. VOTING

6 (f) (12) An amendment to the report of a committee of the
7 whole ~~which--amendment-in-effect-shows-that-a-bill~~
8 ~~or-concurrent-resolution-did-pass~~ shall require 18
9 votes showing FOR passage. ~~of--such--bill--or~~
10 ~~concurrent-resolution:~~

11 That Rule No. 25 (f) of the Rules of the Senate is
12 amended to read:

13 25. BILLS

14 (f) The final question upon the second reading of every bill
15 or concurrent resolution shall be whether it shall be
16 engrossed or revised and considered on third and final
17 reading. After the Senate shall adopt, by a majority of
18 all members elected, any report of the committee of the
19 whole, the President of the Senate shall publicly make a
20 declaration that all bills included in the report which
21 were adopted were adopted by the required constitutional
22 majority, and such declaration shall be noted in the
23 journal. ~~Prior--to-the-adoption-of-the-committee-of-the~~
24 ~~whole-report-any-member-may-request-a-roll--call--on--any~~
25 ~~bill--considered--in--the-committee-of-the-whole-and-such~~
26 ~~bill-shall-receive-18-votes-before-it-is-ordered--passed:~~
27 Prior to adoption of committee of the whole report
28 amendments submitted thereto shall first be considered.
29

LEGISLATIVE COUNCIL
COMMITTEE ON STATE LOTTERY

Members of the Committee

Rep. Kathy Spelts,
Chairman
Sen. Sam Barnhill,
Vice Chairman
Sen. Bob Allshouse
Sen. John Beno
Sen. Regis Groff
Sen. Dan Schaefer

Rep. Charles Heim
Rep. Gerald Kopel
Rep. Phillip Massari
Rep. James Robb
Rep. Greg Rogers

Council Staff

Brian Mitchell
Research Associate

SUMMARY OF COMMITTEE ACTIVITIES,
RECOMMENDATIONS, AND FINDINGS *

Charge

The committee was directed to undertake:

A study of state lotteries consistent with the amendment approved by the voters in Colorado at the general election in 1980, which study shall include, but not be limited to, the following: The structure and operation of lotteries in other states; problems being encountered in other states; and the social and economic impact of lotteries. Special emphasis shall be given to the study of the possible consequences of the lotteries in relation to crime, including the possible increase in illegal gambling activities, the possible increase in property crime in order to gamble or pay off gambling debts, and the potential for organized crime to become involved with the lottery.

Background

At the 1976 general election, Colorado voters approved a statute referred by the Colorado General Assembly (House Bill 1080) which authorized an existing state agency, the Colorado Racing Commission, to organize and administer a state sweepstakes program. The Colorado sweepstakes would have been a form of a lottery based on horse or dog races licensed by the commission. The act provided that net revenues from the sweepstakes would be deposited into the state Conservation Trust Fund for the purpose of assisting counties and municipalities in the acquisition, development, and maintenance of new park and recreation areas.

In the 1977 session, the General Assembly rewrote the statute approved by the voters. The new act (House Bill 1596) transferred administration of sweepstakes races from the racing commission to the Department of Regulatory Agencies and permitted the appointment of a sweepstakes director. The actual implementation of this legislation was hampered, in part, by the basic legal issue of whether the voter approved statute and subsequent revision thereof by the General Assembly was in conflict with the provisions of Article XVIII, Section 2, Colorado Constitution. This provision states, in part, that "The general assembly shall have no power to authorize lotteries for any purpose...". Both the General Assembly and the Governor requested the Colorado Supreme Court to rule on this matter.

* A minority report was submitted by Representative Kopel, which is on file in the Legislative Council office.

The Colorado Supreme Court In Re Interrogatories of the Governor Regarding the Sweepstakes Races Act, 585 P.2d 595 (1978), found the Colorado sweepstakes legislation in conflict with Article XVIII, Section 2, Colorado Constitution. The opinion states, in part:

Article XVIII, Section 2, by its terms prohibits the General Assembly from authorizing lotteries. We think it clear that the framers of the Colorado Constitution intended that the legislative power of the state not be used to authorize lotteries whether or not that exercise of legislative power is ratified directly by the people through a referendum...

When the framers adopted Article XVIII, Section 2, they extended its prohibitions to all existing legislative power. The constitutional draftsmen plainly intended that the power to conduct lotteries could be restored by constitutional amendment, but not by referendum....

In this decision, the Colorado Supreme Court also ruled that three alternate approaches to implementing a sweepstakes would all fall under the definition of a lottery, thus contravening the constitutional prohibition against lotteries.

Following the court's decision the General Assembly submitted a constitutional amendment for consideration by the voters at the 1980 general election. This amendment to Article XVIII, Section 2 of the Colorado Constitution read as follows:

Any provision of this constitution to the contrary notwithstanding, the general assembly may establish a state-supervised lottery. Unless otherwise provided by statute, all proceeds from the lottery, after deduction of prizes and expenses, shall be allocated to the conservation trust fund of the state for distribution to municipalities and counties for park, recreation, and open space purposes.

The amendment was approved and several measures to establish a lottery were subsequently introduced in the 1981 session. During the debate on these measures, a number of questions arose concerning whether the establishment of a state lottery was in the best interest of the people of Colorado. Consequently, the 1981 General Assembly did not approve any of the lottery bills and decided instead to submit the topic to this interim committee for more study.

Overview of State Lotteries

The committee began its study with a review of lotteries in other states. In 1964, New Hampshire began operating the first state lottery in modern times. The most recent state to establish a lottery was Arizona in 1981. In total, there are presently fifteen state lotteries operating across the United States. Those states and the year of their first lottery drawing are enumerated below.

<u>State</u>	<u>First Drawing</u>	<u>State</u>	<u>First Drawing</u>
Arizona	1981	Michigan	1972
Connecticut	1972	New Hampshire	1964
Delaware	1975	New Jersey	1971
Illinois	1974	New York	1967
Maine	1974	Ohio	1974
Maryland	1973	Pennsylvania	1972
Massachusetts	1972	Rhode Island	1974
		Vermont	1978

The table on the following page summarizes the major provisions of the lottery legislation in these states, including the powers granted to lottery commissions or administrators to determine such matters as the type of games and ticket prices.

SUMMARY OF STATE LOTTERY LAWS

First Drawing	Arizona 1981	Conn. 1972	Del. 1975	Ill. 1974	Maine 1974	Maryland 1973	Mass. 1972	Mich. 1972	New Hamp. 1964	New Jersey 1971	New York 1967	Ohio 1974	Penn. 1972	Rhode Island 1974	Vermont 1978
Lottery Commission	x	1/		x	x	x	x		x	x		x	x	x	x
Number of Members	5	5		5	5	5	5		9	5		9	5	9	5
Governor Appoints	x	x		x	x	x	4/		x	x		x	x	12/	x
Senate Confirmation	x	2/		x		x			6/	x		x	x	12/	x
Per Diem	\$30	\$50		\$100	\$25	expenses only	expenses only		\$2,400 annual	expenses only		\$5,000 annual	11/	expenses only	\$30
Type of Games	x	x		x	x	x	x		7/	x		x		x	x
Ticket Price	x	x		x	x	x	x		x	x		x		x	x
Revenue Apportionment	x			x	x	x				x				x	x
Agents: License and Compensation	x				x	x	x			x		x		x	x
Lottery Administrators			x						x			x			
Type of Games			x						x			x			
Ticket Price			x						x			x			
Revenue Apportionment									x						
Agents: License and Compensation			x						x			x			
Purchase Restrictions-Minors	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Distribution Gross Revenue															
Prize Money	45%		45%		45%	50% net of non- daily game	45% min.	45%			40% max.8/	45%	40% min.	45%	50% min
Operating Expenses			20% max.				15% max.				15% max.9/				
Revenue to State	30% min.		30% min.	40% min.		50% net of non- daily game			30% min.		45% min.8/	30% min.		30% min.	
Local Option (Prohibit Lottery Sales)									x						
Distribution Net Revenue															
General Fund	x	x	x	x	x	x						x		x	13/
Education								x	x	x	10/				
Aid to Elderly													x		
Local Aid								8/							
Corporate Loans				3/											
Prize Money Exempt (State and Local Taxes)	exempt from state		x		x			x	x	x			x	x	x
Cash Sale of Tickets (Prohibition of Credit)															x

Footnotes

- 1/ Gaming Policy Board is also responsible for other gambling activities such as horse races and jai alai.
- 2/ Governor's appointments must be approved by both houses of the General Assembly.
- 3/ The first \$20 million is to be credited to the Corporate Loan Fund unless a lesser amount is determined to be sufficient. Monies in excess of this amount are to be placed in the general fund.
- 4/ The Commission consists of the State Treasurer, the Secretary of Public Safety or his designee, the State Comptroller or his designee, and two persons appointed by the Governor.
- 5/ Net revenues from the sale of regular lottery tickets are distributed to local governments. Net revenues from the sale of arts lottery tickets are distributed to regional and local arts councils.
- 6/ The appointments made by the Governor must be approved by the Council, an elected advisory board to the executive branch of government.
- 7/ Commission is authorized to designate pure lotteries, not associated in any way with a sporting event, if the Governor and the Council grant approval.
- 8/ No more than 50% of the gross revenues from the daily numbers game may be used as prize money; at least 35% of the gross revenues from the daily numbers game must be allocated for supplemental aid to school children.
- 9/ Exclusive of capital equipment.
- 10/ Net revenue is to be applied exclusively for the purpose of providing aid to special education for the fiscal year 1976, and thereafter to supplemental aid to all school children.
- 11/ The members of the Commission receive actual and necessary expenses incurred by them, together with a per diem allowance to be paid by the Governor's Office for each day spent in the performance of their duties.
- 12/ Of the nine Commission members, three are to be members of the Senate appointed by the Majority Leader, three are to be members of the House of Representatives appointed by the Speaker of the House, and three are to be appointed by the Governor from the general public.
- 13/ To be used solely for capital expenditures or debt service.

Commission or administrator. As shown in the table, commissions have been granted overall responsibility for lottery operations in twelve states. In such states a director is in charge of the lottery's daily operations. Three states -- Delaware, Michigan, and New York -- have entrusted the sole responsibility for lottery operations to an administrator.

Distribution of gross revenues. Most lottery states have stipulated that a certain percentage of the gross revenues, usually forty-five percent, is to be allocated for prizes. Several states have also set limits on the maximum amount of gross revenues which may be used for operating expenses and the minimum amount of gross revenues which must be returned to the state. For example, under Delaware law no more than twenty percent of gross revenues may be used for operating expenses and at least thirty percent of gross revenues must be transferred to the general fund.

Distribution of net revenues. In nine states net lottery revenues have been earmarked for general fund purposes. Four states -- Michigan, New Hampshire, New Jersey, and New York -- have stipulated that such revenues are to be used for education. Of the remaining states, Massachusetts provides that such funds are to be used for local aid; Illinois utilizes these funds for corporate loans and general fund purposes; and Pennsylvania uses lottery revenues to provide aid to the elderly in the form of property tax relief and mass transit assistance.

Prize money exemptions. Eight states have exempted prize winnings from both state and local taxes. One state -- Arizona -- exempts winnings from the state income tax.

Miscellaneous. All lottery states have banned the sale of lottery tickets to minors. One state, New Hampshire, provides local governments with the option of prohibiting the sale of lottery tickets within their respective jurisdictions. Finally, Vermont has specified by law that lottery tickets may be bought for cash only.

Types of Lottery Games

There are many different types of lottery games: weekly, numbers, instant, lotto, sweepstakes, and beano. The basic form of each of these different types of games are explained below. It should be noted that these explanations are general and that many variations of these games exist.

Weekly. In this type of game, players purchase a fifty cent or one dollar pre-numbered ticket with a designated drawing date. On the face of the ticket, there usually will be several numbers (generally three to six digits) in a series of boxes. Each of the boxes represents a certain prize amount. Every week there is a drawing and if one of your numbers matches a winning number, you win. In

addition, many weekly games feature a grand prize, often \$1 million. The grand prize drawing is held every several weeks or months, and weekly winners or persons with a matching number in their ticket's millionaire finalist box during that period are eligible. Although the weekly game was once the mainstay of most lotteries, a growing number of lotteries have ceased to offer it because of its diminishing popularity and sales.

Numbers. All state lotteries, except Arizona, offer this type of game. The numbers game is basically a modification of the illegal game which has been in existence for decades. A player chooses his own number (three digits for the daily game, four digits for the weekly and semi-weekly game) at computer terminals located at retail outlets. In many states the player may choose to bet on his number in a variety of combinations rather than simply the exact order. The wager is then transmitted through telephone lines and recorded in a central computer. The wager is also noted on a stub which is printed out by the computer terminal and given to the player.

Drawings for the winning number are held on a daily, weekly, or semi-weekly basis. In the three digit daily game the prize structure is based on a guaranteed 500 to 1 pay off for a winning straight number (exact order) wager. When the player decides to wager on the three numbers coming up in different types of combinations the payout is less.

Instant. Every state lottery presently offers an instant game. This type of game is based on various themes such as bingo or sports, usually costs one dollar, and is offered for a certain number of weeks. For instance, an instant game based on football may be offered in the fall and a game based on baseball in the summer.

The instant tickets generally contain concealed symbols or numbers. The player determines if he is a winner by rubbing off the concealing material and matching the symbols or numbers underneath. Under another version of the game, the player must add up the uncovered numbers; if the numbers exceed a certain amount he is a winner.

On occasion a grand prize will be offered in conjunction with the instant game. Winners of the instant game automatically qualify for the grand prize drawing which will be held after all the instant game tickets issued under a particular theme are sold (a period of several weeks or months).

Lotto. Although popular in foreign countries, lotto-type games are presently offered by only three state lotteries -- New York, New Jersey, and Rhode Island. The New York game is the traditional form of lotto whereby the player is required to pick six numbers from one through forty-nine. Winning numbers are drawn weekly. The participants win by matching three, four, five, or six of the numbers drawn. The prize money increases with the number of matches made and the person(s) with six matches wins the grand prize. An interesting

characteristic of lotto is the cumulative increase in grand prize money when the grand prize is not won in the weekly drawing.

Derivations from this traditional lotto model are found in New York, New Jersey, and Rhode Island. New York offers a "keno" game in addition to its regular lotto game. In this type of game, the player picks four numbers from one through forty. Rhode Island sponsors a semi-weekly type of lotto game where the player must also choose four numbers from one through forty. On the other hand, New Jersey's lotto game entails the picking of six numbers from one through thirty-six.

Sweepstakes. At the present time, only New Hampshire offers a sweepstakes ticket. In the past this type of game has been offered by several states including Illinois, Michigan, New Jersey, New York, and Pennsylvania. Generally, this type of game is simply an instant game where the winners of the instant game during the period the game is offered are also eligible for a grand prize. The names of a certain number of these instant game winners are chosen in a drawing as grand prize finalists. The finalists then draw a post position for a specific race. If the horse or greyhound they draw wins, they win the grand prize.

Other versions of the sweepstakes have been used. In the traditional form of the Irish Sweepstakes there would be four or five drawings per year. The names drawn would be matched with horses entered in a particular race. The amount you win depends on where your horse finishes. The New Hampshire Sweepstakes was operated in a similar manner in its early years.

Two other types of sweepstakes based on races have been offered in the past in the United States and Canada. In these sweepstakes games, the players bought a ticket which had a pre-printed number. The winning ticket number was determined by either the finishing post positions in a single race or by the winning post positions in a series of races held on a particular day.

Beano. Beano is basically another name for bingo. Its connection to state lotteries is that the Massachusetts State Lottery has a beano division which licenses and oversees the gaming operations (beano, raffles, bazaars, etc.) of charitable non-profit organizations. Massachusetts levies a five percent tax on the gross receipts of these organizations and also sells them lottery tickets. The organizations resell the tickets at their game nights. The New Hampshire Sweepstakes Commission has recently been granted similar statutory responsibility over charitable gaming activities in that state.

Revenue Potential

During the course of the committee hearings, the committee received an estimate on potential lottery revenues from Alan Charnes, executive director of the Department of Revenue. Mr. Charnes

estimated that the annual gross revenue from Colorado lottery sales would be \$60 million. This estimate was based on the assumptions that the lottery would annually sell sixty million tickets at one dollar each; only instant tickets would be sold; and there would be a different instant game offered during each quarter of the year. Any revenue forecasts for a proposed lottery should, however, be viewed with caution since data received by the committee indicated that lottery tickets sell much better in some states than in others. The same data also showed that lottery sales can fluctuate greatly from year to year within certain states.

Under the provisions of the bill recommended by the committee, fifty-five percent of gross revenues, an estimated \$33 million, would be returned to the players in the form of prizes. Based on the Revenue Department's projection that operating expenses would amount to approximately five percent (\$3 million) of gross revenues and assuming that sales agents would receive a five percent commission (\$3 million) on ticket sales, the lottery could be expected to net \$21 million of the projected \$60 million in gross revenues. A breakdown of the projected annual lottery revenues and expenditures appears below.

Projections

Annual Lottery Revenues and Expenditures

Gross		\$60,000,000
Less	\$33,000,000	Prize Disbursements (55%)
	3,000,000	Operating Expenses (5%)
	<u>3,000,000</u>	Sales Agents Commission (5%)
	\$39,000,000	
<u>NET</u>		<u>\$21,000,000</u> (35%)

Committee Testimony

Pro and Con Arguments

Most of the committee's time was devoted to hearing pro and con testimony on the establishment of a state lottery. One of the major opponents of the lottery was Professor G. Robert Blakey of the School of Law at the University of Notre Dame. Professor Blakey is a noted expert on organized crime and served in the mid 1970's as a consultant to the congressional Committee on the Review of the National Policy Toward Gambling. One of Professor Blakey's major contentions was that

legalized gambling creates an environment which encourages illegal gambling. Once people get accustomed to gambling in the legal lottery, they then become interested in illegal gambling because it offers credit, better odds of winning, and freedom from taxes. These were also the same reasons which Lieutenant Robert Cantwell of Colorado's Organized Crime Strike Force suggested to the committee as an explanation of the increase in illegal gambling in the ten lottery states he surveyed.

Other major assertions made by Professor Blakey were:

- 1) If a daily numbers game is offered which appeals to the poor and the revenues are earmarked for parks primarily used by the wealthier elements of society, the state is in essence taking money from the poor and giving it to the rich.
- 2) Since illegal lotteries do not exist in Colorado, a state lottery would be competing for discretionary income that people are now spending on other things. As a result, state and local governments would be losing sales tax revenue from such purchases.

In addition to the comments made by Professor Blakey, several other arguments were raised in opposition to the establishment of a state lottery. Robert Hildebrand of the Colorado Honor Band warned that instant and daily numbers types of lottery games would have a harmful effect on the games operated by charitable and non-profit organizations. He stated that if the fund raising efforts of these organizations are hindered, they would not be able to perform certain charitable deeds. Lieutenant Cantwell contended that the increase in illegal gambling resulting from a lottery would increase law enforcement costs. Finally, a committee member suggested that the people believed they were voting for a sweepstakes, that is a contest based on a horse or dog race, rather than a lottery.

Proponents of the lottery included the Colorado Municipal League, Colorado Counties, Inc., the Special District Association, the Colorado Parks and Recreation Association, and the Open Space Workgroup of the Colorado Front Range Project. The major arguments set forth by this group were:

- 1) The people have already spoken twice about this issue by voting for a lottery in 1976 and 1980.
- 2) There is a great need to expand park and recreation facilities because present facilities are already overcrowded. The lottery provides a means to acquire and develop new park and recreation areas and to fund needed capital improvements to recreational facilities without raising taxes.

The committee concurs with the points offered in support of establishing a state lottery. As for the arguments raised in opposition to the lottery, the committee has the following reactions:

- 1) The committee doubts that the establishment of a state lottery will spur an increase in illegal gambling. Committee members pointed out that the increases in illegal gambling cited by Lieutenant Cantwell could have been due to a host of other factors besides the existence of a state lottery. The committee is also skeptical that the typical lottery player will progress from buying a legitimate lottery ticket in his neighborhood store to placing bets with illegal operators. This view was supported by testimony from the Ohio Lottery director which indicated that people prefer the legal lottery because they are assured of being paid if they win.
- 2) On the question of certain lottery games diverting money from the poor to support the activities of the rich, the committee feels that this is an inaccurate scenario. All segments of society will be buying lottery tickets and all segments of society will utilize the new park and recreation facilities which are developed.
- 3) The committee believes that games sponsored by charitable and non-profit organizations will not be adversely affected by the institution of a state lottery under the provisions of Bill 4. The committee came to this conclusion after determining that the clientele who go to charitable games are attracted not only by the chance to win money at such games but also by the opportunities for socializing presented by these events. Furthermore, the committee received data showing that revenues for charitable organizations in Massachusetts have increased despite the presence of a state lottery. In addition, Bill 4 has been drafted so that the minimum price of lottery tickets would be one dollar. This provision resulted from testimony which indicated that the possible negative impact of an instant lottery game on instant charitable games could be mitigated if instant lottery tickets cost at least one dollar. Most instant charitable games presently cost less than one dollar; therefore, the more expensive lottery ticket presumably would not compete with the less expensive charitable game.
- 4) The committee believes that the people voted to establish a lottery, not a sweepstakes. Although the 1976 ballot proposal provided for the creation of a sweepstakes based on horse or dog races, the committee is of the opinion that the general public was unaware of the technical differences between a sweepstakes and a lottery. In essence, the people thought they were voting for a lottery of the kind present in fifteen other states.

Lottery Operations

During the course of the interim, committee members heard extensive testimony regarding the establishment of a state lottery. In addition to the pro and con arguments described above, the

committee also received an explanation of actual lottery operations from the Ohio Lottery director and the former Michigan Lottery director. Both directors assured the committee that their respective lotteries are functioning very well. Furthermore, the Ohio Lottery director asserted that any problems which could arise involving the infiltration of the lottery staff by criminal elements could be avoided by good internal security and the adoption of statutes which prohibit the hiring of certain types of criminals.

Committee Recommendation

After hearing all of the testimony, the committee concluded that a state lottery should be established and therefore recommends Bill 3. The committee has three main reasons for adopting this position. First, the committee believes that the will of the people was manifested in two votes on this issue and should be followed. Second, it is apparent to the committee that with Colorado's projected population growth there is and will continue to be a great need for new park and recreation areas as well as capital improvements to existing recreational sites. The committee views the proposed lottery as an appropriate and viable mechanism which can be used to generate funds for this worthy purpose. Finally, the committee feels that it has incorporated the necessary safeguards in the bill which will prevent the infiltration of lottery operations by criminal elements and which will mitigate the possible adverse effect a lottery may have on charitable games.

Provisions of Bill 4

Bill 4 would establish a state lottery division in the Department of Revenue to administer the state lottery. The day-to-day operations of the lottery would be run by the director of this division, while the Colorado Lottery Commission would be responsible for setting lottery policy. Annual net revenues below a threshold amount would be placed in the Conservation Trust Fund for distribution to eligible local governments and park and recreation districts. If the threshold amount is attained, up to ten percent of the net revenues exceeding the threshold amount would be earmarked for the Division of Parks and Outdoor Recreation. The following is a more detailed description of the major provisions of the lottery bill.

Director. The lottery director would head a state lottery division in the Department of Revenue. The director would be appointed by, and subject to removal by, the executive director of the Department of Revenue. Pursuant to the committee's concern that criminal elements be excluded from lottery staff positions, the bill also stipulates that the person appointed as director must be of good character and free of any felony or gambling-related convictions.

The director would be responsible for directing and supervising all of the administrative and technical activities of the lottery. His duties would include:

- issuing, suspending, revoking and renewing licenses for sales agents according to the appropriate statutory provisions and commission rules and regulations;
- advising and conferring with the commission;
- entering into contracts, with the concurrence of the commission or pursuant to commission requirements, for materials, equipment, supplies, and services;
- furnishing monthly statements on lottery revenues, prize disbursements and operating expenses to the State Treasurer and the commission; and
- annually preparing and submitting a proposed budget to the commission for its approval.

Commission. The Colorado Lottery Commission would be composed of five members appointed by the Governor with the consent of the Senate. Any person convicted of a felony or gambling-related offense would be ineligible for membership on the commission. Other important provisions regarding the commission are:

- each member would have to file a financial disclosure statement every year with the Secretary of State;
- no more than three of the five members could be from the same political party;
- at least one attorney, law enforcement officer and certified public accountant would have to be appointed to the commission;
- the chairman and vice-chairman of the commission would be chosen from the membership by a majority of the members at the first meeting each fiscal year;
- for their services commission members would receive a \$150 per diem and would be reimbursed for necessary travel and expenses; and
- the commission would be required to hold at least one meeting per month.

The commission would also be granted the power to promulgate rules and regulations governing the establishment and operation of a state lottery. The subjects of the rules and regulations which the commission would be empowered to promulgate include:

- the types of lottery games to be conducted, except that any game based on bingo or an athletic contest would not be allowed and any sweepstakes game would have to be approved by the Colorado Racing Commission;
- ticket prices;
- the numbers and sizes of the prizes;
- the types of locations at which tickets may be sold;
- the manner and amount of compensation, if any, to be paid licensed sales agents; and
- the allocation of revenues among prizes, operating expenses and the Conservation Trust Fund.

Revenues. Lottery revenues would be placed in a special lottery fund in the State Treasurer's office. After June 30, 1983, expenses of the lottery would be paid from the lottery fund only as appropriated by the General Assembly. Net revenues would be transferred to the Conservation Trust Fund prior to August 15 each year. However, the lottery would be obligated to repay its \$2 million state loan with interest before any such transfer could take place.

Conservation Trust Fund. Annual net lottery revenues totaling less than \$10 million would be distributed to eligible local governments and park and recreation districts for the acquisition, development and maintenance of new park and recreation areas or for capital improvements to recreational sites. At least ninety percent of the net revenues in excess of \$10 million would be distributed in this same fashion, but ten percent or less of the net revenue in excess of \$10 million would be allocated to the state Division of Parks and Outdoor Recreation. The inclusion of the state Division of Parks and Outdoor Recreation in the revenue distribution formula resulted from the committee's determination that state parks and recreation areas are also in need of additional revenue, that such areas benefit all of the residents of Colorado, and that such areas offer facilities which are often not provided on the local level.

Ticket prices. The price of a lottery ticket would have to be at least one dollar. The actual price would be set by the commission. As mentioned earlier, the committee feels that the one dollar floor on ticket prices would mitigate any harmful effect a lottery might possibly have on charitable games.

Sales agents. The director would have the power to issue, suspend, revoke, and renew licenses for sales agents pursuant to rules and regulations adopted by the commission. Those rules and regulations would include requirements relating to the financial responsibility of the licensee, the accessibility of the licensee's place of business or activity, the sufficiency of existing licenses to serve the public interest, the volume of expected sales, the character

of the licensee, and the security and efficient operation of the lottery.

In keeping with the committee's desire to protect the lottery from infiltration by criminal elements, felons and gamblers are prohibited from becoming sales agents. In addition, no license may be granted to a person who would engage exclusively in the business of selling lottery tickets.

Gaming supply companies. Companies which would supply gaming materials or equipment would have to comply with certain disclosure requirements. The committee is of the opinion that this requirement would help in assessing whether the company in question has any criminal ties or is engaged in any questionable activities.

Publication of odds. Any promotional advertising paid for by the state would have to display the odds of winning. This provision was incorporated into the bill because the committee feels that people playing the lottery should be cognizant of their chances of winning.

Audits and annual reports. The lottery fund would be audited at least once a year by or under the direction of the State Auditor. A report of the audit would have to be submitted to the Legislative Audit Committee. In addition, the commission and director would be required to make an annual report by March 1 of each year to the Governor, the General Assembly, and the Legislative Audit Committee.

Sunset provisions. Unless reestablished by the General Assembly, the state lottery division would terminate on July 1, 1987. The life of the division may be continued by the General Assembly for a period not to exceed five years. In addition to the usual statutory provisions regarding legislative review of rules and regulations, all lottery rules and regulations would expire on July 1, 1985.

Appropriation. The executive director of the Department of Revenue estimated that the cost of setting up the lottery would be \$2 million. Consequently, a loan for that amount would be appropriated from the special reserve fund created for tax relief.

Effective date. The bill would become effective upon enactment, however, the appropriation would not be allocated until July 1, 1982.

BILL 4

A BILL FOR AN ACT

1 CONCERNING THE IMPLEMENTATION OF A STATE-SUPERVISED LOTTERY
2 PROGRAM REQUIRING THE NET PROCEEDS THEREOF TO BE DIRECTED
3 EXCLUSIVELY TO THE CONSERVATION TRUST FUND FOR
4 DISTRIBUTION FOR PARK, RECREATION, AND OPEN SPACE
5 PURPOSES, AND MAKING AN APPROPRIATION THEREFOR.

Bill Summary

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

Creates the state lottery division in the department of revenue to administer the state lottery. Creates the Colorado lottery commission as the policy-making body within the division. Authorizes the commission to determine the types of games to be offered in the lottery but prohibits any game based upon bingo or athletic contests. Creates the lottery fund in the office of the state treasurer for receipt of lottery revenues. Provides that proceeds of the lottery, after deduction of prize money and expenses, shall be transferred to the conservation trust fund once the initial appropriation for expenses of the division is repaid to the general fund. Allows special districts which provide only park and recreation services to share in conservation trust fund moneys. Also allows the division of parks and outdoor recreation in the department of natural resources to receive a portion of net lottery revenues in the conservation trust fund, subject to such revenues reaching a threshold amount. Requires disclosure from contractors supplying lottery equipment, and requires licensing of lottery ticket sales agents. Makes alteration or fabrication of lottery tickets a

crime of second degree forgery. Prohibits purchase by or sale to a person under eighteen years of age of lottery tickets or shares. Sets forth other unlawful acts and the penalties therefor. Sunsets the state lottery division and requires review of commission rules. Repeals the never-enforced "Sweepstakes Races Act".

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

2 SECTION 1. Article 35 of title 24, Colorado Revised
3 Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW
4 PART to read:

5 PART 2

6 STATE LOTTERY DIVISION

7 24-35-201. Definitions. As used in this part 2, unless
8 the context otherwise requires:

9 (1) "Commission" means the Colorado lottery commission.

10 (2) "Director" means the director of the state lottery
11 division.

12 (3) "Division" means the state lottery division.

13 (4) "Executive director" means the executive director of
14 the department of revenue.

15 (5) "Lottery" means any lottery created and operated
16 pursuant to this part 2.

17 24-35-202. State lottery division - creation.

18 (1) There is hereby created, within the department of
19 revenue, the state lottery division, the head of which shall
20 be the director of the state lottery division, who shall be
21 appointed by, and who shall be subject to removal by, the

1 executive director of the department of revenue in accordance
2 with section 13 of article XII of the state constitution.

3 (2) The state lottery division, including the Colorado
4 lottery commission created in section 24-35-207, and the
5 director of the state lottery division shall exercise their
6 powers and perform their duties and functions specified in
7 this part 2 under the department of revenue as if the same
8 were transferred to the department by a type 1 transfer, as
9 such transfer is defined in the "Administrative Organization
10 Act of 1968", article 1 of this title.

11 24-35-203. Function of division. The function of the
12 division is to establish, operate, and supervise the lottery
13 authorized by section 2 of article XVIII of the state
14 constitution, as approved by the electors at the 1980 general
15 election.

16 24-35-204. Director - qualifications - powers and
17 duties. (1) The director shall be qualified by training and
18 experience to direct a lottery and the work of the division;
19 and, notwithstanding the provisions of section 24-5-101, shall
20 be of good character and shall not have been convicted of any
21 felony or gambling-related offense.

22 (2) The director shall devote his entire time and
23 attention to the duties of his office and shall not be engaged
24 in any other profession or occupation.

25 (3) The director, as administrative head of the
26 division, shall direct and supervise all its administrative

1 and technical activities. In addition to the duties imposed
2 upon him elsewhere in this part 2, it shall be his duty:

3 (a) To supervise and administer the operation of the
4 lottery in accordance with the provisions of this part 2 and
5 the rules and regulations of the commission;

6 (b) To attend meetings of the commission or to appoint a
7 designee to attend in his place;

8 (c) To employ and direct such personnel as may be
9 necessary to carry out the purposes of this part 2, but no
10 person shall be employed who has been convicted of a felony or
11 gambling-related offense, notwithstanding the provisions of
12 section 24-5-101. The director by agreement may secure and,
13 pursuant to section 24-35-210 (2), provide payment for such
14 services as he may deem necessary from any department, agency,
15 or unit of the state government and may employ and compensate
16 such consultants and technical assistants as may be required
17 and as otherwise permitted by law.

18 (d) To license, in accordance with the provisions of
19 section 24-35-206 and the rules and regulations of the
20 commission, as agents to sell lottery tickets such persons as
21 in his opinion will best serve the public convenience and
22 promote the sale of tickets or shares;

23 (e) To suspend or revoke any license issued pursuant to
24 this part 2, subject to the provisions of section 24-4-104;

25 (f) To confer, as necessary or desirable and not less
26 than once each month, with the commission on the operation of

1 the lottery;

2 (g) To make available for inspection by the commission
3 or any member of the commission, upon request, all books,
4 records, files, and other information and documents of his
5 office;

6 (h) To advise the commission and recommend such rules
7 and regulations and such other matters as he deems necessary
8 and advisable to improve the operation of the lottery;

9 (i) With the concurrence of the commission or pursuant
10 to commission requirements and procedures, to enter into
11 contracts for materials, equipment, and supplies to be used in
12 the operation of the lottery, for the design and installation
13 of games or lotteries, and for promotion of the lottery. No
14 contract shall be legal or enforceable which provides for the
15 entire operation or management of the lottery or of its games
16 by any private person, firm, or corporation.

17 (j) To make a continuous study and investigation of the
18 operation and the administration of similar laws which may be
19 in effect in other states or countries, any literature on the
20 subject which from time to time may be published or available,
21 and any federal laws which may affect the operation of the
22 lottery, and the reaction of Colorado citizens to existing and
23 potential features of the lottery with a view to recommending
24 or effecting changes that will tend to serve the purposes of
25 this part 2;

26 (k) To furnish monthly to the state treasurer and the

1 commission a full and complete statement of lottery revenues,
2 prize disbursements, and other expenses for each month. All
3 reports required by this paragraph (k) shall be public, and
4 copies of all such reports shall be sent to the governor, the
5 speaker of the house of representatives, the president of the
6 senate, and the minority leaders of both houses.

7 (l) To annually prepare and submit to the commission,
8 for its approval, a proposed budget for the ensuing fiscal
9 year, which budget shall present a complete financial plan
10 setting forth all proposed expenditures and anticipated
11 revenues of the division. The fiscal year of the division
12 shall commence on July 1 and end on June 30 of each year. For
13 the fiscal year commencing July 1, 1982, the director shall
14 prepare a proposed budget and shall submit it to the
15 commission for approval by the commission at the earliest
16 feasible time.

17 (m) To take such action as may be necessary to protect
18 the security and integrity of the lottery games;

19 (n) To determine the manner of payment of prizes to the
20 holders of winning tickets or shares;

21 (o) To determine such other matters as necessary or
22 desirable for the efficient and economical operation and
23 administration of the lottery; and

24 (p) To perform any other lawful acts which he and the
25 commission may consider necessary or desirable to carry out
26 the purposes and provisions of this part 2.

1 24-35-205. Contractors supplying gaming equipment -
2 disclosures. (1) Any person, firm, association, or
3 corporation (referred to in this section as "supplier") which
4 enters into a contract to supply gaming materials or equipment
5 for use in the operation of the state lottery shall first
6 disclose:

7 (a) In addition to the supplier's business name and
8 address, the names and addresses of the following:

9 (I) If the supplier is a partnership, all of the general
10 and limited partners;

11 (II) If the supplier is a trust, the trustee and all
12 persons entitled to receive income or benefit from the trust;

13 (III) If the supplier is an association, the members,
14 officers, and directors;

15 (IV) If the supplier is a corporation, the officers,
16 directors, and each owner or holder, directly or indirectly,
17 of any equity security or other evidence of ownership of any
18 interest in such corporation; except that, in the case of
19 owners or holders of publicly held equity securities of a
20 publicly traded corporation, only the names and addresses of
21 those owning or holding five percent or more of such publicly
22 held securities need be disclosed;

23 (V) If the supplier is a subsidiary or intermediary
24 company, the intermediary company or holding company involved
25 therewith, and the officers, directors, and stockholders of
26 each; except that, in the case of owners or holders of

1 publicly held securities of an intermediary company or holding
2 company that is a publicly traded corporation, only the names
3 and addresses of those owning or holding five percent or more
4 of such publicly held securities need be disclosed;

5 (b) If the supplier is a corporation, all the states in
6 which the supplier is incorporated to do business, and the
7 nature of that business;

8 (c) Other jurisdictions in which the supplier has
9 contracts to supply gaming materials or equipment;

10 (d) The details of any conviction, state or federal, of
11 the supplier or any person whose name and address are required
12 by paragraph (a) of this subsection (1) of a criminal offense
13 punishable by imprisonment for more than one year;

14 (e) The details of any disciplinary action taken by any
15 state against the supplier or any person whose name and
16 address are required by paragraph (a) of this subsection (1)
17 regarding any matter related to the selling, leasing, offering
18 for sale or lease, buying, or servicing of gaming materials or
19 equipment;

20 (f) A statement of the gross receipts realized in the
21 preceding year from the sale, lease, or distribution of gaming
22 materials or equipment to states operating lotteries and to
23 private persons licensed to conduct gambling, which statement
24 shall differentiate that portion of the gross receipts
25 attributable to transactions with states operating lotteries
26 from that portion of the gross receipts attributable to

1 transactions with private persons licensed to conduct
2 gambling;

3 (g) The name and address of any source of gaming
4 materials or equipment for the supplier;

5 (h) The number of years the supplier has been in the
6 business of supplying gaming materials or equipment;

7 (i) Such other information, accompanied by such
8 documents, as the commission, by rule or regulation, may
9 require as being necessary or appropriate in the public
10 interest to accomplish the purposes of this part 2.

11 (2) No person, firm, association, or corporation
12 contracting to supply gaming equipment or materials to the
13 state for use in the operation of the state lottery shall be
14 directly or indirectly connected with any person, firm,
15 association, or corporation licensed as a sales agent under
16 this part 2.

17 (3) No contract for the supply of gaming materials or
18 equipment for use in the operation of the state lottery shall
19 be enforceable against the state if the provisions of this
20 section are not complied with.

21 24-35-206. Licenses. (1) The director shall issue,
22 suspend, revoke, and renew licenses for lottery sales agents
23 pursuant to rules and regulations adopted by the commission.
24 Licensing rules and regulations shall include requirements
25 relating to the financial responsibility of the licensee, the
26 accessibility of the licensee's place of business or activity

1 to the public, the sufficiency of existing licenses to serve
2 the public interest, the volume of expected sales, the
3 character of the licensee, the security and efficient
4 operation of the lottery, and other matters necessary to
5 protect the public interest and trust in the lottery and to
6 further the sales of lottery tickets or shares. Rules and
7 regulations shall also require that licenses be prominently
8 displayed in areas visible to the public and may require
9 bonding of licensed sales agents.

10 (2) Rules and regulations adopted pursuant to this
11 section shall set forth grounds for the suspension,
12 revocation, or nonrenewal of licenses. Such grounds shall
13 include, but shall not be limited to, the providing of false
14 or misleading information to the division, any violation of
15 this part 2 or any rule or regulation adopted pursuant to this
16 part 2, a change of business location, an insufficient sales
17 volume, a delinquency in remitting money owed to the lottery,
18 the conviction of any felony or gambling-related offense
19 notwithstanding the provisions of section 24-5-101, the
20 endangering of the security or efficient operation of the
21 lottery, or a determination made notwithstanding the
22 provisions of section 24-5-101 that the licensee's character
23 is no longer consistent with the protection of the public
24 interest and trust in the lottery. Procedures for suspension
25 and revocation shall be as set forth in article 4 of this
26 title.

1 (3) The director shall have all the powers and shall be
2 subject to all the requirements of article 4 of this title in
3 conducting any hearings relating to the granting, suspension,
4 revocation, or renewal of licenses.

5 (4) Licensed sales agents may include persons, firms,
6 associations, or corporations, profit or nonprofit, but the
7 following are ineligible for any license as a sales agent:

8 (a) Any person who will engage in business exclusively
9 as a lottery sales agent;

10 (b) Any person who has been convicted of a felony or
11 gambling-related offense, notwithstanding the provisions of
12 section 24-5-101;

13 (c) Any person who is or has been a professional gambler
14 or gambling promoter;

15 (d) Any person who has engaged in bookmaking or any
16 other form of illegal gambling;

17 (e) Any person who is not of good character and
18 reputation, notwithstanding the provisions of section
19 24-5-101, in the community in which he resides;

20 (f) Any person who has been convicted of a crime
21 involving fraud or misrepresentation, notwithstanding the
22 provisions of section 24-5-101;

23 (g) Any firm or corporation in which a person defined in
24 paragraph (b), (c), (d), (e), or (f) of this subsection (4)
25 has a proprietary, equitable, or credit interest of five
26 percent or more;

1 (h) Any organization in which a person defined in
2 paragraph (b), (c), (d), (e), or (f) of this subsection (4) is
3 an officer, director, or managing agent, whether compensated
4 or not; or

5 (i) Any organization in which a person defined in
6 paragraph (b), (c), (d), (e), or (f) of this subsection (4) is
7 to participate in the management or sales of lottery tickets
8 or shares.

9 24-35-207. Colorado lottery commission - creation.

10 (1) There is hereby created, within the state lottery
11 division, the Colorado lottery commission, consisting of five
12 members, all of whom shall be citizens of the United States
13 and residents of this state, appointed by the governor, with
14 the consent of the senate. No member shall have been
15 convicted of a felony or gambling-related offense,
16 notwithstanding the provisions of section 24-5-101. No more
17 than three of the five members shall be members of the same
18 political party. A chairman and a vice-chairman of the
19 commission shall be chosen from the membership by a majority
20 of the members at the first meeting each fiscal year.

21 (2) At least one member of the commission shall have
22 been a law enforcement officer for not less than five years;
23 at least one member shall be an attorney admitted to the
24 practice of law in Colorado for not less than five years; and
25 at least one member shall be a certified public accountant who
26 has practiced accountancy in Colorado for at least five years.

1 (3) Initial members shall be appointed to the commission
2 by the governor as follows: One member to serve until July 1,
3 1983, one member to serve until July 1, 1984, one member to
4 serve until July 1, 1985, and two members to serve until July
5 1, 1986. All subsequent appointments shall be for terms of
6 four years, subject to continuation of the division pursuant
7 to section 24-35-218.

8 (4) Any vacancy on the commission shall be filled for
9 the unexpired term in the same manner as the original
10 appointment.

11 (5) Any member of the commission may be removed by the
12 governor at any time and for any reason.

13 (6) Commission members shall receive as compensation for
14 their services one hundred fifty dollars for each day they are
15 in attendance at any official commission meeting and shall be
16 reimbursed for necessary traveling and other reasonable
17 expenses incurred in the performance of their official duties.
18 Upon appointment, and prior to confirmation by the senate,
19 each member shall file with the secretary of state a financial
20 disclosure statement in the form required to be filed by
21 elected state officials. Such statement shall be renewed as
22 of each January 1 during the member's term of office.

23 (7) The commission shall hold at least one meeting each
24 month and such additional meetings as may be prescribed by
25 rules of the commission. In addition, special meetings may be
26 called by the chairman, any two commission members, or the

1 director, upon delivery of seventy-two hours' written notice
2 to each member. Notwithstanding the provisions of section
3 24-6-402, in emergency situations in which a majority of the
4 commission certifies that exigencies of time require that the
5 commission meet without delay, the requirements of public
6 notice and of seventy-two hours' written notice to members may
7 be dispensed with, and commission members as well as the
8 public shall receive such notice as is reasonable under the
9 circumstances.

10 (8) A majority of the commission shall constitute a
11 quorum, and the concurrence of a majority of the commission
12 shall be required for any final determination by the
13 commission. The commission shall keep a complete and accurate
14 record of all its meetings.

15 24-35-208. Commission - powers and duties. (1) In
16 addition to any other powers and duties set forth in this part
17 2, the commission shall have the following powers and duties:

18 (a) To promulgate rules and regulations governing the
19 establishment and operation of a state lottery as it deems
20 necessary to carry out the purposes of this part 2. The
21 director shall prepare and submit to the commission written
22 recommendations concerning proposed rules and regulations for
23 this purpose.

24 (b) To conduct hearings upon complaints charging
25 violations of this part 2 or rules and regulations promulgated
26 pursuant to this part 2, other than any hearings relating to

1 the granting, suspension, revocation, or renewal of licenses
2 for lottery sales agents, and to conduct such other hearings
3 as may be provided by rules of the commission;

4 (c) To carry on a continuous study and investigation of
5 the lottery throughout the state for the purpose of
6 ascertaining any defects in this part 2 or in the rules and
7 regulations issued under this part 2 whereby any abuses in the
8 administration and operation of the lottery or any evasion of
9 this part 2 or the rules and regulations may arise or be
10 practiced, for the purpose of formulating recommendations for
11 changes in this part 2 and the rules and regulations to
12 prevent such abuses and evasions, to guard against the use of
13 this part 2 and the rules and regulations as a cloak for the
14 carrying on of organized gambling and crime, and to insure
15 that the law and rules and regulations shall be in such form
16 and be so administered as to serve the true purposes of this
17 part 2;

18 (d) To report immediately to the governor, the attorney
19 general, the speaker of the house of representatives, the
20 president of the senate, the minority leaders of both houses,
21 and such other state officers, as from time to time the
22 commission deems appropriate, any matters which it deems to
23 require an immediate change in the laws of this state in order
24 to prevent abuses and evasions of this part 2 or rules and
25 regulations promulgated thereunder or to rectify undesirable
26 conditions in connection with the administration or operation

1 of the lottery; and

2 (e) To require such special reports from the director as
3 it may consider desirable.

4 (2) Rules and regulations promulgated pursuant to
5 subsection (1) of this section shall include, but shall not be
6 limited to, the following:

7 (a) The types of lotteries to be conducted, but no
8 lottery conducted under this part 2 shall be based upon the
9 game of chance commonly known as bingo, nor shall any lottery
10 be conducted which depends upon the outcome of any athletic
11 contest except races at state-licensed dog or horse tracks if
12 approved by the Colorado racing commission;

13 (b) The price of tickets or shares in the lottery, but
14 no ticket or share in any instant lottery shall be less than
15 one dollar;

16 (c) The numbers and sizes of the prizes on the winning
17 tickets or shares;

18 (d) The manner of selecting the winning tickets or
19 shares;

20 (e) The frequency of the drawing or selection of winning
21 tickets or shares, without limitation;

22 (f) Without limit to number, the types of locations at
23 which tickets or shares may be sold;

24 (g) The method to be used in selling tickets or shares;

25 (h) The manner and amount of compensation, if any, to be
26 paid licensed sales agents necessary to provide for the

1 adequate availability of tickets or shares to prospective
2 buyers and for the convenience of the public;

3 (i) The manner in which lottery sales revenues are to be
4 collected;

5 (j) The allocation of the total revenues accruing from
6 the sale of lottery tickets or shares and from all other
7 sources among:

8 (I) The payment of prizes to the holders of winning
9 tickets or shares;

10 (II) The payment of costs incurred in the operation and
11 administration of the lottery, including the expenses of the
12 division, the costs resulting from any contract or contracts
13 entered into for promotional, advertising, or operational
14 services or for the purchase or lease of lottery equipment and
15 materials, and the payment to the state general fund of the
16 sum provided for in section 24-35-210 (5); and

17 (III) The amount, determined pursuant to section
18 24-35-210 (4), to be transferred to the conservation trust
19 fund.

20 24-35-209. Conflict of interest. (1) Members of the
21 commission and employees of the division are declared to be
22 positions of public trust and, therefore, in order to insure
23 the confidence of the people of the state in the integrity of
24 the division, its employees, and the commission, the following
25 restrictions shall apply:

26 (a) No member of the commission or employee of the

1 division, including the director, shall have any personal
2 pecuniary interest in any lottery or in the sale of any
3 lottery tickets or shares. Employment by any political
4 subdivision, or service on the governing body or on any board,
5 agency, or commission of any political subdivision, which is
6 entitled to receive a portion of the proceeds of the lottery
7 shall not constitute an interest prohibited by this section,
8 except for the purposes of appointment to or service on the
9 commission.

10 (b) No member of the commission or employee of the
11 division, including the director, shall purchase any ticket
12 for any lottery conducted under this part 2, nor shall any
13 such person be eligible to receive any prize awarded in such a
14 lottery.

15 24-35-210. Lottery fund. (1) There is hereby created,
16 in the office of the state treasurer, the lottery fund. The
17 initial appropriation to the division, and all subsequent
18 revenues of the division not earlier paid as prizes, shall be
19 paid into the lottery fund. All expenses of the division
20 shall be paid from the lottery fund. For the purposes of this
21 section and section 24-35-208, "expenses" do not include
22 amounts expended for lottery prizes. Prizes for the lottery
23 shall be paid only from the lottery fund or from moneys
24 collected from the sale of lottery tickets or shares.

25 (2) In addition to the initial appropriation to the
26 division, all moneys paid into the lottery fund through June

1 30, 1983, shall be available immediately, without further
2 appropriation, for the purposes of said fund. After June 30,
3 1983, expenses of the division shall be paid from the lottery
4 fund only as appropriated by the general assembly.

5 (3) Upon request, it is the duty of the state treasurer
6 to report to the director or the commission the amount of
7 money on hand in the lottery fund. All accounts and
8 expenditures from the lottery fund shall be certified by the
9 director and paid by the state treasurer upon warrants drawn
10 by the controller. The controller is authorized as directed
11 to draw warrants payable out of the lottery fund upon vouchers
12 therefor properly certified. Any expenses of the state
13 treasurer and the controller incurred in the performance of
14 their functions under this section shall be paid from the
15 lottery fund.

16 (4) Prior to August 15 of each year, the commission
17 shall notify the state treasurer of the amount of money to be
18 transferred from the lottery fund to the conservation trust
19 fund, pursuant to section 2 of article XVIII of the state
20 constitution. The amount to be transferred shall be the net
21 proceeds of the lottery for the preceding fiscal year, after
22 payment of the expenses of the division and any prizes for the
23 lottery and after reserving sufficient moneys to ensure the
24 operation of the lottery for the ensuing year.

25 (5) No transfer shall take place pursuant to subsection
26 (4) of this section until two million dollars, plus an amount

1 equivalent to simple interest on two million dollars, computed
2 at the average interest rate earned on state investments for
3 the fiscal year preceding the date of the payment, is paid
4 into the state general fund.

5 (6) The state treasurer shall invest the moneys in the
6 lottery fund so long as said moneys are timely available to
7 pay the expenses of the division, to pay the prizes to the
8 lottery winners, and to make authorized transfers to the
9 conservation trust fund. Investments shall be those otherwise
10 permitted by state law, and interest or any other return on
11 the investments shall be paid into the lottery fund.

12 (7) The division shall be operated so that, after the
13 initial state appropriation, it shall be self-sustaining.

14 (8) No claim for the payment of any expense of the
15 division or the payment of any lottery prize can be made
16 unless it is against the lottery fund or against moneys
17 collected from the sale of lottery tickets or shares. No
18 other moneys of the state of Colorado shall be used or
19 obligated to pay the expenses of the division or prizes of the
20 lottery.

21 (9) The total disbursements for lottery prizes shall be
22 no less than fifty-five percent of the total revenue accruing
23 from the sale of lottery tickets or shares.

24 24-35-211. Audits and annual reports. (1) The lottery
25 fund shall be audited at least annually by or under the
26 direction of the state auditor, who shall submit a report of

1 the audit to the legislative audit committee. The expenses of
2 the audit shall be paid from the lottery fund.

3 (2) The commission and director shall make an annual
4 report by March 1 of each year to the governor, the general
5 assembly, and the legislative audit committee, which shall
6 include a summary of the division's activities for the
7 previous year, a statement of lottery revenues, prize
8 disbursements, expenses of the division, allocation of
9 remaining revenues, and any recommendations for change in the
10 statutes which the commission or director deems necessary or
11 desirable. The report shall be public.

12 24-35-212. Prizes. (1) The right of any person to a
13 prize is not assignable; except that payment of any prize may
14 be paid to the estate of a deceased prizewinner or to a person
15 pursuant to an appropriate judicial order.

16 (2) Unclaimed prizes shall be retained by the division
17 for the person entitled to such prize for three hundred
18 sixty-five days after the prize is available to be claimed.
19 Any person who fails to claim a prize during such time shall
20 forfeit all rights to the prize, and the amount of the prize
21 shall remain in the lottery fund.

22 (3) The division shall be discharged of all liability
23 upon the payment of any prize pursuant to this part 2.

24 (4) Any prize won by a person under eighteen years of
25 age who purchased a winning ticket in violation of section
26 24-35-214 (1) (c) shall be forfeited. If a person otherwise

1 entitled to a prize or a winning ticket is under eighteen
2 years of age, the director may direct payment of the prize by
3 delivery to an adult member of the minor's family or a
4 guardian of the minor of a check or draft payable to the order
5 of such minor.

6 24-35-213. Legal services. (1) The attorney general
7 shall provide legal services for the division and the
8 commission at the request of the director or the commission.
9 The attorney general shall make reasonable efforts to ensure
10 that there is continuity in the legal services provided and
11 that the attorneys providing legal services to the division
12 and the commission have expertise in such field.

13 (2) The director shall cause the attorney general to
14 make investigations and to prosecute and defend, on behalf of
15 and in the name of the division, suits and proceedings for any
16 of the purposes necessary and proper for carrying out the
17 functions of the division.

18 (3) Expenses of the attorney general incurred in the
19 performance of his responsibilities under this section shall
20 be paid from the lottery fund.

21 24-35-214. Unlawful acts. (1) It is unlawful for any
22 person:

23 (a) To sell a lottery ticket or share at a price greater
24 than or less than that fixed by the commission;

25 (b) To sell a lottery ticket or share unless authorized
26 or licensed by the director to do so, but this shall not

1 prevent lottery tickets or shares from being given as gifts;
2 (c) To sell a lottery ticket or share to any person
3 under eighteen years of age or for any person under eighteen
4 years of age to purchase a lottery ticket or share, but this
5 shall not prevent receipt of a lottery ticket or share given
6 as a gift to a person under eighteen years of age.

7 24-35-215. Penalties. (1) In addition to any other
8 penalties which may apply, any person violating any of the
9 provisions of section 24-35-209 or 24-35-214 is guilty of a
10 misdemeanor and, upon conviction thereof, shall be punished by
11 a fine of not more than five thousand dollars, or by
12 imprisonment in the county jail for not more than one year, or
13 by both such fine and imprisonment.

14 (2) Any person violating the sale restrictions of
15 section 24-35-214 (1) (c) may also be proceeded against
16 pursuant to section 19-3-119, C.R.S. 1973, for contributing to
17 the delinquency of a minor.

18 24-35-216. Publication of odds. Any promotional
19 advertising paid for by the state shall estimate, to the
20 extent possible, the odds of winning.

21 24-35-217. Other laws inapplicable. Any other state or
22 local law in conflict with this part 2 shall be inapplicable,
23 but this section shall not be construed to supersede or affect
24 the provisions of article 9 of title 12, C.R.S. 1973.

25 24-35-218. Division subject to termination - legislative
26 consideration of rules. (1) Unless continued or

1 reestablished by the general assembly acting by bill, the
2 division shall terminate on July 1, 1987. The life of the
3 division may be continued or reestablished by the general
4 assembly for a period not to exceed five years.

5 (2) (a) Unless extended by the general assembly acting
6 by bill, all of the rules and regulations of the commission
7 shall expire on July 1, 1985.

8 (b) Rules and regulations of the commission are subject
9 to expiration pursuant to sections 24-4-103 (8) (c) (I) and
10 24-4-108 (5) (d).

11 SECTION 2. 18-5-103 (1) (d), Colorado Revised Statutes
12 1973, 1978 Repl. Vol., is amended, and the said 18-5-103 (1)
13 is further amended BY THE ADDITION OF A NEW PARAGRAPH, to
14 read:

15 18-5-103. Second degree forgery. (1) (d) Part of an
16 issue of tokens, transfers, certificates, or other articles
17 manufactured and designed for use in transportation fees upon
18 public conveyances, or as symbols of value useable in place of
19 money for the purchase of property or services available to
20 the public for compensation; OR

21 (e) Part of an issue of lottery tickets or shares
22 designed for use in the lottery held pursuant to part 2 of
23 article 35 of title 24, C.R.S. 1973.

24 SECTION 3. 24-1-117 (4), Colorado Revised Statutes 1973,
25 as amended, is amended to read:

26 24-1-117. Department of revenue - creation. (4) The

1 department of revenue shall consist of the following
2 divisions: Division of enforcement, motor vehicle division,
3 ports of entry division, liquor enforcement division, STATE
4 LOTTERY DIVISION, and such other divisions, sections, and
5 units as the executive director of the department of revenue
6 may create pursuant to section 24-35-103.

7 SECTION 4. 29-21-101 (1) (b), (2) (a), and (2) (b),
8 Colorado Revised Statutes 1973, 1977 Repl. Vol., as amended,
9 are REPEALED AND REENACTED, WITH AMENDMENTS, to read:

10 29-21-101. Conservation trust funds. (1) (b) "Eligible
11 entity" means a county, municipality, or special district
12 which has created a conservation trust fund pursuant to this
13 section and which has certified to the department of local
14 affairs that it has created such fund.

15 (2) (a) (I) There is hereby created in the division of
16 local government in the department of local affairs the
17 conservation trust fund.

18 (II) If net revenues from the state lottery exceed ten
19 million dollars per year, the general assembly shall apportion
20 a percentage of the conservation trust fund to the division of
21 parks and outdoor recreation in the department of natural
22 resources in the annual general appropriation bill for capital
23 improvements to and development of state parks, state
24 recreation areas, and recreational trails or for acquisition
25 of state parks, state recreation areas, and recreational
26 trails, but all acquisitions or interests in such acquisitions

1 shall require separate approval of the general assembly for
2 the amount appropriated. The amount apportioned to the
3 division of parks and outdoor recreation for such purposes
4 shall not be more than ten percent of the amount by which net
5 proceeds of the lottery transferred to the conservation trust
6 fund exceed ten million dollars.

7 (III) Each county share shall be apportioned according
8 to that percentage which the population of each county is to
9 the total population of all counties, and, within each county,
10 each municipality's share shall be apportioned according to
11 the percentage which the population within each municipality
12 is to the total population of the county in which such
13 municipality is located. Each special district's share shall
14 be determined as follows:

15 (A) The special district's share relating to the
16 unincorporated area of the county in which all or part of such
17 special district is located shall be apportioned according to
18 one-half of the percentage which the population of the special
19 district's unincorporated area is to the total population of
20 the unincorporated area of the county; and

21 (B) The special district's share relating to the
22 incorporated area of the county in which all or part of such
23 special district is located shall be one-half of the
24 percentage which the population of the special district's
25 incorporated area is to the total population of the
26 municipality in which the special district's incorporated area

1 is located.

2 (b) The division of local government in the department
3 of local affairs shall annually determine the eligible
4 entities and shall distribute eligible entity shares on or
5 before September 1 of each year, in the following manner:

6 (I) To each eligible county, its share, less the share
7 of all eligible municipalities and special districts located
8 within the county;

9 (II) To each eligible municipality, its share of the
10 county share, less the shares of any eligible special
11 districts located within the municipality;

12 (III) To each eligible special district, its
13 proportionate share of the county and municipal share; and

14 (IV) To each eligible county, municipality, and special
15 district, its proportionate share of any ineligible county
16 share, less the shares of any eligible municipalities and
17 special districts within the ineligible county.

18 SECTION 5. 29-21-101 (1), Colorado Revised Statutes
19 1973, 1977 Repl. Vol., is amended BY THE ADDITION OF THE
20 FOLLOWING NEW PARAGRAPHS to read:

21 29-21-101. Conservation trust funds.

22 (1) (g) "Recreational trails" means the recreational trails
23 provided for in article 42 of title 33, C.R.S. 1973.

24 (h) "Special district" means a park and recreation
25 district or a special district which is organized solely to
26 provide park or recreation facilities or programs and does not

1 include any special district which is authorized by statute to
2 provide or which is providing any other types of facilities or
3 services.

4 (i) "State park" means a state park as defined in
5 section 33-1-102 (37), C.R.S. 1973.

6 (j) "State recreation area" means a state recreation
7 area as defined in section 33-1-102 (38), C.R.S. 1973.

8 SECTION 6. 29-21-101 (4), (5), and (6), Colorado Revised
9 Statutes 1973, 1977 Repl. Vol., as amended, are amended to
10 read:

11 29-21-101. Conservation trust funds. (4) All moneys
12 received from the state by each ~~eligible-county-or-eligible~~
13 ~~municipality~~ ELIGIBLE ENTITY pursuant to this section shall be
14 deposited in its conservation trust fund and shall be expended
15 only for the acquisition, development, and maintenance of new
16 conservation sites or for capital improvements for
17 recreational purposes on any public site. An ~~eligible--county~~
18 ~~or--municipality~~ ELIGIBLE ENTITY may deposit other moneys
19 appropriated for similar purposes in its conservation trust
20 fund to be expended as authorized in this subsection (4).

21 (5) In the utilization of moneys received pursuant to
22 this section, each ~~eligible--county---and---each---eligible~~
23 ~~municipality~~ ELIGIBLE ENTITY may cooperate or contract with
24 any other government or political subdivision, pursuant to
25 part 2 of article 1 of this title. Such cooperation may
26 include the sharing of moneys held by any such entities in

1 their respective conservation trust funds for joint
2 expenditures for the acquisition, development, and maintenance
3 of new conservation sites.

4 (6) On forms supplied by the division of local
5 government in the department of local affairs, each ~~eligible~~
6 ~~county-and-municipality~~ ELIGIBLE ENTITY shall annually submit
7 to the division of local government in the department of local
8 affairs a statement showing the total amount of state moneys
9 in its local conservation trust fund, the amount of any state
10 moneys encumbered or expended from such fund since the
11 previous year's report, and the purpose of the encumbrance or
12 expenditure.

13 SECTION 7. Repeal. Article 60.1 of title 12, Colorado
14 Revised Statutes 1973, 1978 Repl. Vol., is repealed.

15 SECTION 8. Appropriation. In addition to any other
16 appropriation, there is hereby appropriated, out of any moneys
17 in the special reserve fund created for tax relief not
18 otherwise appropriated, to the department of revenue for
19 allocation to the state lottery division, for the fiscal year
20 beginning July 1, 1982, the sum of two million dollars
21 (\$2,000,000), or so much thereof as may be necessary, to be
22 used for the authorized purposes of the lottery fund.

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

LEGISLATIVE COUNCIL
COMMITTEE ON STATE WAGE SURVEY

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SUMMARY OF COMMITTEE ACTIVITIES,
RECOMMENDATIONS, AND FINDINGS

Introduction

Senate Bill 338, 1981 Session

Senate Bill 338, 1981 Session, dealt with several workmen's compensation problems, and as introduced, attempted to resolve what the bill's sponsors and others considered to be the inflated average weekly wage caused by a change in the Bureau of Labor Statistics' survey methodology. Initially, the bill proposed repealing the existing law and inserting a new provision requiring the General Assembly to, by law, biennially set the average weekly wage. Apparently this approach was deemed unsatisfactory and the bill as adopted provided that the state's 1981-1982 average weekly wage could not be increased more than seven percent over \$305.81 (the average weekly wage set for the period ending June 30, 1981). The bill also provided that the Legislative Council appoint an interim committee to, "... study the methods employed in establishing the average weekly wage which takes effect July 1, 1981.". The paragraph containing the seven percent limitation and the study directive is automatically repealed July 1, 1982.

Background

Under the "Workmen's Compensation Act of Colorado", workmen's compensation benefits are based, in part, on an annually calculated state "average weekly wage". That is, any worker injured on the job is entitled to receive benefits equal to two-thirds of his or her weekly wage, but not more than eighty percent of the "average weekly wage" paid to employees throughout Colorado.

Colorado statutes provide that the average weekly wage is to be determined by the average weekly earnings in selected industries in the state, as published by the United States Bureau of Labor Statistics, weighted by the numbers of employees in each of the selected industries. Once the Division of Employment and Training computes the average weekly wage, that amount becomes the basis for determining the maximum benefits that will be paid during each twelve-month period beginning July 1.

Historically, the United States Bureau of Labor Statistics surveyed roughly eight industries to obtain the data used in calculating the average weekly wage. However, in the 1978-1979 fiscal year, the bureau began using only two industries, construction and manufacturing, in the survey. In making the survey to determine the average weekly wage, the bureau sends questionnaires to a number of employers in each industry. The employer is asked to complete the survey voluntarily and return the data. In 1978-1979 insufficient

data was returned from all industries except the construction and manufacturing segments. Because the statistical measuring criteria used by the bureau are standardized, their sampling needs require that those industries with inadequate returns of wage data be eliminated; thus, the only alternative available was to use the data on wages supplied by the two industries -- construction and manufacturing. The net effect of excluding all but the two industries was that the 1979 average weekly wage increased 28.3 percent over the 1978 average.

Recent figures from the state's Division of Employment and Training indicate that the manufacturing and construction industries comprise only 14.1 and 6.0 percent of the state's work force respectively. Thus, the bureau's survey includes essentially only 20.1 percent of all employees statewide. Since the department's data indicate that wages in these two industries tend to be substantially higher than other industries such as wholesale and retail (23.7%), and services (19.7%), their sole use tends to overstate the actual average weekly wage. Indeed, the state's Division of Employment and Training conducts a separate wage survey of all unemployment insurance covered employers. For the period beginning July 1, 1981, that survey determined that the average weekly wage, based on all unemployment insurance covered industries, is \$283.27, whereas the average weekly wage based on the two-industry survey would be \$336.45 -- an 18.8 percent higher figure.

Methods Used in Other States

In reviewing the problem raised by Senate Bill 338, the Colorado Department of Labor and Employment provided the committee with a review and discussion of the workings of the existing statute and a review of the methods used in other states to determine the average weekly wage to set workmen's compensation maximum benefits. The department said:

It should be noted that the State Average Weekly Wage merely places a ceiling upon the amount of weekly disability benefits a worker can receive under the Workmen's Compensation Act. Workers whose wages are less than the State Average Weekly Wage will receive 2/3 of their average weekly wages while industrially disabled workers whose wages exceed 120 percent of the State Average Weekly Wage will receive 80 percent of the State Average Weekly Wage which is actually less than 2/3 of their average weekly wages at the time of an industrial accident.

Unfortunately, data which illustrate the number of workers who actually receive less than 2/3 of their average weekly wages while industrially disabled are not available at the time of this writing.

According to the 1981 edition of the Analysis of

Workers' Compensation Laws published by the U.S. Chamber of Commerce, 40 states and territories (including Colorado) base maximum compensation benefits upon a percentage of the state average weekly wage.

A recent U.S. Department of Labor survey reveals that 34 states' statutes provide for a maximum weekly benefit in excess of 2/3 of the state average weekly wage, 10 states' statutes contain no maximum, 4 states' statutes provide for a maximum weekly benefit equivalent to 2/3 of the state average weekly wage and 2 states' statutes provide for a maximum weekly benefit equivalent to less than 2/3 of the state average weekly wage.

A review of Workers' Compensation statutes for 30 states by the Division of Labor indicated that most states defer determination of the state average weekly wage to the state division of employment security (or its equivalent), which administers the state's unemployment insurance statute.

Of the states reviewed, only Connecticut designates specific industries to be considered in calculating wages, and it should be noted that the Connecticut statute does not base its compensation rate on the "state average weekly wage", but rather on the "average weekly earnings of production and related workers in manufacturing". That figure is determined in accordance with the standards for determination of average weekly earnings of production and related workers in manufacturing established by the Bureau of Labor Statistics.

Examples of other states' statutes reviewed are as follows:

Montana:

39-71-116 (1): "Average weekly wage" means the mean weekly earnings of all employees under covered employment, as defined and established annually by the Division of Employment Security of the Montana Department of Labor and Industry. It is established at the nearest whole dollar number and shall be adopted by the Division of Workers' Compensation prior to July 1 of each year.

Oregon:

656.211 "Average weekly wage" defined. As used in subsection (1) of ORS 656.210, "average weekly

wage" means the average weekly wage of workers in covered employment in Oregon, as determined by the Employment Division of the Department of Human Resources, for the last quarter of the calendar year preceding the fiscal year in which compensation is paid.

Pennsylvania:

105.1. The term "the Statewide average weekly wage", as used in this act, means that amount which shall be determined annually by the department for each calendar year on the basis of employment covered by the Pennsylvania Unemployment Compensation Law for the twelve-month period ending June 30 preceding the calendar year.

Note that many use the term "all covered employment" or similar wording to include all employments covered by the unemployment insurance program for the state. In Alaska, rather than referring to employments covered by the unemployment program, all employments covered by the workers' compensation act itself are included:

23.30.175 (b). As soon as practicable after June 30 of each year, and before December 15 of each year, the commissioner shall determine the Alaska average weekly wage for the three consecutive calendar quarters ending June 30 ... The average weekly wage calculation for Alaska shall be based on the wages of all employees in the state, both public and private, who are covered by this chapter.

Of the states reviewed only six (Idaho, Kentucky, New Mexico, South Dakota, Utah, Virginia) furnish detailed instructions in the workers' compensation statute for determination of the average weekly wage. These are all very similar and use unemployment statistics as a basis. Representative of these is the Kentucky statute noted below:

342.143. State average weekly wage, determined how -- For the purposes of this chapter the average weekly wage of the state shall be determined by the director as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky unemployment insurance law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall

be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. Such average weekly wage shall be certified to the director by the Department for Human Resources in a manner prescribed by the workmen's compensation board by regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within calendar year commencing January 1 following the September 1 determination. Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or for death are increased or decreased by one dollar (\$1.00) or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by two dollars (\$2.00) or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect this increase or decrease, but no change in such limitations shall otherwise be made.

Colorado's inclusion of only manufacturing and construction in calculating the average weekly wage for the state is not representative of other states. Since most states use all covered employments under applicable state unemployment laws, the state average weekly wage for many states is somewhat lower than in Colorado. It should also be noted, however, that there are significant differences in how the states use the average weekly wage to determine compensation benefits; i.e., Colorado's maximum compensation payment is 80% of the state average weekly wage. In several states a higher percentage of the average weekly wage is used to calculate benefits so that the net compensation payment is higher than in Colorado even though the average weekly wage is lower, (i.e., the maximum compensation benefit in Ohio is \$275, which represents 100% of the state average weekly wage.). 1/

1/ Colorado Department of Labor and Employment, Memorandum to the Committee on the State Wage Survey Concerning 1981 Study, July 28, 1981, pp. 3-6.

Committee Findings and Recommendations

At the outset of its study, the committee was aware that the scope of its responsibility was very specifically defined -- to determine the method to be employed in establishing the state's average weekly wage for providing workmen's compensation benefits. Levels of benefits and other issues were not within the committee's purview. Thus, the committee focused its attention on essentially four alternatives.

- 1) Continue the practice of using the average weekly wage of only the construction and manufacturing industries as the basis for determining the average weekly wage.
- 2) Adopt the basis of covered employment under the Employment Security Act which, if applied, would have the effect of lowering the state's average weekly wage from the present two industry base of \$336.45 to the Employment Security Act base of \$283.27. This, in turn, would lower the compensatory maximum per week from \$269.19 to \$226.66.
- 3) Adopt the Employment Security Act base but freeze the present average weekly wage and maximum weekly compensation rate at that level until such time as the Employment Security Act average weekly wage equals or exceeds the two industry base of \$336.45 at which time the Employment Security Act base would become operative.
- 4) Require that a former practice be reestablished by providing that the General Assembly itself set, by law, the state average weekly wage every two years.

Estimated Costs. The following represents some examples of the estimated costs of three of the four proposals prepared by the Colorado Department of Labor and Employment (proposals 1 through 3, above).

Estimated Costs of Three Alternatives Concerning Calculation of State Average Weekly Wage

Alternative 1 - Continue Use of Manufacturing and Construction Industry Data

The cost of continuing the present method of computing the state average weekly wage based upon the manufacturing and construction industries could perhaps best be visualized by comparing this method with the alternative method utilizing wage data from all industries in Colorado. Recent data for all industries

and the manufacturing and construction industries from the Division of Employment and Training is as follows:

	<u>Average Weekly Wage</u>	<u>Maximum Workers Comp. Benefit (80% of AWW)</u>
All Industry	\$283.27	\$226.62
Manufacturing and Construction Industries	<u>\$336.45</u>	<u>\$269.16</u>
Difference	\$ 53.18	\$ 42.54

Based upon the above it can be seen that the maximum benefit level payable to injured workers is \$42.54 per week (18.8 percent) more based upon wage data from the manufacturing and construction industries than it would be based upon wage data from all industries. According to information submitted to the division for 1980 accidents approximately 7.5 percent of the injured workers in Colorado received the maximum weekly benefit and based upon an average of 20 days (4 weeks) lost from work, an estimate of the cost of basing maximum weekly benefits upon manufacturing and construction as opposed to all industries can be made as follows:

(Weekly benefit difference)		(Average duration of benefits)
\$42.54/wk	x	4 weeks
(estimated number of claims)		
x (7.5 percent of 42,000)	=	\$536,004

Thus, use of the manufacturing and construction industry data cost the industry an estimated \$.5 million more than it would have to use all industry data.

Alternative 2 - Utilize all Industry Data to Compute Average Weekly Wage

This alternative could be construed to cost the industry \$.5 million less during the twelve month period July 1, 1981 through June 30, 1982 based upon the above analysis.

Alternative 3 - Utilize all Industry Data and Freeze Present Average Weekly Wage Until All Industry Rate Equals or Exceeds

This alternative could be construed to cost industry \$.5 million during the first year. Assuming wages for all industries increase at a rate of 10 percent per year over the next two year period the all industry wage would exceed the present average weekly wage for manufacturing and construction within two years.

	<u>Present</u>	<u>Yr-2</u>	<u>Yr-3</u>
All Industry Avg. Weekly Wage	\$283.27	\$311.60	\$342.75
Manuf. & Constr. Avg. Weekly Wage	<u>\$336.45</u>	<u>\$336.45</u>	<u>\$336.45</u>
Difference	\$ 53.18	\$ 24.85	(\$ 6.30)

Using the above methodology and assuming a 10 percent increase in claims, use of the manufacturing and construction data during the second year would cost the industry an estimated \$.3 million more than the use of all industry data.

$$\$24.85/wk \times 4 \text{ weeks} \times (7.5\% \text{ of } 46,000) = \$342,930 \text{ } \underline{2/}$$

In developing the above estimate, the department noted:

It should be noted that the above methodology assumes that things are constant which certainly they are not. For example, average wages in the manufacturing and construction industries have increased above the level upon which the current maximum benefits payable was derived. Certainly the average amount of time lost from work and the estimated number of workers who qualify for the maximum weekly compensation benefit are subject to change as is the total number of lost time claims reported. 3/

2/ Gary Pon, Deputy Director of the Division of Labor, Colorado Department of Labor and Employment, Memorandum to Legislative Council Staff, Concerning State Average Weekly Wage Determination, August 28, 1981, pp. 3-4.

3/ Ibid., p. 4.

Committee recommendation -- Bill 5. The committee accepts and herein recommends the adoption of the third proposal listed above. The committee's specific proposal is contained in Bill 5.

In reviewing the four options listed above, the committee focused its attention primarily on proposals two and three. Both of these alternatives would require use of the existing broad based unemployment insurance wage survey and thus would not result in any increased administrative cost. The committee was aware that alternative two would actually result in lower overall costs by lowering the maximum workmen's compensation payment. The committee was of the opinion, however, that the resulting disparity in benefits (between 1981 and 1982 benefit years) would be difficult to justify. Furthermore, the committee was concerned that the lowering of benefits in 1982 could raise legal questions and might result in lawsuits, and could delay implementation. Additionally, the costs of administering each plan would be about the same. While lowering insurance premiums for employers in the long term, alternative three protects the benefits paid to workers in the short term.

The first proposal would have continued the problem the committee was directed to resolve, the use of what many consider to be an unrealistic average weekly wage. The fourth proposal was rejected because the committee did not wish to politicize what they believed should be a simple statistical measurement.

BILL 5

A BILL FOR AN ACT

1 CONCERNING THE COMPUTATION OF THE STATE AVERAGE WEEKLY WAGE
2 UNDER THE "WORKMEN'S COMPENSATION ACT OF COLORADO".

Bill Summary

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

Provides that the state average weekly wage under the "Workmen's Compensation Act of Colorado" shall be the same as the average weekly earnings computed under the "Colorado Employment Security Act" after the average weekly earnings computed under the "Colorado Employment Security Act" equal or exceed an established figure.

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

4 SECTION 1. 8-46-113, Colorado Revised Statutes 1973, as
5 amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6 8-46-113. State average weekly wage - method of
7 computation. The state average weekly wage shall be
8 established by the director annually on or before July 1 of
9 each year. The state average weekly wage shall be three
10 hundred twenty-seven dollars and twenty-one cents until the

1 amount of the average weekly earnings computed pursuant to
2 section 8-73-102 (1) equals or exceeds such figure. If the
3 amount of the average weekly earnings computed pursuant to
4 section 8-73-102 (1) exceeds such figure, the director shall
5 establish, by the subsequent July 1 and annually thereafter, a
6 state average weekly wage which shall be the same as the
7 average weekly earnings computed by the division of employment
8 in June of each year pursuant to section 8-73-102 (1).

9 SECTION 2. Effective date. This act shall take effect
10 _____.

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