

RECOMMENDATIONS FOR 2001

**STUDY OF
REFORMS TO THE GENERAL ASSEMBLY**

**Report to the
Colorado General Assembly**

**Research Publication No. 483
December 2000**

COLORADO GENERAL ASSEMBLY

EXECUTIVE COMMITTEE
Rep. Doug Dean, Chairman
Sen. Ray Powers, Vice Chairman
Sen. Tom Blickensderfer
Sen. Michael Feeley
Rep. Lola Spradley
Rep. Ken Gordon

STAFF
Charles S. Brown, Director
Daniel Chapman, Assistant Director,
Administration
Deborah Godshall, Assistant Director,
Research



COMMITTEE
Sen. Ken Chlouber
Sen. Gigi Dennis
Sen. Rob Hernandez
Sen. Doug Lamborn
Sen. Pat Pascoe
Sen. Bill Thiebaud
Rep. Bob Bacon
Rep. Dorothy Gottlieb
Rep. Steve Johnson
Rep. Shawn Mitchell
Rep. Brad Young
Rep. Abel Tapia

LEGISLATIVE COUNCIL

ROOM 029 STATE CAPITOL
DENVER, COLORADO 80203-1784
E-mail: lcs.ga@state.co.us

303-866-3521 FAX: 303-866-3855 TDD: 303-866-3472

December 2000

To Members of the Sixty-second General Assembly:

Submitted herewith is the final report of the Study of Reforms to the General Assembly. The interim committee was created pursuant to Senate Joint Resolution 00-015 and was directed to study the General Assembly's legislative procedures, committee structure, and staff agencies in order to identify reforms and improvements.

At its meeting on October 16, 2000, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2001 session was approved.

Respectfully submitted,

/s/ Representative Doug Dean
Chairman
Legislative Council

DD/LT/mm

TABLE OF CONTENTS

	PAGE
LETTER OF TRANSMITTAL	iii
TABLE OF CONTENTS	v
RECOMMENDED BILLS AND FISCAL NOTES	vii
MEMBERS OF THE COMMITTEE	ix
EXECUTIVE SUMMARY	xi
Committee Charge	xi
Committee Activities	xi
Committee Recommendations	xi
AUTHORITY AND RESPONSIBILITIES	1
COMMITTEE ACTIVITIES	3
Background on Term-Limited States	3
Survey of Legislators	4
New Member Orientation and Continuing Member Education Activities	4
Consent Calendar	5
Legislative Aides	6
Subcommittee on Lobbyist Ethics	7
SUMMARY OF RECOMMENDATIONS	9
Bill A — Exclusion of Legislative Aides from Participation in a Defined Contribution Plan Established for Specified Public Employees	9
Bill B — Disclosure of Information Relating to the Regulation of Lobbyists	9
Resolution A — Changes to Joint Rule 36 of the Rules of the Senate and the House of Representatives	10
Other Recommendations to the Executive Committee	10
RESOURCE MATERIALS	13
Meeting Summaries	13
Memoranda and Reports	13
APPENDICES	
Appendix A - Questionnaire on Legislative Reforms	

RECOMMENDED BILLS AND FISCAL NOTES

	PAGE
Bill A — Concerning the Exclusion of Legislative Aides from Participation in a Defined Contribution Plan Established for Specified Public Employees	15
— Fiscal Note	17
Bill B — Concerning Disclosure of Information Relating to the Regulation of Lobbyists	19
— Fiscal Note	25
Resolution A — Concerning Changes to Joint Rule 36 of the Rules of the Senate and the House of Representatives	29

STUDY OF REFORMS TO THE GENERAL ASSEMBLY

Members of the Committee

Senator Dave Owen,
Chairman

Senator Norma Anderson

Senator John Andrews

Senator Rob Hernandez

Senator Mark Hillman

Senator Pat Pascoe

Senator Bill Thiebaut

Representative Doug Dean,
Vice Chairman

Representative Fran Coleman

Representative Moe Keller

Representative Keith King

Representative Matt Smith

Representative Lola Spradley

Representative Penfield Tate

Representative Tambor Williams

Legislative Council Staff

Larry Thompson
Principal Analyst II

Will Meyer
Senior Fiscal Analyst II

Cathy Eslinger
Research Associate II

Chris Ward
Senior Fiscal Analyst

Scott Grosscup
Research Associate

Office of Legislative Legal Services

Gregg Fraser
Senior Staff Attorney

Jerry Barry
Senior Staff Attorney

Bob Lackner
Staff Attorney

EXECUTIVE SUMMARY

Committee Charge

Pursuant to Senate Joint Resolution 00-015, the Interim Committee on Reforms to the General Assembly was charged with studying the Colorado General Assembly in order to help the legislature meet the challenges posed by term limits and to continue to improve its legislative effectiveness. Specifically, the committee was directed to study the General Assembly's legislative procedures, committee structure, and staff agencies in order to identify reforms and improvements.

Committee Activities

The committee held three meetings, with discussion and testimony on a variety of issues relating to reforms, including legislative procedures, ethics, staff, training, and technology. Recommendations and items for consideration were provided by persons familiar with and interested in the legislative process in Colorado. The committee heard testimony from staff of the National Conference of State Legislatures, who provided information on the effects of term limits on state legislatures and highlighted some of the responses by legislatures in term-limited states. Former members of the General Assembly and a lobbyist discussed the changes that have taken place in Colorado and presented suggestions for consideration by the committee. Staff members representing the House and Senate staff and legislative service agencies gave testimony on staffing and procedural issues.

In order to address and study various aspects of the challenges posed by term limits, the committee also received briefings from staff on plans for new member orientation and for technology improvements. The Executive Director of the Department of Transportation and a representative of the media provided additional briefings on the effects of term limits from the perspectives of the executive branch and the media. The committee appointed a subcommittee on lobbying ethics to study relevant issues and rules and to report back to the full committee. The subcommittee provided points for discussion and made recommendations to the full committee regarding current rules and statutes.

Committee Recommendations

As a result of committee discussion and deliberation, the committee recommends two bills and one resolution for consideration in the 2001 legislative session.

Bill A — Exclusion of Legislative Aides from Participation in a Defined Contribution Plan Established for Specified Public Employees. Bill A excludes legislative aides employed by the General Assembly from being eligible to participate in the state's defined contribution plan. This exclusion will apply to all legislative aides hired after the effective date of the bill and will require them to participate in the Public Employees Retirement Association (PERA).

Bill B — Disclosure of Information Relating to the Regulation of Lobbyists . Bill B continues the requirement that lobbyists report the names of their clients and income to the Secretary of State, but clarifies how certain moneys are to be reported and modifies the deadline for reporting new clients. The bill requires the Secretary of State to establish an electronic filing system for lobbyist information and requires lobbyist information to be published free of charge on the Internet.

Resolution A — Changes to Joint Rule 36 of the Rules of the Senate and the House of Representatives. Resolution A modifies the process for considering ethics complaints against lobbyists, transferring much of the responsibility for dealing with complaints to the Executive Committee of the Legislative Council. The resolution makes the investigation of an ethics complaint against a lobbyist confidential until an ethics committee has been appointed. At that point, all proceedings would be open to the public.

AUTHORITY AND RESPONSIBILITIES

Pursuant to Senate Joint Resolution 00-015, the Interim Committee on Reforms to the General Assembly was charged with studying the Colorado General Assembly in order to help the legislature meet the challenges posed by term limits and to continue to improve its legislative effectiveness. Specifically, the fifteen-member committee was directed to study the General Assembly's legislative procedures, committee structure, and its staff agencies to identify reforms and improvements, including, but not limited to, enhanced member education.

COMMITTEE ACTIVITIES

Background on Term-Limited States

Legislative staff and staff from the National Conference of State Legislatures provided background on other term-limited states to the committee. Twenty-one states have approved term limits for legislative members. Citizen initiatives to limit the length of service for members of the legislature were first passed in 1990 in California, Colorado, and Oklahoma. Since then, 18 other states have approved term limits for members of their legislative bodies. In three states, Nebraska, Massachusetts, and Washington, term limit laws were thrown out by the state supreme courts as unconstitutional.

By November, 2000, term limits will have taken full or partial effect in twelve states. In the states where term limits have taken effect, there have been changes in legislative dynamics and in member responses to the traditions of the institution. The committee received information concerning several areas in which states have felt the impacts of term limits.

Leadership. Term-limited states face new questions about how to select legislative leadership. Positions that were once filled by senior members of the body are now subject to new dynamics, as the ranking members often only have four to six years of experience.

Education. Members of committees have needed to gain expertise more quickly on particular issues of interest to the legislature due to term limits. There are fewer “experts” on committees for the newer members to turn to for advice and institutional memory. Legislative staff, lobbyists, and agency officials are more frequently approached for information.

Committees. Several states have seen standing committees act on more bills, and yet act less decisively. Committees are getting more bills and “killing” fewer of them. Members of the term-limited legislatures are frequently introducing “repeater” bills: legislation that has been considered by previous legislatures. Committees have also become more prone to approve a bill so that the full legislature can determine its outcome. Committee chairmen have lost some of their authority as members of the committee more frequently speak against the committee’s action in floor debates.

Rules. Changes in legislative dynamics due to term limits have caused states to revisit their rules. Higher turnover in legislative bodies has required that new rules and procedures become more accessible and uniform. Old rules are being clarified for changing conditions within the legislative bodies.

Staffing. Additional staffing has been required in several states as newer members ask for briefings on important issues, for additional bill drafting, and for assistance with constituent questions.

Survey of Legislators

At its first meeting, the committee considered the opinions of legislators gathered through a survey. Sent by the sponsors of Senate Joint Resolution 00-015, the survey asked a variety of questions covering nearly all aspects of the legislative process, as well as training for members, the structure and functioning of committees and the performance of staff agencies. (See Appendix A for a copy of the survey.) A total of 34 legislators responded to the survey.

Results from the survey indicated that members were satisfied with the functioning of the legislature, including the training provided to new members through orientation and the work performed in committees and by support staff. However, the survey results provided several suggestions for improving the process. Suggestions related to policy issues and the desire of members to know more about specific programs or laws. For example, members expressed a desire to know more about the state's fiscal constraints and to be more involved in developing the state budget, so as to make the most of their term-limited tenure. Other suggestions related to procedural issues such as how to make committee meetings more productive and efficient. For example, members commented on the importance of committees as the primary means for public participation in the legislative process and the potential benefits of providing formalized training for new committee chairs. Members commented specifically on the challenges of keeping up with bills that are introduced late in the session. Finally, members expressed a desire to better understand the rules and traditions that govern the legislative process.

New Member Orientation and Continuing Member Education Activities

The committee heard testimony and discussed new member orientation and continuing education activities. Legislative Council staff provided the committee with an update on plans for the three phases of new member orientation in 2000. Phase I was held on November 9th and 10th. Phase II took place November 27th through November 29th, and included an orientation program for legislative spouses. Phase III is planned for December 11th and 12th. In addition, an orientation program for all legislators will be held on January 8th and 9th, 2001. The committee also heard about plans for continuing education offerings to be available to all members during the legislative session. These sessions might focus on specific policy areas of interest to new or returning legislators.

The committee discussed additional activities to be considered for new member orientation in 2000. Suggestions for new member orientation topics included: a review of the role of Executive Department legislative liaisons, the role of legislative staff and aides, relations with the media, and relations with the lobbying corps. The committee also followed up on suggestions for enhanced member education activities during the legislative session.

Staff from the National Conference of State Legislatures (NCSL) provided information on training opportunities available to members through NCSL. Seminars on

chairing committees, negotiating, and communicating effectively are examples of state programs that have been offered by NCSL. In addition, Legislative Council staff and Legislative Legal Services staff gave an overview of resource materials that are available for members through the service agencies.

Representatives of the Center for Ethics in Government and Advocacy and the University of Northern Colorado's Institute of Professional Ethics discussed plans for a seminar on "Ethics in the Making of Public Policy" that will be offered during the orientation program for all legislators in January, 2001. This seminar will focus on ethics and decision-making and ethical dilemmas in public policy-making.

The New Member Orientation Working Group for 2000 reported back to the committee based on discussion and recommendations made at the first meeting. The following six modifications and additions to 2000 new orientation programs were presented and approved by the committee:

- a session devoted to dealing with lobbyists;
- a session that will include discussion of the role of legislative liaisons and executive branch policies regarding legislative liaisons;
- enhanced member education activities throughout the 2001 legislative session;
- an introduction to the legislative aides and interns program;
- computer training, with emphasis on legislative website resources, e-mail, and the legislative intranet; and
- training on the use of legislative library resources.

Recommendation. The committee recommends to the Executive Committee of the Legislative Council that staff develop additional educational materials and learning opportunities for new and existing members.

Consent Calendar

The committee discussed the creation of a consent calendar for both bodies of the General Assembly. A consent calendar would allow bills and/or resolutions of a non-controversial nature to move more efficiently through the process. Once placed on the consent calendar, no debate or floor amendments could be allowed. A single vote by the members of either the House or Senate would cover all the bills on the consent calendar. However, the committee did not recommend a specific form that the calendar should take. Some of the issues to be discussed in creating a consent calendar include:

- Should the consent calendar be created by a House, Senate, or Joint Resolution?
- Should the consent calendar affect second or third reading or both?
- Should the consent calendar be limited to bills or resolutions or both?

- Would items be placed upon the consent calendar by an act of a committee or by a legislator?
- When would the consent calendar be made available: the day it is to be considered or several days in advance?
- How will items be removed from the calendar: by one legislator making a written or oral objection or by a majority vote?
- How will the body vote on the items contained in the calendar: either one at a time or all at once?

Recommendations. The committee recommends that each chamber develop a consent calendar in accordance with each chamber's rules and traditions.

Legislative Aides

The Chief Clerk of the House of Representatives and the Secretary of the Senate reported to the committee on the history of the legislative aide program and identified a number of issues and concerns. They testified that legislators have identified a desire for more hours of legislative aide time, while historical data shows that only a portion of the number of hours allocated are currently used. Members also have indicated a need to utilize legislative aides not only during the session, but both before and after the session. Members have requested permission to use legislative aides outside of the Capitol Building, raising questions about workers' compensation issues, adequate supervision, and other general liability issues. Members also have inquired about the possibility of legislative aides working in excess of 40 hours per week.

The committee was advised that the employment of legislative staff is not covered under the Fair Labor Standards Act and that any work over 40 hours per week would not be paid time and a half or be given any additional benefits. They also reported that legislative aides have been paid \$8 per hour since the inception of the legislative aide program which is not enough to attract and retain sufficient qualified applicants. Under current policy, up to three members may share an aide allowing aides to aggregate their hours for a combined total of 990 hours per session, a policy that creates problems in tracking the time of aides and allocating it correctly. The Chief Clerk of the House of Representatives and the Secretary of the Senate also testified that legislative aides, as legislative staff, are entitled to choose between alternative retirement/defined contribution plans within 90 days of employment, creating a significant administrative impact on their staff to complete the required paperwork.

Recommendations. The committee recommends Bill A that excludes legislative aides employed by the General Assembly from being eligible to choose to participate in the state's defined contribution plan.

The committee recommends to the Executive Committee of the Legislative Council that the maximum number of hours allowed for each legislative aide not be changed, but that members be allowed to utilize legislative aides one month before and one month after the

session; that legislative aides not be allowed to work outside of the Capitol building, but that they be allowed to work in excess of 40 hours per week, and that their hourly pay be increased from \$8 to \$10; and that the current policy allowing up to three members to share legislative aides be retained.

Subcommittee on Lobbyist Ethics

Testimony was provided about how term limits might affect the balance of power between legislators and lobbyists. The committee was briefed about the laws and rules that regulate lobbyist ethics and disclosure. In response to these comments, the committee established a subcommittee and directed the subcommittee to further examine the issues and recommend modifications. The subcommittee met once and reviewed suggestions offered by a group of interested lobbyists. The suggestions related to the filing of complaints of ethics violations against lobbyists and the resolution of such complaints, registration of lobbyists with either the Secretary of State or the Chief Clerk of the House of Representatives, the disclosure by lobbyists of client and billing information, and penalties for violations of the lobbyist disclosure requirements. The suggestions also included references to legislative leaders emphasizing the importance of ethics among the lobbying corps by strict enforcement of rules. The subcommittee offered two recommendations to the full committee addressing both the lobbying ethics rule and the lobbying disclosure law.

Recommendations. In response to the recommendations of the Subcommittee on Lobbyist Ethics, the committee recommends Bill B and Joint Resolution A. Bill B clarifies the reporting of lobbyist income and the deadlines for filing reports, imposes a registration fee for lobbyists, and authorizes the Secretary of State to impose a civil penalty of up to \$5,000 for violations of the lobbyist disclosure law. Resolution A modifies the process for considering ethics complaints against lobbyists.

SUMMARY OF RECOMMENDATIONS

As a result of the committee discussion and deliberation, the committee recommends two bills and one resolution for consideration in the 2001 legislative session. Additionally, the committee refers five recommendations to the Executive Committee of the Legislative Council and one recommendation to the Committee on Legal Services.

Bill A — Concerning Exclusion of Legislative Aides from Participation in a Defined Contribution Plan Established for Specified Public Employees

The committee heard testimony on problems resulting from legislative aides being included in the defined contribution plan. The defined contribution plan allows eligible employees 60 days to decide whether or not to enroll and be included in the plan. This provision creates significant management problems with respect to aides because of the short period of time legislative aides are commonly employed.

Bill A excludes legislative aides employed by the General Assembly from being eligible to choose to participate in the state's defined contribution plan. This exclusion will apply to all legislative aides hired after the effective date of the bill and will require them to participate in the Public Employees Retirement Association (PERA).

This bill is assessed as having no fiscal impact.

Bill B — Concerning Disclosure of Information Relating to the Regulation of Lobbyists

The committee heard public comments concerning the need for the General Assembly to look at current lobbying rules and practices, including the disclosure of certain lobbyist information. In response to these comments, the committee directed a subcommittee to further examine the issues and recommend modifications. The subcommittee's recommendations became the basis for Bill B and Resolution A.

Bill B continues the requirement that lobbyists report the names of their clients and income to the Secretary of State, but clarifies how certain moneys are to be reported and modifies the deadline for reporting new clients. Under the bill, moneys would be reported by each firm that receives payment and a lobbying firm that subcontracts would note the amount of gross income reported by subcontracting firms. During the session, lobbyists would be required to report any new lobbying contracts to the Secretary of State within 24 hours of signing a written agreement or receiving payment. During the interim, a lobbyist would have five days to report a new contract.

The bill requires the Secretary of State to establish an electronic filing system for lobbyist information and requires that lobbyist information be published free of charge on

the Internet. The reporting cycle for lobbyists would be changed from a calendar year to the state's fiscal year, in order to better match the legislative cycle.

Bill B authorizes the Secretary of State to impose a registration fee of up to \$50 on professional lobbyists, subject to certain restrictions. The Secretary of State would be required to notify the President of the Senate and the Speaker of the House of Representatives of substantial violations of the lobbyist disclosure requirements and would be authorized to impose a civil penalty of up to \$5,000 for violations.

To conform with changes proposed in Resolution A, the bill creates new exemptions to the state's open meetings and open records laws for certain matters related to lobbyist ethics complaints.

For FY 2001-02, the fiscal note implies that the Office of the Secretary of State should receive an appropriation of \$21,400 from the Secretary of State Cash Fund for computer programing costs. The state should receive additional revenues of \$21,450 generated by the increase in the annual registration fee.

Resolution A — Concerning Changes to Joint Rule 36 of the Rules of the Senate and the House of Representatives

Resolution A modifies the process for considering ethics complaints against lobbyists, transferring much of the responsibility for dealing with complaints to the Executive Committee of the Legislative Council. Currently, these issues are dealt with by the Speaker of the House of Representatives and the President of the Senate. Besides expanding the number of persons to whom an individual may go with a complaint, the committee discussed the resolution as a means to help counter the loss of institutional memory among newly-elected legislative leaders. The resolution makes the investigation of an ethics complaint against a lobbyist confidential until an ethics committee has been appointed. At that point, all proceedings would be open to the public. Currently, all proceedings of an ethics committee are confidential. The resolution also prohibits the filing of frivolous complaints.

Other Recommendations to the Executive Committee

The committee referred several recommendations to the Executive Committee of the Legislative Council for its consideration.

- ***Legislative Aide Program.*** The committee recommends that: the legislative aide program be extended so that aides be allowed to work one month before session begins and one month after it ends; legislative aides be allowed to work more than 40 hours per week; and legislative aides receive an increase in salary from \$8 to \$10 per hour.

- ***Reduce the backlog in the Appropriations Committee.*** The committee recommends that the Executive Committee look at ways to address the backlog of bills that occurs in the Appropriations Committee near the end of session. Items for consideration may include modification of deadlines or referral guidelines.
- ***Consent calendar.*** Development of a consent calendar by each chamber and in accordance with each chamber's rules and traditions is recommended. A consent calendar may provide a tool for considering non-controversial legislation more efficiently by limiting debate and allowing members to vote on all bills on the consent calendar with one vote.
- ***Ongoing member education.*** It is recommended that staff be directed to develop additional educational materials and learning opportunities for new and existing members. In developing these programs, the needs of out-state legislators should be considered.
- ***Improved public access to real audio via the internet.*** The committee recommends that the use of real audio technology, which allows legislative staff audio access to legislative proceedings via the Internet, be made available to the public as soon as possible. It is also recommended that members be advised of the importance of being in committee and floor sessions and that the use of real audio is not a substitute for these responsibilities.

Recommendation to the Committee on Legal Services. The committee made the following suggestion to the Committee on Legal Services.

- ***New products and services from the Office of Legislative Legal Services.*** The committee recommends that the Office of Legislative Legal Services (OLLS) and the Committee on Legal Services consider ways to provide legislators with additional bill drafting information such as bill summary updates, prior year histories for each bill request, and/or other related information.

RESOURCE MATERIALS

The resource materials listed below were provided to the committee or developed by Legislative Council staff during the course of the meetings. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver. For a limited time, the meeting summaries and materials developed by Legislative Council Staff are available on our web site at:

www.state.co.us/gov_dir/leg_dir/lcsstaff/2000/00interim.

Meeting Summaries	Topics Discussed
August 9, 2000	Impacts of term limits on the Colorado General Assembly; update on the 2000 new member orientation program; training currently provided to members of the General Assembly; overview of the questionnaire on legislative reforms.
August 30, 2000	Recommendations concerning legislative aide program and House and Senate floor procedures; technology update; review of recommendations by the lobbying ethics subcommittee; consideration of possible legislative recommendations.
September 19, 2000	Final committee action on draft legislation and the selection of bill sponsors.

Memoranda and Reports

Legislative Council Staff memoranda titles:

Approaches to Change by Term-Limited State Legislatures.

Results of the Survey of Legislators.

Term Limits for Colorado Senate and House Members.

Recommendations from August 9, 2000 Meeting.

Modifications to 2000 New Member Orientation Program.

Issues for Discussion at the September 19 Meeting.

Reports provided to the committee:

State Legislative Term Limits, Council of State Governments, February 1998.

Consent Calendar, Office of Legislative Legal Services, September 18, 2000.

Report and Recommendations, Lobbying Ethics Sub-Committee, August 22, 2000.

Legislative Aides, Secretary of the Senate and Chief Clerk of the House,
August 30, 2000.

Legislatures Live via the Web, State Legislatures, May 1998.

Legislatures of the Future: Implications of Change, National Conference of State
Legislatures, July 2000.