



Report to the Colorado General Assembly:

## PROGRESS REPORTS ON

ORGANIZATION OF STATE GOVERNMENT

STRIP MINING

TAX EXEMPT PROPERTY

SCHOOL AID

EDUCATIONAL ENDEAVOR

CONSUMER PROBLEMS

CRIMINAL CODE

WATER

INTERSCHOLASTIC ACTIVITIES

VOCATIONAL EDUCATION

COLORADO LEGISLATIVE COUNCIL

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INTERSCHOLASTIC ACTIVITIES

VOCATIONAL EDUCATION

Legislative Council

Report To The

Colorado General Assembly

Research Publication No. 109  
December, 1965

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# COLORADO GENERAL ASSEMBLY



## LEGISLATIVE COUNCIL

ROOM 341, STATE CAPITOL  
DENVER, COLORADO 80203  
222-9911 - EXTENSION 2285  
November 22, 1965

**MEMBERS**  
Lt. Gov. Robert L. Knous  
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Sen. William O. Lennox  
Sen. Vincent Massari  
Sen. Ruth S. Stockton

Speaker Allen Dines  
Rep. Forrest G. Burns  
Rep. Richard G. Gebhardt  
Rep. Harrie E. Hart  
Rep. Mark A. Hogan  
Rep. John R. P. Wheeler

To Members of the Forty-fifth Colorado General Assembly  
State Capitol  
Denver, Colorado

Dear Colleagues:

The Forty-fifth Colorado General Assembly in its first regular session directed the Legislative Council to undertake studies on the following subjects: 1) Administrative Organization of State Government; 2) Consumer Problems; 3) Criminal Code; 4) Interscholastic Activities; 5) State Aid to Schools; 6) State and Local Taxes; 7) Strip Mining; 8) Tax Exempt Property; 9) Water; 10) Water Pollution; 11) Vocational Education; and 12) Review of Forms, Rules and Regulations of Administrative Agencies. A special study relating to Disasters was ordered by the General Assembly at its first special session in July, 1965, to be completed prior to the 1966 session.

Separate research reports have been issued on the studies relating to State and Local Taxes, Water Pollution and the 1965 Flood Disasters in Colorado. However, progress reports on the remaining studies are contained in this publication.

Most of the studies mentioned above are two-year assignments and will be concluded prior to the 1967 legislative session. The assignments concerning Organization of State Government, School Aid, Strip Mining, and State and Local Taxes expired at the end of 1965, but the Legislative Council is recommending that each of the four be continued another year.

This has been an abbreviated and busy year for the Legislative Council. Because of the length of the first regular session, the Legislative Council committees did not get started on studies until June 1st, but in the period between June 1st and December 6th the Legislative Council and its committees held 78 meetings. In addition, the Committee on Education Beyond High School and the Commission on Spanish-surnamed Citizens requested the Legislative Council to furnish some staff services

Members of the Forty-fifth Colorado General Assembly  
November 22, 1965  
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for them, and the Legislative Council was directed by Senate Joint Resolution No. 25 to furnish staff services for the Governor's Committee on Legislators' Compensation. Also, the Legislative Council director is, by law, secretary of the Colorado Commission on Interstate Cooperation. The activities of these groups combined with those of the Council resulted in the Legislative Council staff participating in 97 committee meetings since sine die adjournment of the General Assembly last May.

Respectfully submitted,

/s/ Senator Floyd Oliver  
Chairman  
Legislative Council

FO:ar



MEMBERSHIP OF LEGISLATIVE COUNCIL  
COMMITTEES IN 1965

Committee on Organization of State Government -- 13 members

|  |                                   |
|--|-----------------------------------|
| Senator Floyd Oliver, Chairman         | Representative Allen Dines        |
| Representative C. P. Lamb, V. Chairman | Representative Bill Gossard       |
| Senator William Armstrong              | Representative Harrie E. Hart     |
| Senator John J. Donlon                 | Representative Tom Jordan         |
| Senator A. Woody Hewett                | Representative Archie L. Lisco    |
| Representative Forrest G. Burns        | Representative Donald Strait      |
|  | Representative John D. Vanderhoof |

Committee on Strip Mining -- 9 members

|  |                                    |
|--|------------------------------------|
| Senator Sam T. Taylor, Chairman          | Representative Joseph V. Calabrese |
| Representative Bill Gossard, V. Chairman | Representative T. Everett Cook     |
| Senator A. Woody Hewett                  | Representative W. E. Foster        |
| Senator Floyd Oliver, ex officio         | Representative C. J. Gillaspey     |
|  | Representative George Jackson      |

Committee on Tax Exempt Property -- 9 members

|                                     |                                    |
|-------------------------------------|------------------------------------|
| Senator William O. Lennox, Chairman | Representative Harold Adcock       |
| Senator Ruth Stockton, V. Chairman  | Representative Joseph V. Calabrese |
| Senator Fay DeBerard                | Representative James LaHaye        |
| Senator Floyd Oliver, ex officio    | Representative Hiram A. McNeil     |
|                                     | Representative Robert Schafer      |

Committee on State Aid to Schools -- 18 members

|                                  |                                    |
|----------------------------------|------------------------------------|
| Senator Fay DeBerard, Chairman   | Senator Anthony Vollack            |
| Representative Forrest Burns,    | Representative Harold Adcock       |
| Vice Chairman                    | Representative D. H. Arnold        |
| Senator Roger Cisneros           | Representative Palmer Burch        |
| Senator Clarence Decker          | Representative Ruth B. Clark       |
| Senator Harry Locke              | Representative Charles Conklin     |
| Senator Andy Lucas               | Representative Wayne Knox          |
| Senator Floyd Oliver, ex officio | Representative C. P. Lamb          |
| Senator Ruth Stockton            | Representative Clarence H. Quinlan |
| Senator James P. Thomas          |                                    |

Committee on Educational Endeavor -- 14 members

|   |                     |
|---|---------------------|
| Representative Ruth B. Clark, Chairman  | Celeste Clark       |
| Senator Anthony F. Vollack, V. Chairman | Dr. William Hartman |
| Senator Floyd Oliver, ex officio        | Janet Lecompte      |
| Representative Jean K. Bain             | Donald C. McKinlay  |
| Andrews D. Black                        | Herrick S. Roth     |
| Beverly Bledsoe                         | Robert F. Welborn   |
| Jess Christenson                        | Hestia Wilson       |

Committee on Consumer Problems -- 15 members

Representative John R. P. Wheeler,  
Chairman  
Representative Gerald Kopel,  
V. Chairman  
Senator James C. Perrill  
Senator Roy Romer  
Senator Ed Scott  
Senator Paul E. Wenke  
Senator Floyd Oliver, ex officio

Representative Ray H. Black  
Representative John S. Carroll  
Representative Ralph A. Cole  
Representative Victor B. Grandy  
Representative James LaHaye  
Representative Paul Morris  
Representative Donald Strait  
Representative John D. Vanderhoof

Committee on Criminal Code -- 12 members

Senator Paul E. Wenke, Chairman  
Representative Ben Klein, V. Chairman  
Senator Clarence Decker  
Senator David Hahn  
Senator James C. Perrill  
Senator Floyd Oliver, ex officio

Representative John S. Carroll  
Representative Ruth B. Clark  
Representative Dominic A. Coloroso  
Representative Victor B. Grandy  
Representative John G. Mackie  
Representative Phillip Massari

Committee on Water -- 15 members

Representative Forrest Burns, Chairman  
Senator William Bledsoe  
Senator Donald Kelley  
Senator Harry M. Locke  
Senator Carl J. Magnuson  
Senator Floyd Oliver  
Senator Wilson Rockwell  
Senator Senator Lowell Sonnenberg

Representative T. John Baer, Jr.  
Representative Lowell B. Compton  
Representative Charles Conklin  
Representative T. Everett Cook  
Representative George Fentress  
Representative Robert Schafer  
Representative Theodore Schubert

Committee on Interscholastic Athletics -- 12 members

Representative C. P. Lamb, Chairman  
Senator Edwin S. Lamm, Vice Chairman  
Senator Andy Lucas  
Senator Vincent Massari  
Senator Floyd Oliver, ex officio  
Representative Frank R. Anaya

Representative Dominic A. Coloroso  
Representative Harrie E. Hart  
Representative John G. Mackie  
Representative Kenneth Monfort  
Representative Clarence Quinlan  
Representative Hubert Safran

Committee on Vocational Education -- 14 members

Representative Richard G. Gebhardt  
Chairman  
Senator Roy Romer, Vice Chairman  
Senator Edwin S. Lamm  
Senator Vincent Massari  
Senator Floyd Oliver, ex officio  
Representative Jean Bain  
Representative Don Brinton

Representative Charles J. DeMoulin  
Representative Floyd Haskell  
Representative Wayne N. Knox  
Representative Darrell Skelton  
Representative Betty Kirk West  
Representative John R. P. Wheeler  
Representative Jerry Yost

Committee on Water Pollution -- 11 members

Senator David Hahn, Chairman  
Representative George Fentress,  
V. Chairman

Representative Lowell B. Compton  
Representative Don Friedman

### Committee on Water Pollution (Continued)

Senator Donald Kelley  
Senator Floyd Oliver, ex officio  
Representative D. H. Arnold

Representative Joseph Gollob  
Representative George Jackson  
Representative Louis Rinaldo  
Representative Thomas Wailes

### Committee on Disasters - 15 members

Representative Kenneth Monfort,  
Chairman  
Senator Anthony F. Vollack,  
V. Chairman  
Senator John R. Bermingham  
Senator Roger Cisneros  
Senator Vincent Massari  
Senator Wilson Rockwell  
Senator Floyd Oliver, ex officio

Representative Lowell B. Compton  
Representative Joseph Gollob  
Representative Bill Gossard  
Representative Harrie E. Hart  
Representative Tom Jordan  
Representative Gerald Kopel  
Representative C. P. Lamb  
Representative Betty Miller

### Committee on State and Local Taxes -- 17 members

Representative Mark A. Hogan,  
Chairman  
Representative Richard G. Gebhardt,  
Vice Chairman  
Senator William Armstrong  
Senator John Bermingham  
Senator William Bledsoe  
Senator Richard F. Hobbs  
Senator Anthony Vollack  
Senator Floyd Oliver, ex officio

Representative Palmer Burch  
Representative Joseph V. Calabrese  
Representative Thomas Farley  
Representative Frank Kemp  
Representative John MacFarlane  
Representative Hiram A. McNeil  
Representative Betty Miller  
Representative Kenneth Monfort  
Representative Keith Singer

### Committee on Subdistricting -- 13 members

Senator Floyd Oliver, Chairman  
(Non-voting)  
Senator John R. Bermingham  
Senator Roger Cisneros  
Senator Fay DeBerard  
Senator John J. Donlon  
Senator David J. Hahn  
Senator L. T. Skiffington

Representative Palmer Burch  
Representative Charles J. DeMoulin  
Representative Thomas Farley  
Representative George Fentress  
Representative C. P. Lamb  
Representative Kenneth Monfort

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MEMORANDUM

November 22, 1965

TO: Colorado Legislative Council

FROM: Committee on Organization of State Government

SUBJECT: 1965 Committee Report and Recommendations

The Legislative Council has appointed a committee to review the organization of state government in Colorado since 1961. Previous committee recommendations have resulted in the elimination of several inactive state agencies as well as changes in existing programs in order to achieve greater economy and efficiency in their operations. In this connection, as a result of recommendations by the 1963-64 committee, the following changes were made:

1. The creation of the position of Legislative Auditor, abolishing the office of the elected State Auditor, accompanied by the establishment of the Legislative Audit Committee in order to provide the legislative branch of state government in Colorado with better information on the expenditure of funds appropriated for the operation of the executive branch.
2. The coordination of reports and publications issued by state agencies.
3. The establishment of an employee suggestion award program.
4. An orderly procedure for the review of claims against the state by the creation of the Colorado Claims Commission.
5. The creation of the Colorado Law Enforcement Training Academy.
6. The abolishment of the State Building Authority.
7. A revision in the program concept and operations of the Division of Planning with the creation of the Division of Public Works.

During 1965, the committee members decided to review various statutory impositions on the Governor's time and to begin consideration of a revision of the Administrative Code of 1941, including a long-range organizational program for the state and the use of standardized terminology in describing units of state government. Also, under the provisions of House Joint Resolution No. 1024, 1965 regular session, the committee was directed by the Legislative Council to review forms required to be filled out by the public by various state agencies and their rules and regulations, and to determine the results of self-surveys by these agencies of their forms and rules and regulations.



## Statutory Impositions on the Governor's Time

Over the years, the General Assembly has created various boards and commissions, and the Governor has been included as a member on nine of these. In some of these cases, the committee believes that the Governor's membership is unnecessary, and in the case of two of these boards -- the State Board of Canvassers and the Geological Survey Board -- the members believe that the boards themselves are unnecessary. The committee also reviewed various other duties assigned by law to the Governor and believes that a more flexible arrangement would be desirable. The committee therefore recommends the adoption of the bills accompanying this report, as follows:

Bill A -- This bill would abolish the State Board of Canvassers and would assign the responsibility for certifying election results to the Secretary of State. This board presently consists of the Governor, Secretary of State, State Auditor, State Treasurer, and Attorney General. Its primary functions are to certify the number of votes cast for presidential and vice-presidential electors, for congressional representatives, for regents of the university, for judges of the supreme and district courts, for district attorneys, and for state senators and representatives; to determine what persons have been elected to office; and to endorse and subscribe a certificate of its determination to the Secretary of State. In actual practice, however, the staff of the Secretary of State prepares state totals from the county abstracts of votes cast, and the board thereupon spot checks the compiled figures against the abstracts of votes submitted by the county boards of canvassers, substantiates the state totals, and endorses the duly-elected officials, all of which normally requires about two hours of the board's time.

Bill B -- This bill would remove the Governor as an ex officio member of the State Board of Agriculture, the governing body for Colorado State University and Fort Lewis College.

Bill C -- This bill would substitute the Governor's Natural Resources Coordinator for the Governor as chairman of the Colorado Water Conservation Board. The board's membership would be reduced to 13 with the removal of the director of planning as a member, and the bill would also provide that the vice chairman and secretary could be elected from the ex officio as well as the appointed members.

Bills D and E -- These bills would also replace the Governor with his Natural Resources Coordinator as a member of the Ground Water Commission and the Game, Fish, and Parks Commission.

Bill F -- This bill would abolish the Colorado Geological Survey and the Geological Survey Board, whose members include the Governor, since this has been an inactive program for almost 20 years. The repeal of this law would make no change in any existing program.

Bill G -- This bill would substitute the Secretary of State for the Governor as an ex officio member of the State Board of Veterinary Medicine. This board is presently a part of the Division of Registration under the Secretary of State.



Bill H -- This bill would remove the Governor as a member of the State Board of Parole and would designate the Attorney General or his alternate as chairman of the board. Regardless of whether the Governor is a member of the parole board, he still would pass on each parole application. This bill would also increase the per diem of appointed board members from ten to twenty dollars per day.

Bill I -- Under this bill, the Director of Institutions, who is appointed by the Governor, would be authorized to approve transfers of inmates between state institutions instead of the Governor as the law reads at the present time.

Bill J -- This bill would allow the Governor to designate an official other than himself to review and sign requests for hiring new civil service employees at a higher salary step than the beginning level.

### Organization of the Executive Branch of State Government

Our form of government, which is based on a division of power among the executive, judicial, and legislative branches, traditionally vests administrative responsibility with an elected chief executive. Theoretically, this system enables the voters to hold the Governor responsible for the effective administration of the affairs of the state.

However, most states, through constitutional and legislative action, have limited central executive authority (1) by diffusing executive responsibility among a number of elected administrative officials; (2) by creating administrative and policy-making boards or commissions; and (3) by requiring civil service status for positions of a policy-making nature. Colorado is typical of a state where central administrative authority is limited by all three of these methods.

The committee has been concerned with the over-all problems of executive branch organization for several years. Much of the committee's time in 1965 was spent in beginning a general review of the principles of administrative organization as compared to the system of organization in Colorado and the problems resulting from our system. The members have concluded that, in order to assess these organizational problems properly and to reach general agreement on solutions to these problems, the committee must take the following steps:

(1) Prepare a logical grouping of present state agencies into 20 or fewer departments;

(2) Thoroughly discuss this grouping and the role of boards and commissions with state officials and employees and other interested persons and organizations; and

(3) Following these discussions, prepare a revised program of reorganization for area meetings with the general public and others to obtain their comments as well as to inform them of the problems connected with the present situation.

The committee anticipates that this proposal will involve at least one more year, if not two, of its time before it can complete these three steps. It would therefore be the 1968 session before any constitutional proposals could be submitted for the consideration of the members of the General Assembly.

### Other Committee Activities

In addition to the aforementioned areas, the committee also began its assignment with respect to state agency forms and rules and regulations, Class C pension program, and progress being made under the new reports and publications program.

Most of the 58 state agencies being surveyed on their forms and rules and regulations have provided the requested information. All of those remaining are expected to submit this information by December 1st so that the staff will be able to prepare an analysis for committee consideration following the 1966 session.

As recommended by the committee, administrative changes have been made in the Class C pension program to reduce the number of warrants being written each month. Instead of 550 separate warrants being drawn each month, beginning on July 1, 1965, three consolidated warrants -- one for each institution where Class C pensioners are housed -- are being drawn so that slightly more than \$13,000 is being saved a year under this revised procedure. Other changes instituted in the procedure for handling Class C cases and future applications for Class C pensions will result in additional savings in administrative costs. Incidentally, under the Federal Medicare Act of 1965, some \$700,000 will be provided in federal funds for payment to our state hospitals under the Class C pension program, beginning in January of 1966.

The committee also reviewed the progress being made under the 1964 State Agency Reports and Publications Act. Based on a report made by the Management Analysis Director, satisfactory progress is being made. Of special significance, an estimated \$90,000 to \$100,000 in savings has already been achieved since this act went into operation and additional savings are anticipated as the law is more fully implemented.

### Continuation of Committee

As its final recommendation, the committee believes that the Legislative Council should be directed by the General Assembly to continue its review of the organization of state government in Colorado during 1966.

BILL A

A BILL FOR AN ACT

ABOLISHING THE STATE BOARD OF CANVASSERS, AND PROVIDING THAT THE SECRETARY OF STATE SHALL PERFORM THE DUTIES AND FUNCTIONS OF SAID BOARD.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 49-16-9 (2) through (4), Colorado Revised Statutes 1963, are hereby amended to read:

49-16-9. Canvass by secretary of state. (2) (a) ~~The state board of canvassers shall meet at the office of the secretary of state at 10:00 a.m. of~~ ON the sixteenth day after any primary election and, if the official abstracts from all counties ~~be~~ ARE in the possession of the secretary of state, ~~they~~ HE shall proceed to canvass the votes for candidates for United States senators, for representatives in congress, and for all state and district offices. ~~If the official abstracts are not all in, the state board of canvassers shall adjourn until~~ ON the seventeenth day after the primary election, ~~at which time they~~ THE SECRETARY OF STATE shall canvass the votes whether all the official abstracts ~~be~~ ARE received or not.

(b) ~~The state board of canvassers shall meet at the office of the secretary of state at 10:00 a.m. of~~ ON the thirty-first day after any general or special election and, if the official abstracts from all counties ~~be~~ ARE in the possession of the secretary of state, ~~they~~ HE shall proceed to canvass the votes for electors of president and vice-president, for United States senators, for representatives in congress, for regents of the university, for members of the state board of education, and for judges of the supreme and district courts, for district attorneys, and for state senators and state representatives. ~~If the official abstracts are not all reported, the state~~

~~board-of-canvassers-shall-adjourn-from-time-to-time-as-they~~  
~~deem-proper,-to-await-the-receipt-of-all-returns.~~ On the thirty-  
fifth day after the general or special election ~~they~~ THE SECRETARY  
OF STATE shall canvass the vote whether all the official abstracts  
be ARE received or not.

(3) The ~~state-board-of-canvassers~~ SECRETARY OF STATE shall  
proceed to examine and make certified statements of the total  
number of votes at any general, primary, or special election for  
the officers mentioned in subsection (2) of this section. The  
statement shall show the names of the persons for whom such votes  
were cast and the total number cast for each, distinguishing the  
several districts and counties in which they were cast. The ~~state~~  
~~board-of-canvassers~~ SECRETARY OF STATE shall thereupon determine  
what persons have been elected to such offices, or nominated by  
each political party in the case of a primary election, shall  
endorse and subscribe on such statements a certificate of such  
determination, and shall file the statements ~~with-the-secretary~~  
~~of-state~~ IN HIS OFFICE. In the case of a primary election the  
statements shall be made as to each political party separately.

(4) (a) If at any general or special election any two or  
more persons have an equal and the highest number of votes for  
electors of president and vice-president, for United States  
senator, for representative in congress, for regent of the uni-  
versity, for member of the state board of education, for judge  
of the supreme or district court, for district attorney, or for  
state senator or state representative, the ~~state-board-of-can-~~

~~vassers~~ SECRETARY OF STATE shall proceed to determine by lot which of the candidates shall be declared elected. Reasonable notice shall be given to such candidates for the time when such election will be so determined.

(b) If at any primary election any two or more candidates of the same political party have an equal number of votes for the same office, and a higher number than any other candidate of the same political party, the "tie" shall be resolved in such manner as shall be agreed upon by the candidates so "tying". In case the candidates shall fail to agree upon the method of resolving the "tie" within five days after the completion of the canvass of the vote, the same shall then be resolved by lot, to be cast as the ~~state-board-of-canvassers~~ SECRETARY OF STATE may determine.

SECTION 2. 49-16-10, Colorado Revised Statutes 1963, is hereby amended to read:

49-16-10. Certificates of election for national, state, and district officers. The secretary of state shall record in his office in a book to be kept by him for that purpose each certified statement and determination made by ~~the-state-board-of-canvassers~~ HIM, or by the house of representatives as provided in section 49-16-8, and shall without delay make and transmit to each of the persons thereby declared to be elected, or nominated in the case of a primary election, a certificate of election or nomination, certified by him under his seal of office. The secretary of state shall also forthwith cause a copy of such certified statement and determination to be printed in a newspaper published at the seat of government.



SECTION 3. 49-16-13, Colorado Revised Statutes 1963, is hereby amended to read:

49-16-13. Imperfect returns - corrections. (1) Whenever ~~the~~ A county board of canvassers or the ~~state-board-of-canvassers~~ SECRETARY OF STATE or the speaker of the house of representatives shall find that the returns from any precinct, county, or district do not strictly conform to the requirements of law in the making, certifying, and returning the same, the votes cast in such precinct, county, or district, nevertheless, shall be canvassed and counted, if such returns shall be sufficiently explicit to enable such ~~boards~~ BOARD or THE persons authorized to canvass votes and returns to determine therefrom how many votes were cast for the several candidates.

(2) If upon proceeding to canvass the votes it shall clearly appear to ~~the-canvassers~~ A COUNTY BOARD OF CANVASSERS OR THE PERSONS AUTHORIZED TO CANVASS VOTES AND RETURNS that in any statement produced to them certain matters are omitted which should have been inserted, or that any mistakes which are merely clerical exist, they shall cause the statement to be sent ~~by-one-of-their-number~~ to the judges of election or to the county board of canvassers, AS THE CASE MAY BE, from whom they were received to have the same corrected. The judges of election or county clerk, when so demanded, shall make such correction as the facts of the case require, but shall not change or alter any decision before made by them. ~~The-canvassing-board~~ A COUNTY BOARD OF CANVASSERS may adjourn from day to day for the purpose of obtaining and receiving such statement, but shall not delay the canvassing past the day provided by law for the completion of the canvass.

SECTION 4. Repeal. 49-16-9 (1), Colorado Revised Statutes 1963, is hereby repealed.

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

BILL B

A BILL FOR AN ACT

AMENDING 124-11-1, COLORADO REVISED STATUTES 1963, CONCERNING THE  
MEMBERSHIP OF THE STATE BOARD OF AGRICULTURE.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 124-11-1, Colorado Revised Statutes 1963, is  
hereby amended to read:

124-11-1. State board of agriculture. A board is hereby  
constituted and established which shall be known by the name  
and style of "the state board of agriculture". It shall consist  
of eight members besides ~~the-governor-of-the-state-and~~ the presi-  
dent of the Colorado state university who shall be AN ex officio  
~~members~~ MEMBER of the board. The governor, by and with the con-  
sent of the senate, on or before the third Wednesday of January  
of each ~~biennial~~ session of the general assembly HELD IN ODD  
NUMBERED YEARS, shall appoint two members of the board to fill  
the vacancies that shall next occur, which vacancies shall be  
so filled that at least one-half of the appointed members of the  
board shall be practical farmers.

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



BILL C

A BILL FOR AN ACT

AMENDING 149-1-3 (1) AND 149-1-4, COLORADO REVISED STATUTES 1963,  
CONCERNING THE MEMBERSHIP AND OFFICERS OF THE WATER CONSERVA-  
TION BOARD.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 149-1-3 (1), Colorado Revised Statutes 1963, is hereby amended to read:

149-1-3. Personnel. (1) The board shall consist of fourteen THIRTEEN members. The ~~governor~~ NATURAL RESOURCES COORDINATOR, attorney general, state engineer, ~~the-director-of-planning,~~ and director of said board, ~~when-appointed-as-hereinafter-provided,~~ shall be members ex officio. The nine remaining members shall be qualified electors of the state, well versed in water matters, and shall be appointed by the governor for terms of three years. The members of said board who have been appointed and are now serving as such members shall continue to serve as such members. ~~provided,~~ ~~that-within-sixty-days-from-the-effective-date-of-this-section~~ ~~there-shall-be-a-determination-by-lot,-under-the-supervision-of-the~~ ~~governor,-of-three-of-such-members-to-serve-a-term-of-one-year-from~~ ~~the-effective-date-of-this-section,-three-of-such-members-to-serve~~ ~~a-term-of-two-years-therefrom-and-three-members-to-serve-a-term~~ ~~of-three-years-therefrom.~~ In case a vacancy shall occur in the membership of the board by death, resignation, or otherwise, the governor shall appoint a successor to serve the unexpired term of such member of the board.

SECTION 2. 149-1-4, Colorado Revised Statutes 1963, is hereby amended to read:

149-1-4. Organization. The ~~governer~~ NATURAL RESOURCES COORDINATOR shall be the chairman of the board. The board shall elect from the appointed members a vice chairman and secretary to serve as such at the pleasure of the board. The person chosen as secretary shall be well versed in water matters and qualified to represent the board, and the interests of the state on occasion, as the board may require.

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

BILL D

A BILL FOR AN ACT

AMENDING 148-18-3 (4), COLORADO REVISED STATUTES 1963, AS AMENDED,

CONCERNING THE MEMBERSHIP OF THE GROUND WATER COMMISSION.

Be It Enacted by the General Assembly of the State of Colorado.

SECTION 1. 148-18-3 (4), Colorado Revised Statutes 1963, as amended by section 1 of chapter 319, Session Laws of Colorado 1965, is hereby amended to read:

148-18-3. Commission - organization - expenses. (4) The ~~governor~~ NATURAL RESOURCES COORDINATOR, the state engineer, and the director of the state water conservation board shall be voting members of the commission. Eight voting members shall constitute a quorum at any regularly called meeting of the commission, and a majority vote of those present shall rule. The commission shall establish and maintain, as nearly as may be practicable, a schedule of four general meetings each year. ~~The-governor-may-designate-a representative-to-sit-in-his-place-on-the-commission-and-said-designee shall-have-authority-to-vote-the-governor's-proxy.~~

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

BILL E

A BILL FOR AN ACT

AMENDING 62-2-1 (1) (a), COLORADO REVISED STATUTES 1963, CONCERNING  
THE MEMBERSHIP OF THE GAME, FISH, AND PARKS COMMISSION.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 62-2-1 (1) (a), Colorado Revised Statutes 1963,  
is hereby amended to read:

62-2-1. Game, fish, and parks commission. (1) (a) The game,  
and fish, AND PARKS department is hereby placed under the jurisdic-  
tion of a commission, to be known as the game, fish, and parks  
commission, hereinafter referred to as the commission. Such com-  
mission shall consist of eleven members, one of whom shall be the  
~~GOVERNOR~~ NATURAL RESOURCES COORDINATOR of this state as an ex offi-  
cio member of the commission, eight members of the commission shall  
be chosen from districts as provided in this section 62-2-1, and two  
members who shall be chosen from the state at large. For the purpose  
of this chapter, the state of Colorado is hereby divided into eight  
game, and fish, AND PARKS districts, to be numbered from one to eight.

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

BILL F

A BILL FOR AN ACT

ABOLISHING THE COLORADO GEOLOGICAL SURVEY AND THE GEOLOGICAL SURVEY  
BOARD.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Repeal. Article 1 of chapter 64, Colorado Revised Statutes 1963, and the amendments thereto made by sections 65 and 66 of chapter 29, Session Laws of Colorado 1964, and 3-15-4 (8), Colorado Revised Statutes 1963, are hereby repealed.

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

BILL G

A BILL FOR AN ACT

AMENDING 145-1-1 (1), COLORADO REVISED STATUTES 1963, CONCERNING  
THE MEMBERSHIP OF THE STATE BOARD OF VETERINARY MEDICINE.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 145-1-1 (1), Colorado Revised Statutes 1963, is  
hereby amended to read:

145-1-1. State board of veterinary medicine. (1) There is  
hereby created, as a part of the division of registrations of the  
department of state, a state board of veterinary medicine, herein-  
after referred to as the "board", which shall consist of four  
members with three members to be appointed by the governor each  
for a term of six years and with the ~~governor~~ SECRETARY OF STATE  
as ex officio member. ~~The terms of office of the members first~~  
~~appointed under this article shall expire one each on the 30th~~  
~~day of June in the years 1959, 1961, and 1963. On or before~~  
~~June 30th, 1953, and each second year thereafter, the governor shall~~  
~~appoint one member for a term beginning July 1, and expiring June~~  
~~30th of the sixth year thereafter.~~ Members of the state board of  
veterinary examiners as constituted before this ~~article~~ SECTION becomes  
effective shall continue as members. ~~one until June 30th, 1953,~~  
~~one until June 30th, 1955, and one until June 30th, 1957, as~~  
~~shall be determined by the governor.~~ Any vacancy on the board  
shall be filled by the governor by the appointment of a qualified  
person for the unexpired term.

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

BILL H

A BILL FOR AN ACT

AMENDING 39-18-1 (1) (a) and (b) and (6), COLORADO REVISED STATUTES  
1963, CONCERNING THE STATE BOARD OF PAROLE.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 39-18-1 (1) (a) and (b) and (6), Colorado Revised  
Statutes 1963, are hereby amended to read:

39-18-1. State board of parole. (1) (a) There is hereby  
created a state board of parole, hereinafter referred to as the  
"board", which shall consist of ~~seven~~ SIX members, consisting of  
~~the-governor,~~ the attorney general, and five members, other than  
law enforcement officers or officials, of known devotion to parole  
and rehabilitation work, with practical knowledge in criminology  
and kindred subjects, to be appointed for overlapping terms by the  
governor alone. The term of such members shall be six years, except  
where an appointment is made to fill an unexpired term. Should the  
~~governor-at-any-time-be-unable-to-attend-any-meeting-of-the-board,~~  
~~the-lieutenant-governor-shall-appear-as-his-alternate,-and-should-the~~  
attorney general be unable to attend any meeting of the board, he  
shall appoint as his alternate his deputy or an assistant attorney  
general to act in his stead. Such ~~alternates~~ ALTERNATE shall be A  
legal ~~members~~ MEMBER of the board when serving.

(b) The ~~governor,-the-lieutenant-governor,-the~~ attorney general  
and ~~the-alternates~~ HIS ALTERNATE shall not be entitled to any addi-  
tional compensation for such duties. The five appointed members shall  
be entitled to ~~ten~~ TWENTY dollars per day for each day actually  
served in performing their duties, but not to exceed five days in any  
calendar month. All memners of said board shall be reimbursed for all

expenditures and necessary expenses pertaining to and relative to the discharge of their duties as members of said board. All such payments shall be made from moneys appropriated to the state department of parole for such purposes.

(6) ~~The-governor-shall-be-the-head-of-the-department-of-parole~~ and THE ATTORNEY GENERAL OR HIS ALTERNATE shall preside at all meetings of the board. ~~at-which-he-shall-be-present,--in-the-absence-or disability-of-the-governor,-the-lieutenant-governor-shall-succeed-to the-powers-and-duties-of-the-governor,~~ Four members of the board shall constitute a quorum for the transaction of business. ~~In-the-absence or-inability-of-the-governor-and-the-lieutenant-governor-to-act,-the attorney-general-shall-become-the-presiding-officer-of-said-board,~~

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



BILL I

A BILL FOR AN ACT

TRANSFERRING FROM THE GOVERNOR TO THE DIRECTOR OF THE DEPARTMENT OF INSTITUTIONS THE POWER AND DUTY TO MAKE TRANSFERS OR RE-TRANSFERS OF PERSONS COMMITTED TO OR OF INMATES OF CERTAIN STATE INSTITUTIONS TO OTHER STATE INSTITUTIONS UNDER CERTAIN CIRCUMSTANCES.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 3-11-5 (1), Colorado Revised Statutes 1963, and 3-11-5 (2) (c), Colorado Revised Statutes 1963, as amended by section 1 of chapter 39, Session Laws of Colorado 1964 (numbered 3-11-6 (2) (b) therein), are hereby amended to read:

3-11-5. Additional powers and duties of director. (1) (a)

The ~~governor, as head~~ DIRECTOR of the department of institutions shall have and exercise:

(b) All the right and power to transfer an inmate from the Colorado state reformatory ~~at Buena Vista, Colorado,~~ to the Colorado state penitentiary ~~at Canon City, Colorado,~~ when such inmate is deemed an incorrigible prisoner whose presence at the Colorado state reformatory appears to be seriously detrimental to the ~~morale,~~ administration, ~~policy,~~ ~~or well-being~~ of said Colorado state reformatory. In case any prisoner at the Colorado state reformatory shall be or become insane, the ~~governor~~ DIRECTOR may transfer said prisoner temporarily to the Colorado state psychopathic hospital ~~at Denver, Colorado,~~ or to the Colorado state hospital ~~at Pueblo, Colorado.~~ The ~~governor~~ DIRECTOR shall likewise have the authority, with the approval of the warden of the Colorado state penitentiary, to transfer from

the Colorado state penitentiary at-Ganon-City,-Colorado, to the Colorado state reformatory at-Buena-Vista,-Colorado, a prisoner or prisoners of good conduct and recognized behavior for the purpose of aiding in instructional work at the Colorado state reformatory.

(c) The ~~governor~~ DIRECTOR shall have the further authority, upon request of the state board of parole under the provisions of sections 39-18-2 and 39-18-3, to transfer inmates from the Colorado state reformatory to the Coloardo state penitentiary and inmates from the Colorado state penitentiary to the Colorado state reformatory and also the authority, upon request of said state board of parole, to retransfer any such inmate back to the institution from which he was transferred.

(2) (c) The ~~governor~~ DIRECTOR shall review any such evaluation made before he shall approve such transfer. If the ~~governor~~ DIRECTOR approves any such transfer, the superintendent of the institution from which the inmate is to be transferrrd, shall petition the district or juvenile court in the county in which said institution is located for a new commitment or sentence to be made in accordance with the approved transfer.

SECTION 2. 39-18-2, Colorado Revised Statutes 1963, is hereby amended to read:

39-18-2. Request for transfer - penitentiary to reformatory.  
The state board of parole may review the prior record of any person sentenced to the state penitentiary and also the record of his conduct therein, and if said board is of the opinion after such review that any such person is unlikely to attempt to escape and has shown a disposition to abide by the rules of the institution where he is confined and a desire and an ability to be reformed, said board may report such facts to the ~~governor~~ DIRECTOR OF THE DEPARTMENT

OF INSTITUTIONS and request the ~~governor~~ DIRECTOR to transfer such person to the Colorado state reformatory to serve the penitentiary sentence imposed upon him with time allowances provided by law, and, upon review of his record in the Colorado state reformatory, said board may request the ~~governor~~ DIRECTOR to retransfer such person to the state penitentiary.

SECTION 3. 39-18-3 (1) (e), Colorado Revised Statutes 1963, is hereby amended to read:

39-18-3. Request for transfer - reformatory to penitentiary.

(1) (e) That the reform of such person in the reformatory is unlikely; said board may report such facts to the ~~governor~~ DIRECTOR OF THE DEPARTMENT OF INSTITUTIONS and request the ~~governor~~ DIRECTOR to transfer such person to the Colorado state penitentiary to serve the reformatory sentence imposed upon him and, upon review of his record in the Colorado state penitentiary, said board may request the ~~governor~~ DIRECTOR to retransfer such person to the Colorado state reformatory.

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

BILL J

A BILL FOR AN ACT

AMENDING 26-1-2 (7), COLORADO REVISED STATUTES 1963, CONCERNING THE POWER OF THE GOVERNOR TO AUTHORIZE, UNDER CERTAIN CIRCUMSTANCES, THE APPOINTMENT OF EMPLOYEES TO POSITIONS IN THE CLASSIFIED CIVIL SERVICE AT HIGHER THAN THE MINIMUM RATES PRESCRIBED FOR SUCH POSITIONS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 26-1-2 (7), Colorado Revised Statutes 1963, is hereby amended to read:

26-1-2. Classification - salaries. (7) The first step in the range shall normally be the hiring rate for any class assigned to the range; provided, that on a showing of recruiting difficulty by the civil service commission or a showing of other unusual conditions by the department head, the governor OR HIS DESIGNEE may authorize an appointment at not to exceed the third step, subject to the availability of funds that will not require supplemental appropriation; provided, that as to greades thirty and above, an appointment may be made at any step in the grade.

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

# MEMORANDUM

November 22, 1965

TO: Colorado Legislative Council  
FROM: Committee on Strip Mining  
RE: Report of the Committee on Strip Mining

House Joint Resolution Number 1024, 1965 session, directed the Colorado Legislative Council to appoint a committee on strip mining. The resolution called for a study of the need for legislation to guarantee that sound reclamation practices be required in the process of strip mining of minerals in order to protect the scenic beauty of the state, eliminate water pollution, and encourage soil conservation. The committee on strip mining held three meetings in Denver and one in Craig, Colorado. The latter meeting enabled committee members to have a first-hand look at major coal stripping operations in Western Colorado, as well as an abandoned uranium pit near Maybell.

Strip mining simply means the process of extraction of minerals by removal of the overlying earth or rock strata and is commonly referred to as surface or open-cut mining. Sand and gravel pits, limestone quarries, etc., are typical examples of this type of mining. Although gravel pits and placer mines have been in operation in Colorado for some time, the committee elected to concentrate on the expanding coal stripping industry in Colorado. Perhaps, two factors contributed to the committee's decision: 1) the surface mining of coal has received unfavorable publicity in the Eastern United States because of stream pollution and soil erosion; and 2) the increasing importance of coal as a source of electrical power suggests that Colorado's coal beds may play a major role in the development of electrical power in the West.

## Origin of Coal Stripping

Historically, the surface mining of coal originated in the United States around 1800. At this time, miners simply worked along outcrops of coal seams with picks, shovels, and wheelbarrows. More sophisticated methods of open-cut mining were employed by the firm of Kirkland, Blakeney, and Groves when they introduced horsedrawn plows and scrapers around 1866, and the first steam shovel began stripping coal near Pittsburgh, Kansas in 1877. Perhaps, the first modern coal stripping shovel, at least as they are known today, was operated as early as 1912. The capacity of these shovels was about  $3\frac{1}{2}$  cubic yards. In comparison, the capacity of the largest shovel in operation today is 115 cubic yards. This machine, which towers 20 stories, operates in Paradise, Kentucky, and is capable of moving over 36 million cubic yards of overburden annually -- more than twice the peak-year production of the 77 shovels used in digging the Panama Canal. Future expectations are that the size of dippers will increase.



A 180 cubic yard dipper also is under construction in Illinois, and in a few years shovels in excess of 200 cubic yards may be in operation. Of course, the enormous size of the equipment allows the stripping of seams with much greater amounts of overburden, as well as contributing to the overall economy of the operations.<sup>1</sup>

Although coal has a variety of uses including the production of iron and steel, perfume, nylon, rubber products, dyes, etc., the generation of electric power is becoming the most important market for low cost coal production. Furthermore, the immense modern forced-draft furnaces utilized for the generation of steam for electrical power burn relatively cheap coal (contains impurities) at a high degree of efficiency. The development of steam generating plants greatly reduces the cost of transportation of coal since the plants may be located relatively close to the coal fields similar to the Hayden Plant owned by the Colorado-Ute Electric Association.

It is interesting to note that the heavily populated areas of the Pacific Coast are lacking in coal resources. Therefore, the coal fields of New Mexico, Colorado, Utah, and Wyoming eventually could provide electrical power to the West Coast, especially in view of the diminishing potential of hydro-electrical power for California. Coal, of course, must remain competitive with atomic energy for the production of electrical power.

#### Economies of Surface Mining of Coal

In addition to the advantage of larger and larger equipment that is not feasible for underground mining, a strip operation may be handled by comparatively few men. A giant drag line can be operated by one man, while others may be employed to transport the coal in huge haulers (capacities exceeding 100 tons). Statistically, strip mine production in Kentucky averages about 47.12 tons per man per shift for surface mines compared to only 17.03 tons per man per shift for underground mines. Nationally, coal stripping production accounts for about three-fourths of the coal production in the United States.<sup>2</sup> In Colorado, the percentage of coal mined through surface methods approximates 26.6 per cent of total production of coal according to the Coal Mine Inspection Department. In the first nine months of 1965, 3,477,000 tons of coal were produced in Colorado, and the nine surface mines accounted for 924,913 tons of this amount.

Advantages of Coal Stripping. The advantages of coal stripping include:

- 1) reduction of number of employees needed;
- 2) relatively unskilled personnel may be employed in coal strip activities;

1. Strip Mining in Kentucky, Report of the Strip Mining and Reclamation Commission, Kentucky Department of Natural Resources, pages 6 and 11.

2. Ibid., page 23.

- 3) practically limitless size of equipment exists;
- 4) a very high percentage of the coal bed may be recovered;  
and
- 5) there is no problem of rock falls, gas explosions, ventilation, and other problems associated with underground mines.

Disadvantages of Coal Stripping. The major problem of coal stripping or any other type of surface mining is the despoiling of the surface land and top soil. Unless reclamation measures are taken, the natural contour of the land may be blemished by ridges of spoil banks. In the Eastern United States, the overturned land also has caused serious problems of acidity, leading to stream pollution and destruction of vegetation on adjoining lands. Colorado's problem, on the other hand, may center around the need to return the land to suitable grazing habitat; seeding of spoil banks to eliminate growth of noxious weeds; removing a general "eye sore" to the scenic beauty of a tourist state; and prevention of soil erosion.

Two other problems strip mine operators must be concerned with are problems of weather and the collection of impurities in the process of extracting the coal. Eastern strip operators have adopted procedures to wash the coal to remove impurities. However, this practice is not necessary if the coal is to be used for the generation of power only.

#### Basic Types of Strip Mining

There are two basic types of strip mine operations -- area and contour mining. Contour mining generally is found in the extremely hilly regions of Eastern Kentucky. Briefly, a cut is made into the side of the hill and the overburden is allowed to flow down the slope. In order to remove coal from seams entering into the hillside, augers also have been employed. These machines are huge drills that act much like a wood drill in which the coal actually is drilled out of the side of a hill. If the auger method is used, engineers estimate that only about twenty per cent of a seam may be successfully mined.

The area type of surface mining sometimes is referred to as box-cut mining. A trench is dug above the coal seam and the overburden is piled to one side. A second cut is made adjacent to the first, and the overburden is piled into the first cut. The operation continues until the entire bed is mined, leaving rows and rows of spoil banks. In most climates, the last cut or trench often is dammed enabling the cut to fill with water.

#### Reclamation Activities

The reclamation of strip lands involves two basic programs -- 1) grading and 2) revegetation. Briefly, revegetation is the least expensive of the two, and appears to be the least controversial to conservationists and members of the coal industry, based on comments at the Craig meeting. The second aspect of reclamation, that is,

grading or leveling, involves considerable expense to industry. For instance, Mr. Jack Hall, U.S.D.A., Soil Conservation Service, said that the conservation agencies in cooperation with industry could vegetate most spoil banks at reasonable cost and for as little as three to ten dollars per acre. On the other hand, moving of top soil could approach 20 cents per yard. With this in mind, Representative Foster pointed out at the October 11 meeting that it may be difficult to justify reclamation costs of \$200 per acre on land valued at only \$30 per acre. A balance between restoration of the natural beauty of the land and the economic costs involved must be considered, he said.<sup>3</sup>

Reclamation Activities in Other States. Seven states have adopted legislation for the reclamation of coal strip mines. West Virginia enacted the first reclamation statute in 1939 for the control of coal, sand, and clay mines and quarries. Other states enacting strip mining laws include Kentucky, Illinois, Indiana, Maryland, Ohio, and Pennsylvania. Illinois law applies to all minerals; three states -- Maryland, Ohio and Pennsylvania -- limit the statutes to coal; and the remaining acts include other miscellaneous minerals such as clay, sand, shale, etc.<sup>4</sup>

All states enacting coal stripping reclamation laws require some sort of grading or leveling. The Pennsylvania law, for instance, is the most stringent and requires all pits 100 feet or less in depth to be completely backfilled. Pits exceeding 100 feet in depth must be backfilled to a degree determined by the Land Restoration Board. However, if a pit is within 250 feet of any dwelling or 100 feet of a right-of-way of any highway, the pit must be backfilled completely.<sup>5</sup>

Indiana and Ohio laws require leveling of ridges to a rolling topography; Illinois statute provides for the grading of ridges adjacent to highways to a 10 foot width; the Maryland act also provides for leveling of peaks to permit planting; and West Virginia law provides that the reclamation deposit of \$150 per acre satisfies the requirement set by the conservation district.

Bonding requirements also are contained in all state laws for reclamation. Pennsylvania law provides: "... The bond shall be at the rate of five hundred dollars (\$500) per acre, unless it has been determined by the secretary that a bond in excess of five hundred dollars (\$500) per acre is required. The bond shall not be less than five thousand dollars (\$5,000) and shall be accompanied by an annual report..."<sup>6</sup> Bond requirements of other states follow:

| <u>State</u> | <u>Minimum Bond Required</u>        |
|--------------|-------------------------------------|
| Kentucky     | \$100 to \$500 per acre             |
| Illinois     | \$200 per acre with \$1,000 minimum |
| Indiana      | \$1,000 plus \$200 per acre         |

3. "Minutes of Meeting," Committee on Strip Mining, August 19-20, page 2; "Minutes of Meeting," October 11, page 2.
4. Comparative State Strip Mining and Reclamation Laws, Research Publication Number 67, Ohio Legislative Service Commission, pages 12 and 13.
5. Pennsylvania Statutes, 52 § 681.11.
6. Pennsylvania Statutes, 52 § 681.8



| <u>State</u>  | <u>Minimum Bond Required</u>       |
|---------------|------------------------------------|
| Maryland      | \$2,000 minimum and \$500 per acre |
| Ohio          | \$1,000 minimum and \$220 per acre |
| West Virginia | \$1,000 minimum and \$150 per acre |

In summary, state reclamation laws usually require a permit to engage in strip mining, execution of a performance bond to insure completion of reclamation activities, reports on extent of operations, and grading and revegetating of affected areas.

Colorado's Cooperative Agreement. In April of 1965, the three major coal strip operators in Colorado -- Energy Coal Company, Pittsburgh and Midway Coal Mining Company, and Peabody Coal Company -- entered into an agreement with the coordinator of National Resources (See Appendix A). This memorandum of understanding is voluntary and by no means binding upon coal strip operators coming into the state. At the June 4 meeting, it was pointed out that the voluntary program may not be completely successful because too much discretion is left to mine operators in the determination of reclamation procedures.<sup>7</sup> For instance, provision V permits the operator to make the decision as to which part of the affected land shall be reclaimed for forest, range, crop, etc. Provision X also requires reclamation to be completed prior to the expiration of three years after the reclamation plan is prepared except as provided in Provision IV B:

Provision IV B -- "On any affected land whose chemical and physical characteristics are toxic, deficient in moisture or plant nutrients or composed of sand, gravel, shale, or stone to such an extent as to seriously inhibit plant growth, planting shall be held in abeyance for a period of ten (10) years after the mining is completed. If, during this ten (10) year period, natural weathering and leaching of such affected lands fails to remove the toxic and physical characteristics inhibitory to plant growth the affected land will be considered unplantable."

Arguments in support of a cooperative agreement were given at the August 19-20 meeting by members of the coal industry:<sup>8</sup>

"Mr. James Deane, Peabody Coal Company, said that the Peabody Coal Company owns 90 per cent of the land mined. Also, the company pays taxes on the land before and after stripping. In the eight states in which Peabody operates, four states have reclamation laws and four do not. The company's reclamation policies in the four voluntary states, he contended, are equal to those states adopting reclamation legislation. In many instances, he continued, legislation may be more restrictive than helpful to effectuate reclamation programs. In other words, practices needed in one particular area may not be applicable to another.

7. "Minutes of Meeting," Committee on Strip Mining, June 4, 1965.

8. Op. Cit., "Minutes" of August 19-20.

"Mr. G. Don Sullivan, Associate Director Government Relations Department, National Coal Association, said that in his position as Director of the Mine Land Conservation Conference, he has worked with operators in twenty-two states, and there does not appear to be any significant difference in the reclamation programs of these states. The history of reclamation extends back approximately 42 years, and for the most part, legislation has been based on voluntary reclamation programs instituted by mine operators. In one state, the reclamation of a strip area for use as a shopping center violated the law as enacted, necessitating the state legislature to revise the law.

"A program of voluntary reclamation has been endorsed by the Mine Land Conference, Mr. Sullivan said, because whenever the land is turned over, entirely different conditions exist. Also, these conditions differ substantially from state to state, area to area, and mine to mine. Therefore, you have to start from scratch to plan a reclamation program. In a sense, the restoration of strip areas is a new science of engineering -- 'the science of new land,' he remarked.

"In general, the coal companies must have public acceptance, Mr. Sullivan contended, and the reclamation of strip areas can only be based on local decisions. The department of interior and other federal agencies recognize that local factors must be considered, suggesting that haphazard instantaneous decisions are not going to solve reclamation problems."

Arguments supporting reclamation legislation for strip mines are summarized in remarks made by Mr. James Pughe, Vice President of the Craig Chamber of Commerce, at the October 19-20 meeting:

"If the coal operators are sincere about reclamation, the only problem posed is that of prohibiting irresponsible operators, or the 'fast buck' operators, from laying waste to an area without any attempt at restoration. In other words, pit design in its conception is needed to reduce slopes of spoil banks, making the land useful for vegetation and grazing. Colorado does not want to become another "Appalachia," he said, with property values destroyed. The people of Colorado want the coal industry; however, they also want the highest economic use of the land. Therefore, if the major operators are sincere, they will join with Colorado legislators to minimize the possibility of strip operations in which the land is not reclaimed."<sup>9</sup>

Permissive Legislation -- Cooperative Agreements. The committee discussed the feasibility of providing legislation to allow the Coordinator of National Resources to enter into agreements with strip mine operators for the reclamation of surface mined land. The committee requested information from the Attorney General on whether such agreements could be enforced. Mr. John Patterson, Assistant Attorney General, in a letter to the committee, made the following

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9. Op. Cit., "Minutes" of August 19-20.

comments:

2) If the General Assembly adopted legislation authorizing the Coordinator of Natural Resources to enter into agreement with strip mine operators for the purpose of reclamation practices for various operations, could the agreement voluntarily entered into by a strip mine operator be enforced? In the absence of specific legislation and specific agreements entered into, no firm opinion can be rendered as to the validity of either the legislation or the agreement. However, it would appear doubtful that an agreement voluntarily entered into could be enforced unless there was consideration running from the state to the operator. In the event such an agreement is required as a prerequisite for obtaining a license or permit to mine, the present mining laws would need to be amended and then certain standards set forth concerning the type of reclamation required.

3) Would legislation proposed in item (2) above be constitutional, especially since the adoption of standards by the Coordinator of Natural Resources could not be detailed in the law and would need to be adjusted to meet the requirements of each operation?

As indicated above, the difficulty of adopting standards might preclude the use of agreements as a source of enforcing reclamation of surface mining activities.

Problems to be Resolved

Although surface mining in the East and West involves similar procedures of overturning land, the problems posed in these areas to restore the land to surface use differ to a large degree. For example, Eastern subsoil presents problems of acidity, while Colorado's substratum basically is alkaline. Furthermore, rainfall in the Cumberlands approximates 45 inches annually, compared to Colorado's relatively dry climate. Thus growth conditions, soil erosion, and stream pollution vary to a large extent.

Presently, soil conservation experts in Colorado are engaged in an experimental phase of vegetating coal strip areas on the Western Slope. In addition, the problem of grading and leveling spoil banks has not been resolved. Testimony to the committee indicates that too much grading may compact slopes; at the same time, if spoil banks are left jagged, cattle may not forage on steep slopes, and the natural beauty of the landscape may be blemished. Therefore, any proposed legislation must be broad enough to allow discretion to the reclamation administrators to conduct experimental programs, especially

in the next few years, in order to determine the best means of vegetating overturned land. In addition, legislation must be flexible enough to allow various types of reclamation activities depending on natural conditions present in each strip area. Unfortunately, constitutional problems concerning delegation of legislative powers add to the problem. If sufficient standards are not "spelled out" in any contemplated legislation enacted by the General Assembly, the courts may rule the broad grant of powers unconstitutional.

Additional Questions to be Considered. The following questions also may need to be answered:

1. Under Colorado's constitution, would it be possible to establish a program of reclamation which might involve cost differences to strip operators? In other words, varying conditions may require more leveling in one area than another adding to costs of some operators. If complete restoration of the land to original surface use is a goal of the committee or the General Assembly, a dollar difference in reclamation cost to strip operators probably would not be a hindrance constitutionally. However, if the goal of reclamation is determined by an administrator, a constitutional problem could arise.

2. Basic goals of the use of overturned land also may need to be established by the General Assembly. Is the land to be used for grazing, wildlife habitat, original use, forestation, etc? Who is to make the determination?

3. Should backfilling or leveling to the general characteristics of the natural surroundings be required?

#### Committee Recommendations

In the past year, the major coal strip mine operators in Colorado embarked on an experimental program for restoration and vegetation of surface mined coal lands in Western Colorado. The relative success of these test plantings may be evaluated by the summer of 1966. Furthermore, additional information must be developed concerning grading and leveling of strip areas to prevent soil erosion, stream pollution, etc. Therefore, the committee recommends continuation of the study of surface mining in 1966.

Committee members also were impressed with the problems posed by alteration of the natural landscape through other types of private and governmental activities. For this reason, the committee recommends expansion of the scope of the study to include the general preservation of surface soil in Colorado.

## APPENDIX A

### MEMORANDUM OF UNDERSTANDING BETWEEN COAL SURFACE MINING COMPANIES OF COLORADO AND THE COLORADO DEPARTMENT OF NATURAL RESOURCES STATE OF COLORADO

WHEREAS, the Mutual Objective of the signatory parties to this Memorandum of Understanding is to accomplish in the State of Colorado, the restoration of land affected by the surface mining of coal to its most practical and productive use within the shortest possible time, and

WHEREAS, the principal method of accomplishing this objective is to establish vegetative cover on all such land as soon as chemical, physical and moisture conditions permit,

NOW, THEREFORE, the signatory parties hereby enter into the following Memorandum of Understanding:

DEFINITIONS: Wherever used or referred to in this Memorandum, unless a different meaning clearly appears from the context:

(a) "Overburden" means all of the earth and other materials which lie above natural deposits of coal, and also means such earth and other materials disturbed from their natural state in the process of open cut mining.

(b) "Surface mining" means the mining of coal, by removing the overburden lying above natural deposits thereof, and mining directly from the natural deposits thereby exposed.

(c) "Operator" means any person, firm or corporation engaged in and controlling an open cut mining operation.

(d) "Affected land" means the area of land from which overburden shall have been removed, or upon which overburden has been deposited, or both.

(e) "Refuse" means all waste material directly connected with the cleaning and preparation of substances mined by open cut mining.

(f) "Ridge" means a lengthened elevation of overburden created in the open cut mining process.

(g) "Peak" means a projecting point of overburden created in the open cut mining process.

(h) "Department of Natural Resources" means Coordinator of Natural Resources and/or any state department, commission, or agency so designated to represent the Coordinator.

(i) "Industry" means those operators who are signators to the

Memorandum of Understanding as well as any operators who subsequently ratify it and agree to be bound by its terms.

#### PROVISION I

It is agreed that it shall be the responsibility of the Coal Surface mine operators, who engage in open cut mining for coal to carry out the reclamation work.

#### PROVISION II

As soon as possible after the completion of the mining operations in an immediate area, a Reclamation Plan shall be prepared by the operator, which among other things, will include a map which shows the affected area and other pertinent details, such as roads, and access to the area.

##### SUGGESTED SCALES:

|                  |           |
|------------------|-----------|
| Up to 10 acres   | 1" = 100' |
| 10 to 40 acres   | 1" = 200' |
| 40 acres & above | 1" = 400' |

All maps shall show quarter sections, sections, township and county lines coming within the scope of the map; access to the area from the nearest public road, a meridian, a title containing operator, address, scale of map, by whom map was drawn, name of engineer, date, and township, range and county.

#### PROVISION III

A - Grading shall be carried on adjacent to public highways by striking off ridges to a width of at least ten (10) feet at the top and peaks to a width of at least fifteen (15) feet at the top. In all cases, an even or gently undulating skyline as seen from the roadway will be a major objective.

B - Earth dams shall be constructed in final cuts of all operations, where practical, if necessary to impound water providing the formation of such impoundments will not interfere with mining operations or damage adjoining property.

C - Acid forming materials in the exposed face of a mineral seam that has been mined shall be covered to a depth of not less than two (2) feet with earth or spoil material unless covered with water to a depth of not less than two (2) feet.

D - All refuse shall be disposed of in a manner that will control stream pollution, unsightliness or deleterious effects from such refuse, and water from the mining operation shall be diverted in a manner designed to control siltation, erosion or other damage to streams and natural water courses.



#### PROVISION IV

A - On any affected land, the surface of which is used or is going to be used by the operator for the deposit or disposal of refuse, or within depressed haulage roads or final cuts or any other area where pools or lakes may be formed, no vegetative planting of any kind shall be made.

B - On any affected land whose chemical and physical characteristics are toxic, deficient in moisture or plant nutrients or composed of sand, gravel, shale, or stone to such an extent as to seriously inhibit plant growth, planting shall be held in abeyance for a period of ten (10) years after the mining is completed. If, during this ten (10) year period, natural weathering and leaching of such affected lands ~~fail~~ to remove the toxic and physical characteristics inhibitory to plant growth the affected land will be considered unplantable.

#### PROVISION V

A - On all affected land, the operator shall determine which parts of the affected land shall be reclaimed for forest, range, crop, horticultural, homesite, recreational, industrial, or other use, including food, shelter, and ground cover for wildlife.

B - If the operator's choice of reclamation is forest planting, he may select the future use objective and elect to use hardwoods or conifers, or both. He shall construct fire lanes or access roads when necessary through the area to be planted. These lanes or roads shall be available for use by the planting crews and serve as a means of access for supervision and inspection of the planting work. He shall provide free access to the general public on all lands owned or otherwise controlled by him, and across said lands to adjoining public lands, except those areas where public entry might be hazardous or a hinderance to mining operations. The operator further agrees to leave roads constructed during mining operations in passable condition for use and benefit of the general public, where practicable.

He shall permit hunting, fishing and other outdoor recreational activities as may be prescribed by the Coordinator subject to the operators decision, except in areas where such activities are found by the operator to be hazardous or objectionable.

Tree planting stock shall be ordered and planting carried out based on a spacing of 10' x 10', approximately 435 trees per acre. Planting methods and care of stock will be governed by good planting practices.

C - If the operator is unable to acquire sufficient planting stock of desired tree species, from the State or elsewhere, he may defer planting until planting stock is available to plant such land as originally planned or selected an alternate method of reclamation.

## PROVISION VI

A - If the operator's choice of reclamation is for range, he shall strike off all the peaks and ridges to a width of at least ten feet prior to the time of seeding. The legume seed shall be properly inoculated in all cases. The area may be seeded either by hand, power or the aerial method.

The species of grasses and legumes, and the rates of seeding to be used per acre shall be determined primarily by recommendations from the Colorado State Agricultural Experiment Station and experienced reclamation personnel of the mining companies, after considering other research or successful experience with range seeding on Colorado mined land.

## PROVISION VII

If the operator's choice of reclamation is for Agricultural or Horticultural crops which normally require the use of farm equipment, the operator shall grade off peaks and ridges and fill valleys of such land to a degree so that the area can be traversed with farm machinery reasonably necessary for such use. Preparation for seeding or planting, fertilization, and seeding or planting rates shall be governed by general agricultural and horticultural practices except where research or experience in such work on Colorado mined lands differ with such practices.

## PROVISION VIII

If the operator's choice of reclamation is for the development of the affected area for homesites, recreational, industrial or other uses including food, shelter and ground cover for wildlife, the basic minimum requirements necessary for such reclamation shall be worked out between operators, the Coordinator, and/or other interested parties in each individual case in the preparation of the plan.

### The Coordinator agrees:

A - To assist the Industry in reclaiming and restoring strip mined areas by providing technical and trained personnel for planning and evaluation of reclamation operations.

B - To assist in obtaining planting stock, seeds, cuttings, etc. of suitable plant species used in restoring strip mined areas.

C - To cooperate with and assist the Industry in obtaining aid from other governmental organizations and institutions for the overall development and promotion of strip mined area reclamation efforts.

## PROVISION IX

The Reclamation Plan prepared by the operator shall be based upon:

Provisions for or satisfactory explanation of, all general requirements, for the type of reclamation chosen.

The details of the Plan shall be appropriate to the type reclamation designated by the operator and based upon the advice of technically trained personnel experienced in that type reclamation on surface mined lands and by scientific knowledge from research into reclaiming and utilizing mined lands of Colorado, when available.

#### PROVISION X

All reclamation shall be carried to completion by the operator with all reasonable diligence and shall be completed prior to the expiration of three years after the Plan is prepared except as provided in Provision IV-B and V-C.

#### PROVISION XI

The Coordinator or his accredited representatives may enter upon lands on which the operator is mining for the purpose of inspection.

The Coordinator shall give written notice to operator of any suggestions or comments concerning the reclamation work.

As soon as all reclamation work prescribed in the Reclamation Plan is completed, the operator shall notify the Coordinator.

#### The Industry and the Coordinator mutually agree:

A - To meet once each year, or more often if deemed advisable, for an on the ground inspection of all strip mined areas not previously inspected.

B - To promote and advertise sound natural resource management through all mass media reasonably available; to make periodic and special public releases, jointly or individually regarding the progress of reclamation projects, provided however that individual public releases either shall be cleared by the other party or shall not be derogatory or critical of the other party. In the event of disagreement or conflict with established policy or administrative procedure the matter shall be directed through proper channels to the Coordinator of Natural Resources, State of Colorado and the designated officials of the signatory companies for decision or reconciliation.

C - All supplementing or more specific agreements between the parties hereto that subsequently may be considered will be prepared within the framework of this agreement.

D - It is expressly stipulated and agreed by both parties that each and every provision in this Memorandum of Understanding is subject to the Laws of the State of Colorado, and to the delegated authority assigned in each instance.

E - Nothing in this agreement shall be construed as obligating the Coordinator or his designated representatives in the expenditure of funds or for future payment of money in excess of appropriations authorized by law or obligating the companies of the Industry to expenditure of funds in excess of those monies normally and reasonably budgeted for the provisions contained in this agreement.

F - This agreement shall become effective when signed by the designated representatives of the parties hereto and shall remain in force until terminated by mutual consent, or by either party upon six months notice in writing to the other of its intention to do so. Amendments to this agreement may be proposed by either party and shall become effective upon approval by both parties.

IN WITNESS THEREOF, the parties hereto have subscribed their names and affixed their seal this 16th day of April 1965.

STATE OF COLORADO  
DEPARTMENT OF NATURAL  
RESOURCES"

BY: R. T. ECKLES

TITLE Coordinator

PARTICIPATING COAL COMPANIES:

ENERGY COAL COMPANY

BY: HARRISON EITELJORG

TITLE PRESIDENT

ATTEST: B. T. WHITCROFT  
(Secretary)

PITTSBURG AND MIDWAY COAL  
MINING COMPANY

S E A L

BY: J. A. Miner

TITLE Vice President-Engineering

ATTEST: Henry J. Hofmentes  
(Secretary)

PEABODY COAL COMPANY

S E A L

BY: S. L. Jewell

TITLE Vice President

ATTEST: C. S. Mulvaney  
(Secretary)

Executed and Witnessed this 16th day of April 1965

A. J. Christiansen  
Witness

# MEMORANDUM

November 22, 1965

TO: Colorado Legislative Council

FROM: Committee on Tax Exempt Property

SUBJECT: Recommendations of Committee on Tax Exempt Property

During the 1963-64 biennium a Legislative Council committee accumulated an inventory of all property exempt from ad valorem taxes in the State of Colorado. That inventory was based primarily on property records and estimated values were placed on exempt properties by various means. As a result of the difficulties encountered in accumulating the inventory the committee was unable to spend the necessary time to determine whether changes in the constitution or statutes were desirable. Consequently, the 45th General Assembly directed the Legislative Council to continue the study during the current biennium with a view towards determining what statutory and constitutional changes might be needed.

Exemptions from ad valorem taxes are granted both by constitutional and statutory authority. The constitution grants exemptions to publicly owned property and it is this area to which the committee has directed its attention this year with the expectation that statutory exemptions will be reviewed in 1966.

There are two basic reasons for this decision. First, the committee felt that if a constitutional amendment were necessary it should be submitted to the General Assembly in its second regular session in order that, if approved, it might be referred to the people at the general election in 1966. Secondly, the inventory of exempt property shows that approximately twenty per cent of the assessed valuation of all property in the state is exempt, and of that portion about eighty-five per cent is publicly owned.

## Constitutional Provision Exempting Public Property

Since the constitution of the state was adopted it has contained a provision exempting public property from ad valorem taxes. This provision, Section 4 of Article X, has remained unchanged and reads as follows:

"The property, real and personal, of the state, counties, cities, towns and other municipal corporations and public libraries, shall be exempt from taxation."

Article X, Section 4, according to decisions of the Colorado Supreme Court, means that ownership is the only factor to be considered in determining whether public property is exempt from property taxes. For example, in Stewart v. City and County of Denver (1921), 70 Colo. 514, the court held:



"According to the express language of the constitution, there is but one condition essential to their (the land's) exemption from taxation, and that is, ownership by the city.

"In this case the exemption from taxation of the property of cities is so clear and expressive that there would seem to be no room for any doubt, or necessity of resorting to any rule of construction. The exemption is absolute, and depends upon no condition but ownership by the city."

Despite the fact that property owned by a governmental unit may be located in another jurisdiction, or used for a nongovernmental purpose, the Colorado Supreme Court has ruled that such public properties are exempt from taxation. The decision of the Colorado Supreme Court is of particular importance in view of the extensive private leasehold interests in public lands in Colorado. Article X, Section 4, precludes the taxation of leasehold interests on public properties.

#### Statutory Exemption of Public Property

Statutory provisions relating to the taxation of public property are contained in section 137-2-1, Chapter 94, Session Laws of 1964. This section, in accordance with the constitution, exempts:

"(4) Public libraries and the property, real and personal, of the state and its political subdivisions.

"(6) Property, real and personal, owned and used solely and exclusively for schools, other than schools held or conducted for private or corporate profit. As used herein, the term 'school' means educational institution having a curriculum comparable to that of a publicly supported elementary or secondary school, or college, or any combination thereof, and requiring daily attendance."

The General Assembly made an unsuccessful attempt to require the payment of fees in lieu of taxes on lands acquired by the Game, Fish, and Parks Department in 1961, by requiring a school fee equivalent to twelve mills on such land. The constitutionality of the fees on Game and Fish lands was contested first in the district court of Denver where it was declared unconstitutional, and later that decision was appealed to the Supreme Court of Colorado (Game and Fish Commission of Colorado vs. Cleland N. Feast, et al. No. 20489, Colorado Supreme Court). In part, the court held:

"We are not impressed -- nor should we be -- by the fact that the levy is labeled by the legislature as a 'school fee' rather than a school tax. See Walker v. Bedford, 93 Colo. 400, 26 P.2d 1051 (1933). In nearly all respects, this section levies a tax on State Game and Fish Commission property identical with the tax levied in each affected school district on private property. Therefore, we are in accord with the trial court's statement wherein it said:

In our opinion, the legislation is an attempt by the legislature to do indirectly what cannot be done directly. It seems apparent that the proposed fees are to replace the taxes that had been



paid by the individuals who owned the property before it was acquired by the Game and Fish Commission. The fees, as shown above, are computed on an assessment based on the value of the property.

The statutes contain no element of regulation or restraint pertaining to game and fish laws whereby it could be argued that they are an excise fee or tax. The legislation, in our opinion, is for the primary purpose of raising revenue. When this is the case, the fee loses its character, as such, and becomes a tax for revenue. Although, the legislature uses the word 'fees,' the language of the legislature in denominating the nature of a tax or fee to be assessed is not determinative of its character. In our opinion, the fee being computed on an assessment based on valuation is a tax and is in violation of Article 10, Section 4 of the State Constitution."

#### Constitutional Provisions in Other States

The constitutional provisions of other states pertaining to tax exemptions for public properties may be classed into six categories. Generally, these constitutional requirements range from an outright prohibition of taxes on public properties to taxation of certain public properties at the discretion of state legislatures. Examples of state constitutional provisions for the various categories follow, as well as a list of states with similar constitutional requirements.

1) State constitutional provisions specifically exempting public properties from taxation include: Arizona, Arkansas, Colorado, Idaho, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Oklahoma, Utah, Virginia, and Washington. Colorado's constitution is typical of the provisions of these states regarding tax exempt public properties.

2) Four states have attempted to restrict tax exemptions for public bodies to property used for a governmental purpose. These constitutional provisions indicate, at least to some degree, that public properties can not be used for revenue raising purposes and still qualify for exemption. States which have this type of constitutional provision are Tennessee, Texas, South Carolina, and Wyoming. The Wyoming Constitution (Article 15, Section 12), for example, provides:

"Exemptions from taxation. The property of the United States, the state, counties, cities, towns, school districts and municipal corporations when used primarily for a governmental purpose, and public libraries, lots with the buildings thereon used exclusively for religious worship, church parsonages, church schools and public cemeteries, shall be exempt from taxation, and such other property as the legislature may by general law provide.

"The following statement shall be enclosed in the foregoing proposed amendment by the secretary of the State of Wyoming:

"This proposed amendment to the Constitution of the State of Wyoming allows property of the Federal, State and political subdivisions thereof, to be subject to taxation in the event that such property is being used for purposes other than governmental, in order that nongovernmental activities upon governmental lands can bear their fair share of the tax burden within this state."

3) Minnesota's Constitution (Article 9, Section 1) authorizes municipal corporations to levy and collect assessments for local improvements upon property benefited without regard to a cash valuation of the property. In particular, the constitution provides for the assessment of public property, particularly state lands, for benefits received from the construction of trunk highways.

4) Both the states of California and South Dakota require limited taxation of public properties in their respective constitutions. Article XIII, Section 1, of the California Constitution states:

"...and further provided, that property used for free public libraries and free museums, growing crops, property used exclusively for public schools, and such as may belong to this State, or to any county, city and county, or municipal corporation within this State shall be exempt from taxation, except such lands and the improvements thereon located outside of the county, city and county or municipal corporation owning the same as were subject to taxation at the time of the acquisition of the same by said county, city and county, or municipal corporation; provided, that no improvements of any character whatever constructed by any county, city and county or municipal corporation shall be subject to taxation. All lands or improvements thereon, belonging to any county, city and county or municipal corporation, not exempt from taxation, shall be assessed by the assessor of the county, city and county or municipal corporation in which said lands or improvements are located, and said assessment shall be subject to review, equalization and adjustment by the State Board of Equalization...."

The apparent purpose of the above provision is to safeguard the tax revenues of smaller counties in which large municipal corporations purchase extensive holdings, and in which, except for the provision, would be exempt from local taxation.

On the other hand, the South Dakota Constitution (Article XI, Section 5) provides that:

"The property of the United States and of the state, county and municipal corporations, both real and personal, shall be exempt from taxation, provided, however, that all state owned lands acquired under the provisions of the rural credit act may be taxed by the local taxing districts for county, township and school purposes, and all state owned, lands, known as public shooting areas, acquired under the provisions of Section 25.0106 SDC 1939 and acts amendatory thereto, may be taxed by the local taxing districts for county, township and school purposes in such manner as the Legislature may provide."



5) The constitutions of the states of Alaska, Delaware, Florida, Georgia, Illinois, Indiana, Ohio, Pennsylvania, and West Virginia state that public properties may be exempt from taxation. In these states, the legislatures have the power to require the collection of taxes on certain types of public properties. An example of a state constitutional provision in this category is Alaska (Article IX, Sections 4 and 5):

"Exemptions. The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. All, or any portion of, property used exclusively for non-profit religious, charitable, cemetery, or educational purposes, as defined by law, shall be exempt from taxation. Other exemptions of like or different kind may be granted by general law. All valid existing exemptions shall be retained until otherwise provided by law.

"Interests in government property. Private leaseholds, contracts, or interests in land or property owned or held by the United States, the State, or its political subdivisions, shall be taxable to the extent of the interests."

It is interesting to note that the framers of the Alaska Constitution were particularly interested in the problem of leasehold interests in public properties.

6) The remaining state constitutions make no mention of tax exemptions for public corporations with the result that the state legislatures in these states may, or may not, provide for the exemption of public properties from taxation -- Hawaii, Iowa, Maine, Maryland, Massachusetts, Michigan, Nevada, New Hampshire, New Jersey, New York, Rhode Island, Oregon, Vermont, and Wisconsin.

#### Proposed Constitutional Amendment

A proposed constitutional amendment was introduced in the Colorado House of Representatives, during the 1964 session, to permit the General Assembly to levy fees in lieu of taxes on state and local government properties. The resolution was adopted by the House and subsequently amended by the Senate. However, the amended resolution did not receive the necessary two-thirds vote of all members of the House. The vote in the House on final passage of the resolution was 41 ayes and 20 noes, with four absent members.

A copy of the proposed amendment to Article X, Section 4, as originally passed by the House, follows:

"Section 4. Public property exempt - except. The property, real and personal, of the state, counties, cities, towns, and other municipal AND QUASI-MUNICIPAL corporations, and public libraries shall be exempt from taxation, PROVIDED, THAT THE GENERAL ASSEMBLY MAY PROVIDE BY LAW FOR THE MAKING OF PAYMENTS IN LIEU OF TAXES WITH RESPECT TO ANY SUCH PROPERTY."

## Committee Hearings

On July 26th the committee held a public hearing to hear testimony on the advisability of revising Article X, Section 4, and, in particular, to consider the pros and cons of House Concurrent Resolution Number 1011, 1964 session.

Arguments Supporting Adoption of the Amendment. Generally, arguments supporting the need for an amendment to the constitution to permit payment of fees in lieu of taxes on certain types of governmental properties may be summarized as follows:

1) The continued acquisition of property by governmental agencies or units is eroding the tax base of many Colorado communities. The burden for support of these activities should be borne by the recipients of the benefits and not the property owners of communities in which property is acquired for governmental programs.

2) The large federal land holdings in Colorado already limit the tax base of many Colorado counties. Further loss of taxable property will tend to magnify the burden of tax exemptions in these counties.

3) The demand of metropolitan communities for recreational facilities, water, etc., in rural areas of the state is in conflict with interests of rural property owners. For instance, if taxable land utilized for ranch purposes is purchased by a governmental agency for recreation, the land is removed from the tax rolls. Although the tax base of the county decreases as a result of the tax exemption, local services and governmental expenses often do not decrease in proportion to the reduction in the tax base, suggesting the need for payments in lieu of taxes on property removed from the tax rolls. In other words, the community acquiring the property benefits from the tax exemption, but in so doing, a burden is placed on the existing community to maintain police, fire, and other services for the exempt property.

4) Tax exempt status for property used in governmental functions places private industry, competing with these public organizations, under a serious disadvantage. Taxation of property used in such governmental programs, on the other hand, is an equitable solution.

Arguments in Opposition to a Proposed Constitutional Amendment. Arguments presented in opposition to a proposed constitutional amendment to allow the taxing of certain types of property used in governmental activities include:

1) A tax levied on one governmental unit by another, simply results in a shift of public funds between governmental units, adding to the general expense of governmental operations. In the long run, the public bears the burden of these unnecessary administrative costs.

2) Public recreation sites owned by a governmental unit and located in an adjoining county may provide recreational assets not only to the residents of the county owning the property but to the residents of the county in which the property is located. Furthermore,

such a recreational site may stimulate tourist activities in the area, actually enhancing the economy of the community in which the site is located.

3) The cost of local governmental services required by a tax exempt piece of property may be rather minute in comparison with the amount of tax money that could be collected from taxes levied on the property, suggesting that, if a tax were paid on the property, non-residents would be supporting the local program to a larger degree than could be justified.

4) A reduction of revenues to a community as a result of increased tax exemptions may be compensated for by collection of monies from other sources. State aid or alternative taxes may be utilized to reduce the impact to counties in which a reduction of the property tax base has occurred.

5) Tax exemptions simply magnify problems presented by uneconomical taxing units. Consideration may need to be given to the basic organizational structure of local government to insure that sufficient tax base exists for the support of local services.

#### Committee Recommendations

The acquisition of large tracts of taxable land in certain counties in Colorado by state, municipal, and other local units of government has reduced the tax base of a number of counties. The committee recognizes that purchases of taxable land by governmental units often are made in the general interest of the over-all economy of the state; however, the committee is concerned that benefits derived are obtained at the expense of communities in which the acquisitions are made. For instance, despite the fact that tax exempt lands are removed from the tax rolls, usually there is no corresponding reduction in the need for miscellaneous county services, schools, fire and police protection, etc., and there even may be an increase in the need for these services. Therefore, any reduction in the tax base often adds to the mill levies of existing property tax payers. In this manner, continuing governmental expense for services to the tax exempt property actually is borne by the taxpayers of the county in which the land is purchased.

The committee believes that the burden resulting from erosion of the tax base of a local community must be considered as part of the expense for obtaining tax exempt property and should be met by the community deriving benefit from the acquisition of the property. With this in mind, the committee proposes a constitutional amendment to allow the General Assembly to provide for payments in lieu of taxes in the event the tax base of a local community is adversely affected by removal of land from the tax rolls by state and local governmental units. The committee recommends that Article X, Section 4, Colorado Constitution, be amended as follows:

Section 4. Public property exempt - except. The property, real and personal, of the state, counties, cities, towns, and other municipal AND QUASI-MUNICIPAL corporations, and public libraries



shall be exempt from taxation, PROVIDED, THAT THE GENERAL ASSEMBLY MAY PROVIDE BY LAW FOR THE MAKING OF PAYMENTS IN LIEU OF TAXES WITH RESPECT TO ANY SUCH PROPERTY.

MEMORANDUM

November 22, 1965

TO: Colorado Legislative Council  
FROM: Committee on Educational Endeavor  
SUBJECT: Progress Report for 1965

COMMITTEE RECOMMENDATIONS

The Committee on Educational Endeavor met four times during 1965. The discussion at these four meetings centered on the question of whether the committee should be continued and, if so, what future projects should be undertaken. Five recommendations and a new proposed project emerged from the committee's self-evaluation. A more detailed explanation of the events leading to the adoption of these recommendations and the project proposal will be found in the body of this report.

The committee recommends:

1. That the law establishing the Advisory Committee on Educational Endeavor (Section 123-27-4, C.R.S. 1963) be retained and that the committee be continued as an active committee.

2. That the Legislative Council be requested to allocate \$2,000 to cover expenses.

3. That the Legislative Council be encouraged to take into consideration the committee's need for staff research services as well as clerical services when priorities for staff time are established.

4. That the Legislative Council and the General Assembly use the committee more fully, providing more specific direction on what projects should be undertaken and reviewing the findings and recommendations as projects are completed. Improved communication with the Legislative Council and other members of the General Assembly will increase the committee's sensitivity to legislative needs and promote flexibility in the committee's work program. The committee is convinced that if it is to fulfill its advisory function successfully, its projects must be centered on items of legislative concern and the General Assembly must be kept fully informed on the progress and results of committee studies.

5. That the General Assembly continue its support of the Institute in Humanities and Social Studies initiated by this committee and now held at Colorado State University. The committee feels that these annual summer institutes for Colorado teachers and administrators have made a substantial contribution to the quality of education in the fields of humanities and social studies in the schools of the state.



## PROPOSED COMMITTEE PROJECT FOR 1966

The committee plans to make a comprehensive study in 1966 of the existing and appropriate relationships among federal, state, and local levels of government in the field of education, the result to be compiled and condensed for appropriate distribution. The study may include but need not be limited to the following:

- (1) Examine the effect of federal and state aid to education on the over-all structure of federal, state and local financing, policy, and control.
- (2) Study the relationship between the private and parochial schools and the public schools in Colorado, particularly in the light of the new federal legislation.
- (3) Study the role of the State Department of Education in relation to federal aid programs.
- (4) Study federal programs which have an effect on elementary and secondary education but do not come through the usual educational channels.

## COMMITTEE REPORT

### Legal Status of the Committee on Educational Endeavor

Establishment. Unlike most committees reporting to the Legislative Council and the General Assembly, the Committee on Educational Endeavor is a continuing statutory committee. It was established in 1959 by "The Scholastic Achievement Act" (S.B. 234). This Act has remained unchanged since its adoption and now appears as Article 27 of Chapter 123, C.R.S. 1963. It contains two parts: (1) the acceptance and implementation of the grants-in-aid available from the federal government under the National Defense Education Act and (2) the establishment of the Advisory Committee on Educational Endeavor to advise the Legislative Council and the General Assembly on matters relating to scholastic achievement. The complete text of Section 123-27-4, establishing the committee, is included in this report as Appendix A.

Composition. The committee is composed of 11 lay members and two legislators (one senator and one representative) who serve ex officio. The Legislative Council appoints the members of the committee and designates the chairman. At least six of the 11 lay members must be lay citizens not specifically engaged in professional or vocational education pursuits. At least four must be full-time educators representing elementary, secondary, and higher educational systems (at least two of these must be classroom teachers, one in the public schools and one in a private school, college, or university). Terms are for four years, except for the legislative members, whose terms are for two years.



The committee was purposely set up as a non-legislative committee including a cross section of educators and lay citizens, with only two of the 13 members appointed as legislative members. By including persons from all walks of life as members of the advisory committee, the General Assembly sought to broaden its vision and expand its sources of information on educational matters.

The present members of the Committee on Educational Endeavor are:

| <u>Name</u>  | <u>Classification</u>       | <u>Term Expires</u> |
|--|-----------------------------|---------------------|
| Representative Ruth Clark,<br>Fort Collins, Chairman | Legislative Member          | January, 1967       |
| Senator Anthony Vollack<br>Arvada, Vice Chairman     | Legislative Member          | January, 1967       |
| Representative Jean Bain,<br>Denver                  | Lay Member                  | July 1, 1967        |
| Mr. Andrews Black,<br>Littleton                      | Private School              | July 1, 1967        |
| Mr. Beverly Bledsoe,<br>Hugo                         | Lay Member                  | July 1, 1967        |
| Mr. Jess Christenson,<br>Limon                       | Lay Member                  | July 1, 1969        |
| Miss Celeste Clark,<br>Denver                        | Public<br>Elementary School | July 1, 1969        |
| Dr. William Hartman,<br>Greeley                      | Higher Education            | July 1, 1969        |
| Mrs. Janet Lecompte,<br>Colorado Springs             | Lay Member                  | July 1, 1969        |
| Mr. Donald McKinlay,<br>Denver                       | Lay Member                  | July 1, 1967        |
| Mr. Herrick Roth,<br>Denver                          | Lay Member                  | July 1, 1969        |
| Mr. Robert Welborn,<br>Englewood                     | Lay Member                  | July 1, 1967        |
| Mrs. Hestia Wilson,<br>Nucla                         | Public<br>Secondary School  | July 1, 1967        |

Financing. According to the law establishing the committee, members are to serve without compensation; staff services are to be assigned as the Legislative Council directs; and necessary travel expenses of the members may be granted at the discretion of the Council.

In practice, the General Assembly itself specified the amount of expense money to be allocated to the committee each year from 1960 through 1963. Beginning in 1964, Legislative Council financial procedures were changed, however, and the General Assembly no longer specifies the amounts for any of the Council studies. Allocations for each committee are left to the discretion of the Council. Amounts allocated for the Committee on Educational Endeavor since 1960 are as follows:

| <u>Year</u> | <u>Allocation</u> | <u>Joint Resolution</u> |
|-------------|-------------------|-------------------------|
| 1960        | \$3,000           | S.J.R. No. 6            |
| 1961        | 2,500             | H.J.R. No.14            |
| 1962        | 1,750             | H.J.R. No. 7            |
| 1963        | 1,000             | H.J.R. No.25            |
| 1964        | 1,000             | ---                     |
| 1965        | 500               | ---                     |

Statutory Directives. The declared purpose of the Scholastic Achievement Act is "to improve the quality of education available to the youth and adults of the state of Colorado through special provisions and the application of programs of education to areas of scholastic endeavor, including the acceptance and implementation by the state of special educational incentives available under public laws of the Congress of the United States." In keeping with this declared purpose, the Committee on Educational Endeavor is directed to meet at least four times each year and to report annually to and through the Legislative Council to the General Assembly, including but not limited to the following subjects:

- (1) An interpretation of how students on all grade levels from primary school through college might best be assisted by the state in attaining their highest levels of achievement;
- (2) How schools might best upgrade their educational opportunities;
- (3) How local and state school authorities might best coordinate the planning and financing of both scholastic and vocational educational programs with available federal programs and resources; and
- (4) How student guidance services in the public schools might best be performed.

#### Committee Activity Prior to 1965

1959. In the fall of 1959, following the organization of the committee, initial emphasis was placed on the new National Defense Education Act of 1958. State and federal education officials were invited to discuss the provisions of the Act with the committee. Review of this federal aid program seemed appropriate, since the Scholastic Achievement Act which established the committee was largely concerned with the acceptance and implementation of NDEA. The committee concluded that Colorado should continue to participate in the

programs established under NDEA, both with regard to state appropriations and the provisions of the state enabling act. The committee also announced its intention to look closely into all phases of NDEA's operation in Colorado during the year 1960.

In addition, the committee began to formulate ideas and plans for studying ways to improve the quality of education in Colorado. A number of questions were posed and general observations were made during these early committee discussions and committee members became impressed with the magnitude of the task confronting them.

Two basic decisions regarding committee direction were made during the committee's first year. First, the committee decided to concentrate its efforts on the elementary and secondary levels of education, since the Committee on Education Beyond High School was in the process of studying and reporting on the higher educational programs. Second, the committee gave recognition to what was to continue as a central theme for its work through 1964 -- the fact that quality in any educational process has major dependence upon the teacher, his arts and skills in handling course and curriculum content as well as student interest and motivation.

1960. During 1960 the committee met with a number of persons, including school superintendents, classroom teachers, college students, and officials from the State Department of Education. Following discussions with these persons, the committee formulated a carefully worded statement of goals for education in Colorado. This statement was as follows:

A. Goals for education in primary and secondary schools, lower division college work generally, and liberal arts colleges should be:

In general, to provide a liberal arts education for living a full and useful life, and developing the moral, intellectual and physical potentialities of our youth.

Specifically,

1. To provide a broad perspective against which each young person can place himself. It should include an introduction to the problems of philosophy and a thorough background in the development of civilizations -- particularly in the history, values and problems of Western Civilization. It should impart a sound knowledge of, and deep appreciation for, both the privileges and responsibilities of those who are a part of this civilization.

2. To teach each individual, within his or her full capacity to learn, both basic and advanced skills of dealing with mathematics, languages, written and oral articulation, and the sciences, social studies, and cultural arts.

3. To encourage the pursuit of excellence and an independence of thought in which the mind is



used, not only as a receptacle but especially as a creative instrument for identifying, analyzing and solving problems.

4. To guide students toward a better knowledge of themselves, their potentialities, and the areas in which they may make their greatest contributions to themselves, their families, their communities, and mankind.

B. Goals for education in the technical and vocational schools, upper division specialized college work and the professional and graduate schools should be:

In general, to add to the liberal arts education of the primary and secondary schools and lower division colleges, and to increase students' opportunities for earning a living by providing them with specialized education.

NOTE: This section is not enlarged at this time because our Committee is limiting study to the primary and secondary schools.... However, it is pertinent to say here that we believe the secondary schools should make available within their curricula vocational and technical training facilities for the purpose of providing students, not with complete and terminal training in certain skills, but with opportunities to explore the various technical and craft areas for self-discovery and ultimate choice of vocations or professions.

In addition to developing the above statement of goals, the committee made the following recommendations in 1960:

1. Establishment of statutory authorization (a) for school districts to contract jointly for services and (b) for the State Department of Education to provide certain services to school districts through contract on a matching grant basis.

2. Legislation to permit and encourage experimentation by school districts to increase the length of the school day and the school year.

3. Revision of the school attendance laws.

4. Continuation of the statutory provisions relating to state and local participation in the grants and programs available under NDEA.

5. Establishment of a state administered scholarship program to encourage able students of limited means to attend institutions of higher learning within the state of Colorado.

6. Recodification of the school laws.

7. Improvement of standards for teacher certification.
8. Increase in the quality and scope of guidance programs.
9. Efforts to equate, economically and otherwise, teachers and administrators as two separate, but equally important, groups of educators.
10. Strengthening of accreditation procedures and standards.

Continuing with its emphasis on the teacher as the key to quality in education, the committee also listed a series of provocative comments regarding matters which prevent achievement of the full teaching potential in our school systems and things that might be done to make possible such achievement.

1961. The committee's work during 1961 involved meetings with a number of college officials in an effort to utilize their experience with and knowledge of high school graduates entering college. This was an attempt to answer questions concerning what the General Assembly could do to improve the quality of elementary and secondary education, especially for those students who plan to continue their education.

Also included in the 1961 program were meetings with officials administering the National Defense Education Act and officials of the North Central Association.

Three subcommittees were formed to carry out detailed study of areas relating to the all-important area of teacher quality. The subjects were: (1) teacher pay; (2) teacher qualification, selection, and tenure; and (3) school organization, standards, and evaluation. The formation of these subcommittees was in pursuance of the committee's affirmation that quality in teaching is at the heart of quality of education.

Two specific recommendations were made by the committee in 1961. First, a repeated recommendation asking for the recodification of school laws and second, a new recommendation for the establishment of a State Foundation for the Humanities and Social Studies.

Particular attention was given to the proposal for a State Foundation for the Humanities and Social Studies and the reasons why it should be established. Included as part of this proposal was a suggestion for summer institutes on college and university campuses aimed at upgrading teacher quality in the humanities and social studies. Although the total proposal for a State Foundation was not adopted, the General Assembly early in 1962 did support the establishment of a Summer Institute in Humanities and Social Studies for Colorado teachers and administrators. An appropriation of \$16,800 was made available for the conduct of the Institute at Colorado State University.

1962. The most significant committee development in 1962 was the success of the Institute in Humanities and Social Studies held on the campus of Colorado State University under the direction of

Dr. Roy Nelson. The committee worked closely with Dr. Nelson in developing plans and organizing the Institute. Forty participants (Colorado teachers and administrators) were selected for the four-week summer session. Committee members attended one full day and two evenings of the program, going through the same schedule as the Institute participants, and were greatly impressed with what they found.

The committee spent considerable time evaluating the results of the 1962 Institute to determine whether it should be continued. The conclusion was that the program was such a success that it should not only be continued but should also be expanded to include two four-week sessions and 80 participants in 1963. Although the double session has not materialized, the four-week Institute has been continued at C.S.U. each summer since 1962 and the committee is still enthusiastic in its support of the program.

Also during 1962 the Subcommittee on Teacher Pay worked steadily on the question of merit pay. A questionnaire was developed to explore the beliefs and thinking of Colorado educational leaders, both professional and lay, on such subjects as teacher qualities, means of teacher improvement and recruitment, and teacher pay. The questionnaire was mailed in the fall of 1962.

The Subcommittee on Teacher Qualification, Selection, and Tenure, beginning with the premise that emphasis on a "liberal arts" education rather than concentration on teaching methods will produce the better qualified teacher, worked throughout 1962 on the questions of how to provide such an education at our institutions of higher learning, how to encourage the student to pursue it, and how to lead him into -- and keep him in -- the profession of teaching.

At the end of 1962 the committee recommended the continuation and expansion of the Institute in Humanities and Social Studies and also reiterated its previous recommendations for (1) the establishment of a State Foundation for the Humanities and Social Studies; (2) the recodification of the school laws of Colorado; and (3) the development of a state scholarship aid program.

1963. During 1963 the committee compiled the results of the questionnaire on teacher pay which had been sent out in late 1962. Nearly 300 completed questionnaires were received, from active and retired teachers, school administrators, school board members, and others. Although responses to all questions were tabulated, the committee confined its detailed analysis to questions involving the improvement of teacher pay policies and procedures. Particular attention was given to replies relating to the concept of merit pay, but the committee agreed that the subject should be given additional study before final conclusions could be drawn.

Also during 1963, the committee gave further attention to teacher education and certification. Information was obtained from the ten teacher education institutions in Colorado regarding their teacher education programs. The committee spent two days with representatives from most of these institutions and the State Department of Education discussing a preliminary draft of a committee report on teacher education in Colorado. The draft was the result of a

substantial amount of work by the Subcommittee on Teacher Qualification, Selection, and Tenure. In its draft the subcommittee reviewed such questions as: What are the courses required for teachers and by what standards are they chosen? Do these courses give teachers a broad liberal education and sound professional training? Are our colleges and universities preparing effective teachers? Discussion of these questions with college and university personnel and Department of Education officials proved fruitful for all concerned and resulted in improved teacher education programs at several of the institutions.

The committee, evaluating the second Institute in Humanities and Social Studies, held in the summer of 1963, recommended that the Institute be continued in 1964 and asked that the General Assembly consider complementing the program with a similar institute for elementary school teachers.

1964. The committee devoted much of its time and attention in 1964 to two subjects -- merit pay and student teacher programs in Colorado. As in the past, the committee members reviewed each subject on the basis of the premise that quality in teaching is at the heart of quality in education.

In May the committee invited several school superintendents, teachers, and others to participate in a conference on the subject of merit pay. Following this conference, the committee drew the following conclusions, based on the results of the 1962 questionnaire and several years' discussion and study by committee members, as well as on the major points developed at the conference:

The purpose of the committee's review of merit pay plans was to determine, among other things, what role the state should play in developing these plans as a means of improving the quality of our teachers. Some states, such as Florida, have established a state-wide merit pay program with state funds being used to support the adoption of such a salary system by the local school districts. Utah entered into this field somewhat differently by underwriting the costs of pilot programs in a few school districts. Neither Florida nor Utah any longer appropriates state funds for these purposes and their unsuccessful experiences indicate that states must proceed in this area cautiously, if at all....

On the basis of the committee's past activities in regard to merit pay, it appears that a substantial amount of interest and support is found in Colorado for the concept of paying higher salaries to the superior teachers. Much of this interest and support comes from school board members, administration members, and taxpayers or the general public, but the teachers themselves, as a group, are apprehensive of a merit pay program, especially in the larger school districts. The final decision on merit pay is one for each school district to make, with agreement being obtained on the final plan from all groups involved -- the teachers,



administrators, school board members, and the taxpayers; any plan effected otherwise cannot be expected to achieve the benefits intended under a merit pay proposal.

To summarize, a state-wide merit pay plan for Colorado is not feasible. However, opportunities to explore merit pay exist at the local level.... (Emphasis added.)

Thus the committee's work on the subject of merit pay, while resulting in meaningful conclusions, did not result in any recommendations for action by the General Assembly.

As a continuation of the study of teacher education, the committee turned to the subject of student teaching as perhaps the most important single aspect of a teacher's education. Committee members decided to seek preliminary information on the workings of student teaching programs in Colorado by talking with some of the people involved -- the college supervisors, school district superintendents, school principals, classroom supervisory or critic teachers, and student teachers themselves. The members explored this subject in eight school districts that were participating in student teaching programs, districts which varied substantially in terms of enrollment and wealth, as well as community composition. Areas of inquiry included student teacher placement; background requirements for student teachers; supervising classroom teacher selection and compensation; the supervision of student teachers; student teacher activities in the school district; and attitudes toward student teacher programs on the part of the persons interviewed. Because of the limited scope of the preliminary inquiry, however, the committee members agreed that much more information needed to be developed before a report could be issued on the subject of student teacher programs in Colorado.

The committee once again commended the activities of the Institute in Humanities and Social Studies at Colorado State University and urged its continuation and expansion.

#### Review of Committee Developments in 1965

Members of the Committee on Educational Endeavor were disappointed to learn, in May of 1965, that the Legislative Council had voted not to fund the committee's activities for the year. Although the law does state that "necessary travel expenses of the members may be granted at the discretion of the council," the committee had expected that an allocation would be made as a matter of course, since the General Assembly had not repealed the statute or indicated by any other action that the committee should not continue to operate as it had in the past.

Because of committee reaction to this unexpected refusal of funds, the Legislative Council did reconsider its action in June and allocated \$500 to pay expenses of committee members for the balance of 1965. When the allocation was made, however, the Council asked the committee to consider and report on whether or not it should be continued and, if so, to outline its future study program.

The committee has done as the Council requested. It has reviewed its activities and recommendations from 1959 through 1964 (summarized in the preceding pages) and has found many outstanding achievements of which committee members are proud. Among the most significant of these are:

1. The statement of goals for education in Colorado developed in 1960, which was probably as important for the public interest and debate it precipitated in its initial form as for its final content.

2. The constant reminder to the committee's own members and to the General Assembly that quality in teaching is at the heart of quality in education.

3. The review of the workings of the National Defense Education Act during the first years of its operation and the conclusion that Colorado should continue to participate as provided in the Scholastic Achievement Act, since NDEA contributes to improved quality of education (through the upgrading of teaching and other services) in science, mathematics, and foreign languages.

4. The establishment of the annual Institute in Humanities and Social Studies on the campus of Colorado State University, reaching 40 Colorado teachers and administrators for four weeks each summer in an attempt to provide for at least a few of our humanities and social studies teachers the same kind of learning opportunities that are available through NDEA for science, math, and foreign language teachers. (Note: The National Defense Education Act has been expanded now to include English and social studies and it is possible that a grant could be obtained for an additional summer institute at C.S.U. or some other Colorado institution of higher learning, patterned after our annual institute which was the first of its kind in the nation.)

5. The conclusion that a state-wide merit pay plan for Colorado is not feasible, although opportunities to explore merit pay exist at the local level. The widespread participation in the discussion of this question must not be overlooked, for it has encouraged the exchange of ideas and has created more interest at the local level than might otherwise have been accomplished.

6. The recent improvements in teacher education programs in Colorado colleges and universities which resulted, at least in part, from airing of the initial draft of the committee's document on teacher education and the subsequent position of the committee urging changes along the lines suggested.

7. The eventual accomplishment of other specific proposals recommended by the committee -- for example, authorization for co-operative services among school districts; revision of the school attendance laws; and recodification of the state's school laws.

The committee feels that all of these have been worthwhile achievements and hopes that the Legislative Council and the General Assembly, upon reviewing the actual history of the committee, will agree that the committee performs a valuable function and should not

be discontinued. It is clear that not all improvements in the area of scholastic achievement involve recommendations for legislative action, and the committee wishes to emphasize this fact to those who may tend to measure the value of the committee on the basis of legislative action alone.

Having looked at its activities and accomplishments in retrospect, the committee cannot help but conclude that the major reason for general legislative disinterest has been a lack of effective communication between the committee and the Legislative Council and the General Assembly. Both the committee members and the legislators are at fault in this regard. The committee intends to make every effort to improve communication in the future and will do its best to respond to legislative direction when it is forthcoming. The committee hopes that the Legislative Council and the General Assembly will also see the need for working more closely with the committee.

Recognizing that a change in direction may be needed this year in order to center on matters which are of immediate concern to the General Assembly, the committee has developed a new study project. Upon re-examining the context of the establishment of the committee in 1959 (following the Sputnik flurry and the development of a federal aid program in the form of the National Defense Education Act) and the third portion of the committee's charge, "how local and state school authorities might best coordinate the planning and financing of both scholastic and vocational educational programs with available federal programs and resources", the committee concluded that the time has come to renew its study of federal aid. The new Elementary and Secondary Education Act of 1965 will be bringing more than \$10 million into Colorado in the next few months, and other federal aid programs also continue to contribute to the total school finance picture.

Since the time seemed ripe to begin refocusing on federal aid programs, the committee invited Dr. Byron Hansford, Commissioner of Education; Dr. Lloyd Garrison, Regional Representative, U.S. Office of Education; and Dr. Calvin Frazier, Secretary-Treasurer, Colorado Association of School Boards, to discuss federal aid programs in Colorado, with particular emphasis on the 1965 legislation. This presentation convinced the committee that it had chosen a subject of legislative interest.

Subsequently, the committee developed a plan for a comprehensive study of the existing and appropriate relationships between federal, state, and local levels of government in the field of education. It should be pointed out that the committee cannot make this comprehensive study without frequent meetings, adequate expense money, and staff assistance. If the General Assembly wishes the committee to make the study as proposed, consideration must be given to the committee's recommendations on these items. The committee needs these tools if it is expected to produce tangible, conclusive results each year.



## A Unique Role

The uniqueness of this committee, of course, is its balanced talent and resource of mixing the ingredients of lay, professional and legislative membership. These interrelationships provide open and flexible lines of communication to areas of our communities where sometimes both educational and political channels of expression are more rigid and directed.

Therefore, the committee possesses both the experience and the potential to bring quality of educational endeavor into new focus with changing vistas at a time when the new demands of our rapidly moving life require this kind of evaluation of our educational institutions in Colorado.

## APPENDIX A

### Law Establishing Committee on Educational Endeavor

123-27-4. Advisory Committee. -- (1) There is hereby established the advisory committee on educational endeavor, hereinafter called the "committee." It shall advise the legislative council and the general assembly on matters relating to scholastic achievement, including but not limited to an interpretation of how students on all grade levels from primary school through college might best be assisted by the state in attaining their highest levels of achievement; how schools might best upgrade their educational opportunities; how local and state school authorities might best coordinate the planning and financing of both scholastic and vocational educational programs with available federal programs and resources; and how student guidance services in the public schools might best be performed.

(2) The committee created by subsection (1) of this section shall be appointed by the legislative council and shall report to and through the council to the general assembly. Such reports shall be made to the regular annual sessions of the general assembly.

(3) The committee shall be composed of eleven members, at least six of whom shall be lay citizens not specifically engaged in professional or vocational education pursuits. At least four members shall be full-time educators, and one of said four members shall be a teacher engaged in classroom instruction in the public schools, and one shall be a teacher engaged in classroom instruction in a private school, college, or university. The four, among them, shall represent in at least one instance, the elementary, secondary, and higher educational systems, respectively, one member to be appointed at large. In addition to the eleven members, the council shall designate each two years, one member of each house of the general assembly as an ex officio member of the committee.

(4) On or before July 1 of each odd numbered year, the council shall appoint the members of the committee. As of July 1, 1959, five of said members shall be designated for a term of two years, and six for a term of four years. Thereafter, all appointments shall be for a term of four years. The chairman of the committee shall be designated by the council.

(5) Members of the committee shall serve without compensation. Necessary travel expenses of the members may be granted at the discretion of the council. Staff services shall be assigned as the council shall direct. The committee shall meet at least four times each year.

MEMORANDUM

November 22, 1965

TO: Colorado Legislative Council  
FROM: Committee on State Aid to Schools  
SUBJECT: Progress Report for 1965

The Committee on State Aid to Schools was directed to make a study of the purposes, accomplishments, and goals of the over-all program of state support for public schools in Colorado, including an examination of the level and amount of support under the various programs and the factors used to determine the distribution and use of state funds. The study resolution contained a long list of subjects to be included and requested a report prior to the convening of the General Assembly in 1966. (See Appendix A for the complete study assignment.)

Colorado's state support program consists of the following: (1) the Public School Foundation Act (including the minimum equalization program, aid for excess growth, aid for small attendance centers, and the contingency reserve which includes aid for low income counties); (2) the Property Tax Relief Fund; (3) aid for transportation; (4) aid for vocational education; (5) aid for special education; (6) aid for migrant education; and (7) aid for Title III of NDEA.

Tentative Study Plan

The committee at its first meeting adopted the following tentative study plan:

- (1) Review the purposes of each of the state aid programs as they have developed historically;
- (2) Attempt to find out to what extent the programs are accomplishing what they were intended to accomplish;
- (3) Work out a revised set of long-range goals based on knowledge and observation of the current situation and anticipated future developments;
- (4) Evaluate the details of each existing program in light of the revised goals; and
- (5) Recommend desirable changes (both immediate and long-range) directed toward the achievement of these goals.



The committee has not had sufficient time to complete all the steps described in this tentative study plan. The development of revised goals, the evaluation of existing programs, and the formulation of specific recommendations for change require careful consideration and detailed study. The committee is presently in the midst of this study process. Much information has been made available to committee members and more is being prepared. There has not yet been adequate time to tie all of this information together as a basis for meaningful conclusions which might lead to legislative recommendations. Consequently, the committee requests the General Assembly to extend the study on state aid to schools for another year.

#### Review of Committee Work During 1965

##### Background Information on State Aid to Schools in Colorado.

As the first step in its study, the committee reviewed the history of state participation in public school finance in Colorado. Emphasis was placed on developments in the last 15 years and particularly on the 1957 Foundation Act -- the original purposes and the extent to which those purposes have been achieved. (A summary of the information compiled for the committee will be found in Staff Memorandum No. 2, May 19, 1965, which is available in Legislative Council office.)

Statistical Information on School District Receipts and Expenditures. The committee asked for detailed statistics on school district receipts and expenditures. Information was compiled for 1962-63 and 1963-64; the same information will be compiled for 1964-65 as soon as it is available. All figures were based on the Secretary's Annual Reports (Form DS-1) which are submitted each year to the State Department of Education.

The committee requested that the financial information be shown for each individual school district. Now that the number of school districts in the state has been reduced to 184, it has become feasible to look at figures for individual districts rather than for counties. Insofar as school finance is concerned, county boundaries are artificial boundaries (except in one-county districts). Consequently, the committee directed that emphasis be shifted from the county to the school district, the governmental unit which ultimately receives and spends the money.

In addition to statistical information which had already been developed by the State Department of Education for its own printed reports, the committee was given tables containing the following basic data:

##### School District Revenues, All Funds

Revenues Per ADA

All Sources

General Fund

Other Funds

Property Tax Sources (Per ADA and as  
% of Total)

School District Revenues, All Funds, Cont'd.

Total Amount of Revenue Receipts

General Fund  
Bond Redemption Fund  
Building Fund  
Capital Reserve Fund

General Fund Revenues

Amount and Per Cent of Total

Local Sources  
County Sources  
State Sources  
Federal Sources

Revenues Per ADA, All Sources

Revenues from Property Tax Sources (Per ADA as  
% of Total)

General Fund Expenditures

Expenditures Per ADA and Per Cent of Total

Instruction  
Administration  
Transportation  
All Other General Fund Purposes

Total Amount of Expenditures

Instruction  
Administration  
Transportation  
Operation, Maintenance, Fixed Charges  
Attendance Services  
Health Services  
Food Services  
Student Activities  
Community Services  
Capital Outlay and Debt Service

All of the above information was shown for individual school districts, arranged numerically within each of the headquarters counties. Some of the most significant expenditure information was also presented in a different form to facilitate comparisons among districts of approximately the same size. The individual school districts were rearranged into nine size groupings according to the number of pupils in average daily attendance. Districts within each size grouping were then ranked according to their total general fund expenditures per ADA. After the districts were ranked in this order, the following additional information was noted for each district: (1) instructional expenditures per ADA; (2) administrative expenditures per ADA; (3) transportation expenditures per ADA; and (4) all other general fund expenditures per ADA. Transportation expenditures were deducted from general fund expenditures to show how districts' general fund expenditures compare apart from transportation costs (which vary according to geographical conditions). Transportation expenditures per pupil transported were shown in a separate table

and compared with transportation expenditures per pupil in average daily attendance.<sup>1</sup>

Other Statistical Information. Following the close of the 1965 Regular Session the staff prepared two tables (one for 1964-65 and one with estimates for 1965-66) showing, by district, the amount of state support from the various parts of the Foundation Act, the amount of state transportation support, and (for 1965-66) the amount of state support from the Property Tax Relief Fund.

At the request of the committee, the staff also prepared a table showing the estimated state minimum equalization support for each county for 1965-66 under the present distribution formula (using a combination of assessed valuation and adjusted gross income as the measure of ability) compared with the estimated state support which each county would have received for the same year under the old 12-mill county levy (using assessed valuation as the sole measure of ability).

#### Description of Levels of Education in Colorado

When the committee began to try to answer the specific questions prompted by the study resolution and the tentative study plan, it found that additional information would be necessary before agreement could be reached on a revised set of purposes and goals. The State Department of Education volunteered its services for development of the information desired -- a description of what makes a quality educational program, along with a tentative recommendation for what should be the minimum level acceptable to the state in its attempt to achieve equal educational opportunity for all youngsters.

The Department of Education presented an outline describing three levels of public school systems in Colorado -- poor, acceptable, and superior. Included in this description were items relating to: board action and policies, evaluation, administration and supervision, teacher qualifications and assignments, special services and

1. The statistical information on school district receipts and expenditures described in this section can be found in the following memorandums compiled by the Legislative Council staff:

| <u>Memorandum</u> | <u>Date</u> | <u>Tables</u>        |
|-------------------|-------------|----------------------|
| 6A                | 8/17/65     | I and II             |
| 6B                | 8/18/65     | III, IV and V        |
| 6C                | 8/20/65     | VI, VII, VIII and IX |
| 6D                | 8/18/65     | X                    |
| 8                 | 8/27/65     | XI                   |
| 10                | 10/13/65    | XII                  |

personnel, facilities, size and organization, elementary education program, junior high school education program, senior high school education program, instructional materials and equipment, library and instructional materials center, experimentation and research, and in-service education.

The committee has given initial consideration to the descriptions presented by the Department of Education, but since this aspect of the study is vital to the meaningfulness and validity of the committee's recommendations, the committee has agreed that more time must be spent on it. This is not a matter which can be absorbed and evaluated quickly, for it goes to the heart of the educational process. The committee feels an obligation to give the most careful consideration to the questions of what makes a quality educational program and what the minimum acceptable level should be.

The committee also feels an obligation to investigate the relation (if any can be detected ) between quality level and school district cost. This is the means by which the committee hopes to arrive at sound conclusions regarding the state support program. The Department of Education will be working closely with the committee in this phase of the study. Final conclusions and recommendations will be those of the committee, however, and not necessarily those of the Department.

It is worth noting that certain questions seem to arise in nearly every committee discussion of quality in education. One of these is the problem of the non-accredited districts (Colorado has 19) which unquestionably fall into the category described as "poor". Another is the related problem of school districts which have resisted reorganization even though it appears feasible. In at least some of these districts the quality of education might be materially improved if reorganization were undertaken, according to the State Department of Education. A third question also touches on school districts which may tend to fall into the "poor" category. These are the districts which operate what are described in the Public School Foundation Act as "necessary small attendance centers". The committee hopes to spend some time finding ways of dealing with all three of these problems. It may be necessary to examine individual cases and visit some school districts to find whether the situations can be improved through legislative action.

#### Miscellaneous Information Provided by the Department of Education

The committee is aware of its role as the overseer of developments in the field of school finance and is grateful to the State Department of Education for providing information on the status of three such developments in 1965.

Elementary and Secondary Education Act of 1965. At the first meeting of the committee the Department of Education presented a brief description and explanation of the provisions of the new federal Elementary and Secondary Education Act of 1965, which will bring about \$11 million into Colorado. The Department staff discussed the Act in detail and answered questions from committee members regarding the five titles.



Documenting the Use of the Property Tax Relief Fund. The Department of Education also reported that plans are being made for gathering information from local school districts regarding the use they have made of the moneys received from the newly enacted Property Tax Relief Fund. Detailed information will be presented to the Second Regular Session of the Forty-fifth General Assembly in 1966. The Department anticipates that the new state moneys will result in both a reduction in property taxes and improvements in educational programs and facilities.

Districts Changing to Calendar Year Fiscal Year. The Department of Education reported that two staff members have been working with school districts to assist in the change-over to a fiscal year of January 1 to December 31. Most districts will be changing at the end of this year, since the availability of moneys from the Property Tax Relief Fund will relieve the financial difficulties some of the districts had anticipated. Some districts also plan to make use of the provisions of the new legislation on short term borrowing (H.B. 1013, 1965 Regular Session). From 10 to 15 per cent of the districts will remain on a fiscal year of July 1 to June 30 for one more year. Present law requires the change-over by January 1, 1967.

#### Recommendation for Continuation of Study

The committee has made progress during 1965 but feels that another year is required in order to complete the task it has begun. There is no question in the minds of committee members about the value and importance of this study. It is because of this conviction that the committee recommends continuation of the study for another year.

Given time for adequate study, the committee anticipates development of proposals aimed at an over-all program which will deal with the problems of all districts, large and small, and which will provide equal educational opportunity at an acceptable level for all children in the state.

## APPENDIX A

### Study Assignment

House Joint Resolution No. 1024, 1965 Regular Session, stated that the Legislative Council shall make, or shall appoint a committee to make, the following study prior to the convening of the General Assembly in 1966:

(C) A study of the purposes, accomplishments, and goals of the over-all program of state support for public schools in Colorado, including an examination of the level and amount of support under the various programs and the factors used to determine the distribution and use of state funds. The study shall include, but not be limited to, an exploration and examination of such subjects as the following:

- (i) Value of the classroom unit;
- (ii) Proportion of school costs to be paid by the state;
- (iii) Extent to which local contribution should be required for eligibility for state support;
- (iv) Proportion of school costs to be paid by the county, and the possibility of changing to a state-to-district distribution without including a county contribution;
- (v) Proportion of state support to be distributed on equalization basis and proportion to be distributed on direct grant basis;
- (vi) Measures of local ability for purposes of the minimum equalization program;
- (vii) Method of computing aggregate days of attendance, average daily attendance, and number of classroom units;
- (viii) Possibility of including additional units for administrative and other personnel;
- (ix) Excess growth, small attendance centers, and the role of school size and growth in determination of state support;
- (x) Low income county program;
- (xi) Contingency reserve program;
- (xii) Transportation program and proportion of transportation costs to be paid by state;
- (xiii) Role of other state support programs outside the Public School Foundation Act, such as vocational education, special education and migrant education;
- (xiv) Role of federal aid in financing the schools of the state; and
- (xv) Methods of measuring quality in the educational program.

MEMORANDUM

November 22, 1965

TO: Colorado Legislative Council  
FROM: Committee on Consumer Problems  
SUBJECT: 1965 Progress Report

Since its creation, six meetings have been held by the Council's Committee on Consumer Problems. During its first meeting, the committee agreed that its two-year agenda should include the study or review of:

1. Proprietary school regulation;
2. Subdivision control and registration;
3. False and misleading advertising;
4. Disclosure and amount of interest rates;
5. The feasibility of a state consumer protection agency;
6. Collection practices;
7. Door-to-door sales practices;
8. Causes of bankruptcies in Colorado; and
9. A review of the 1965 preneed funeral legislation.

Subsequent meetings were devoted to a discussion of several of these subjects with invited guests and the approval of several committee recommendations.

During its last two meetings, the committee adopted the following proposals: a bill amending the state's false advertising statute to include "bait-and switch" and "phony-price comparison" advertising and to exempt broadcasters from prosecution, a proprietary-school bill that is similar to the previous attempts to regulate and accredit these schools, and a bill providing for the registration and control of subdivisions. The final drafts of these bills are appended hereto.

Future meetings of the committee are planned to be held in 1966 following the regular session, and the balance of the subjects on the committee's agenda will be reviewed prior to the committee's submission of its final report and recommendations to the Legislative Council next year.

A BILL FOR AN ACT

PROVIDING FOR THE REGULATION OF PROPRIETARY SCHOOLS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Act cited. This act may be cited as "The Proprietary School Act of 1967".

SECTION 2. Legislative declaration. The general assembly hereby declares that the provisions of this act are enacted in the exercise of the police powers of this state for the protection of the health, peace, safety, and general welfare of the people of this state; for the general improvement of educational programs available to the residents of this state; to prevent misrepresentation, fraud, and collusion in offering such educational programs; to establish higher standards for, and to protect, preserve, foster, improve, and encourage the educational programs offered to the public; and to encourage the residents of Colorado to attain a high degree of excellence in the pursuit of education. To these ends, this act shall be liberally construed.

SECTION 3. Definitions. (1) Unless otherwise indicated by the context, the following words and phrases when used in

1 this act shall have meanings ascribed respectively to them in  
2 this section.

3 (2) "Proprietary school" means any business enterprise  
4 operated for a profit or on a nonprofit basis which maintains a  
5 place of business either within or without this state, and which  
6 offers or maintains a course or courses of instruction or study,  
7 or at which place of business such a course or courses of in-  
8 struction or study is available through classroom instruction or  
9 by correspondence, or both, to a person or persons for the pur-  
10 pose of training or preparing such person for a field of endeavor  
11 in a business, trade, technical, or industrial occupation, except  
12 as excluded pursuant to subsection (3) of this section.

13 (3) (a) The definition of a proprietary school shall not  
14 include the following:

15 (b) A school or educational institution supported entirely  
16 or partly by revenues derived from taxation from either a local  
17 or state source.

18 (c) A parochial, denominational, or eleemosynary school or  
19 institution.

20 (d) A school or training program which offers instruction  
21 primarily in the field of an avocation, recreation, health, or  
22 entertainment, as determined by the state board.

23 (e) A course or courses of instruction or study sponsored  
24 by an employer for the training and preparation of its own em-  
25 ployees.

26 (f) A course or courses of study or instruction sponsored  
27 by a recognized trade, business, or professional organization  
28 for the instruction of the members of such organization.

29



1 (g) Apprenticeship training in a program recognized by the  
2 industrial commission of Colorado under an agreement registered  
3 with said commission pursuant to section 9-1-6, C.R.S. 1963.

4 (h) State colleges, junior colleges, and universities  
5 organized and existing pursuant to law.

6 (i) Private colleges and universities which award a bac-  
7 calaureate or higher degree and which maintain and operate an  
8 educational program comparable in terms of academic standards to  
9 the state colleges, junior colleges, and universities referred  
10 to in paragraph (h) of this subsection.

11 (j) A private school which provides a basic academic educa-  
12 tion comparable to that provided in the public schools of the  
13 state.

14 (k) A school offering a program only for children six years  
15 of age or younger.

16 (l) A school which is regulated and licensed under an oc-  
17 cupational licensing act of Colorado.

18 (m) A course or courses of study or instruction for the  
19 preparation of graduating law school students and law school  
20 graduates planning to take the examination for admittance to the  
21 bar in the state of Colorado.

22 (4) "State board" means the state board for vocational  
23 education.

24 (5) "Agent" means any employee, solicitor, owner, or other  
25 person who, for remuneration, enrolls or seeks to enroll a resi-  
26 dent of this state, whether through personal contact, telephone,  
27 advertisement of any nature, letter, or publication of other  
28 printed material, in a course or courses of instruction or study  
29

1 offered or maintained by a proprietary school, or who otherwise  
2 holds himself out to the residents of this state as representing  
3 a proprietary school for such purpose.

4 (6) "Agent's permit" means a nontransferable written  
5 authorization issued to a natural person by the state board, pur-  
6 suant to the provisions of this act, to solicit any resident of  
7 this state to enroll in a course or courses of instruction or  
8 study offered or maintained by a proprietary school.

9 (7) "Certificate of approval" means a nontransferable  
10 written authorization issued by the state board to a proprietary  
11 school located within this state in the name of such school, pur-  
12 suant to the provisions of this act, to offer or maintain a course  
13 or courses of instruction or study in compliance with the provi-  
14 sions of this act and the rules and regulations of the state  
15 board promulgated pursuant to law.

16 (8) "Accredited school" means a proprietary school located  
17 within this state which offers and maintains a course or courses  
18 of instruction or study in compliance with the provisions of this  
19 act and the rules and regulations promulgated pursuant to law,  
20 and which school also has been issued a certificate of accredita-  
21 tion by the state board as a result of maintaining standards of  
22 excellence for its course or courses of instruction or study  
23 which meet or exceed minimum accreditation standards, said stand-  
24 ards being higher than those prescribed as a condition of obtain-  
25 ing a certificate of approval for said proprietary school.

26 SECTION 4. Agent's permit. (1) No person shall solicit or  
27 perform the services of an agent in this state for a proprietary  
28 school, located either within or without this state, unless said  
29

1 person shall have been issued an agent's permit for said pro-  
2 prietary school.

3 (2) No person shall be issued an agent's permit unless he  
4 is an individual of good moral character as determined by the  
5 state board.

6 (3) Except as provided in subsection (8) of this section,  
7 no person shall be issued an agent's permit unless he shall make  
8 application upon forms to be provided by the state board, and  
9 unless said application shall be accompanied by a fee of five  
10 dollars and a good and sufficient surety bond in a penal sum of  
11 five thousand dollars. The state board shall have the authority  
12 to determine and approve the sufficiency of said surety bond.

13 (4) The surety bond shall be conditioned to provide indem-  
14 nification to any student or enrollee who shall suffer loss or  
15 damage as a result of fraud or misrepresentation to said student  
16 or enrollee in procuring his enrollment in a course or courses  
17 of instruction or study offered or maintained by said proprietary  
18 school. The liability on said surety bond shall be five thousand  
19 dollars for each agent each school year, as the term "school  
20 year" is defined in section 5 (8) of this act.

21 (5) The surety bond may be of blanket form to cover more  
22 than one agent for a proprietary school, but it shall cover each  
23 agent for said proprietary school in a penal sum of five thousand  
24 dollars.

25 (6) A surety on said bond may be released therefrom after  
26 said surety shall make a written notice thereof directed to the  
27 state board at least thirty days prior to said release; provided,  
28 that no surety shall be released from said bond unless all  
29

1    sureties on said bond shall be released.

2            (7) The surety bond shall cover the period of the agent's  
3    permit except when a surety or the sureties shall be released  
4    in the manner as provided by subsection (6) of this section.

5            (8) Notwithstanding the provisions of subsections (3) to  
6    (7) of this section, the state board may issue an agent's permit  
7    to each person who is an owner of more than ten per cent legal  
8    interest in a proprietary school located in this state and who  
9    is a resident of this state, and no such owner shall be required  
10   to pay the agent's permit fee or execute an agent's surety bond  
11   as otherwise required by this section; provided, that said  
12   proprietary school shall have been issued a certificate of ap-  
13   proval pursuant to the provisions of this act.

14           (9) An agent's permit shall be suspended by operation of  
15   law when said agent is no longer covered by a surety bond as  
16   required by this section; provided, that the state board shall  
17   cause said agent to receive at least ten days written notice  
18   prior to the release of his surety or sureties to the effect that  
19   said permit shall be suspended by operation of law until another  
20   surety bond shall be filed in the same manner and like amount  
21   as required for the initial surety bond.

22           (10) An agent's permit shall be valid for a period of  
23   twelve months from the date of issuance except when suspended or  
24   cancelled pursuant to the provisions of this act. An agent's  
25   permit may be renewed in the same manner, at the same fee, and  
26   under the same conditions prescribed for the issuance of an ini-  
27   tial agent's permit.

28           SECTION 5. Proprietary school - certificate of approval.

29

1 (1) No person, company, firm, corporation, association, society,  
2 or partnership shall maintain and operate a proprietary school  
3 located within this state until said school shall have been issued  
4 a certificate of approval by the state board pursuant to the pro-  
5 visions of this act.

6 (2) No proprietary school shall be issued a certificate of  
7 approval unless it shall make application, through its officers  
8 or an owner, upon forms to be provided by the state board, and  
9 unless said application shall be accompanied by a fee of twenty-  
10 five dollars and a good and sufficient surety bond in a penal  
11 sum of twenty thousand dollars. The state board shall have the  
12 authority to determine and approve the sufficiency of said surety  
13 bond.

14 (3) The surety bond shall be conditioned to provide indem-  
15 nification to any student or enrollee who shall suffer loss or  
16 damage as a result of said proprietary school having failed or  
17 neglected to faithfully perform all agreements, express or other-  
18 wise, with the student or enrollee, or the parents or guardians  
19 thereof, as represented by the application for the certificate of  
20 approval and the materials submitted in support of said applica-  
21 tion, or as a result of having failed or neglected to maintain  
22 and operate a course or courses of instruction or study in compli-  
23 ance with the standards of this act and the rules and regulations  
24 promulgated pursuant to law. The liability on said surety bond  
25 shall be twenty thousand dollars for each school year, as the  
26 term "school year" is defined in subsection (8) of this section.

27 (4) A surety on said bond may be released therefrom after  
28 said surety shall have made a written notice thereof directed to  
29



1 the state board at least thirty days prior to said release; pro-  
2 vided, that no surety shall be released from said bond unless  
3 all sureties on said bond shall be released.

4 (5) The surety bond shall cover the period of the certifi-  
5 cate of approval except when said surety or sureties shall be  
6 released in the manner as provided by this section.

7 (6) The certificate of approval shall be suspended by oper-  
8 ation of law when said proprietary school is no longer covered  
9 by a surety bond as required by this section; provided that the  
10 state board shall cause said proprietary school to receive at  
11 least ten days written notice prior to the release of said surety  
12 or sureties to the effect that said approval shall be suspended  
13 by operation of law until another surety bond shall be filed in  
14 the same manner and like amount as required for the initial surety  
15 bond.

16 (7) The application for a certificate of approval shall be  
17 accompanied by a copy of each of all school catalogs, bulletins,  
18 and other published materials to aid the state board in evaluat-  
19 ing the school for the purpose of granting or denying a certifi-  
20 cate of approval. The application and accompanying data shall  
21 be certified as true and correct in content and policy by the  
22 chief executive officer of said proprietary school.

23 (8) A certificate of approval shall be valid for a period  
24 of one school year, beginning the first day of July and ending  
25 the thirtieth day of June next following, except when said ap-  
26 proval shall be suspended or cancelled pursuant to the provisions  
27 of this act. A certificate of approval may be renewed in the  
28 same manner, at the same fee, and under the same conditions

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1 prescribed for the issuance of initial approval.

2 (9) The bonding requirements herein set forth may be re-  
3 duced in the sole discretion of the state board upon a showing  
4 by the proprietary school that they are excessive in the case  
5 of any particular proprietary school.

6 SECTION 6. Fees - deposit. All fees collected pursuant to  
7 the provisions of sections 4 and 5 of this act shall be deposited  
8 in the state treasury to the credit of the general fund, and no  
9 fees collected under the provisions of said sections shall be  
10 subject to refund.

11 SECTION 7. Agent's permits - school approval - violations.  
12 (1) Any person, company, firm, corporation, association, society,  
13 or partnership, or any officer or employee thereof, who shall  
14 violate the provisions of sections 4 (1) or 5 (1) of this act  
15 shall be guilty of a misdemeanor and, upon conviction, shall be  
16 punished by a fine not to exceed one hundred dollars, or by im-  
17 prisonment in the county jail not to exceed six months, or by  
18 both such fine and imprisonment. Each day's failure to comply  
19 with the provision of section 4 (1) or 5 (1) of this act shall  
20 be a separate violation.

21 (2) No contract relating to payment for a course or courses  
22 of instruction shall be enforceable by any proprietary school in  
23 the courts of this state, unless said proprietary school and its  
24 agents shall have complied with the provisions of this article.

25 SECTION 8. Minimum standards - certificate of approval. (1)  
26 (a) No proprietary school located in this state shall be issued  
27 a certificate of approval under the provisions of this act until  
28 the state board shall have determined that said proprietary school  
29

1 is maintained, operated, or, in the event of a new proprietary  
2 school, that said school can be reasonably maintained and oper-  
3 ated, in substantial compliance with the following minimum  
4 standards:

5 (b) That the instructional quality and content of each  
6 course or program of instruction or study shall be adequate to  
7 provide reasonable education and training to each enrolled stu-  
8 dent, and that such quality and content shall be consistent with  
9 the public interest.

10 (c) That the proprietary school has adequate space, equip-  
11 ment, instructional materials, and instructor personnel to pro-  
12 vide training and preparation of the quality specified in  
13 paragraph (b) of this subsection.

14 (d) That the educational and experience qualifications of  
15 directors, administrators, supervisors, and instructors are satis-  
16 factory in terms of the quality of instruction specified in para-  
17 graph (b) of this subsection.

18 (e) That a copy of the course outline and a schedule of  
19 tuition be furnished each student applicant prior to enrollment.

20 (f) That upon satisfactory completion of training, the  
21 student shall be given a certificate by said proprietary school  
22 which indicates that said course or courses of instruction or  
23 study had been satisfactorily completed by said student.

24 (g) That adequate records shall be maintained and avail-  
25 able for inspection.

26 (h) That the proprietary school shall be maintained and  
27 operated in compliance with all local, city, and county ordinances  
28 and state law, including rules and regulations adopted pursuant  
29

1 thereto, relative to the safety and health of all persons upon  
2 the premises.

3 (i) That the proprietary school is financially sound and  
4 reasonably capable of fulfilling commitments to students for  
5 training and preparation.

6 (j) That the proprietary school does not utilize adver-  
7 tising of any type which is untrue, deceptive, or mislead-  
8 ing.

9 (k) That the chief executive officer, directors, owners,  
10 administrators, supervisors, and instructors are of good moral  
11 character.

12 (l) That the proprietary school adheres to a tuition refund  
13 schedule as presented in published form prior to enrollment in  
14 the event the student shall discontinue the training or be  
15 excluded therefrom.

16 (2) (a) The state board shall determine and, by rule or  
17 regulation, prescribe detailed minimum requirements for each  
18 course or program of instruction or study offered or to be offered  
19 by any proprietary school in this state to which a certificate of  
20 approval shall be issued. Such detailed requirements shall be  
21 consistent with the minimum standards specified in subsection (1)  
22 of this section, and shall include, but not be limited to:

23 (b) The minimum duration of each such course or program;

24 (c) The minimum number of hours of classroom instruction  
25 for each such course or program;

26 (d) The minimum content of each such course or program;

27 (e) The minimum facilities and equipment for each enrolled  
28 student in each such course or program;

29

1       (f) The minimum training and experience of instruction  
2 personnel for each such course or program; and

3       (g) Such other requirements consistent with the public in-  
4 terest as the state board shall determine are necessary to  
5 improve such courses or programs of instruction or study, and  
6 to prevent misrepresentation, fraud, and collusion in the offer-  
7 ing thereof.

8       (3) The state board shall have the power to investigate,  
9 appraise, and evaluate from time to time any proprietary school  
10 now located, or which may be hereafter located, in this state.  
11 The investigation, appraisal, and evaluation shall be for the  
12 purpose of determining whether the proprietary school is main-  
13 tained and operated or, in the event of a new proprietary school,  
14 whether such new proprietary school can be reasonably maintained  
15 and operated, in compliance with the provisions of this section.

16       (4) If the state board shall determine upon investigation,  
17 appraisal, and evaluation that a proprietary school located within  
18 this state is maintained and operated, or, in the event of a new  
19 proprietary school, that said school can be reasonably maintained  
20 and operated, in compliance with the minimum standards prescribed  
21 by this section, the state board shall issue a certificate of  
22 approval to said proprietary school.

23       (5) If the state board shall determine that any school is  
24 not maintained and operated, or cannot be reasonably maintained  
25 and operated, in compliance with the minimum standards prescribed  
26 by this section and the minimum requirements determined by the  
27 board, the state board, after notice and an opportunity for a  
28 hearing pursuant to article 16 of chapter 3, C.R.S. 1963, may deny  
29



1 the issuance of a certificate of approval or may establish condi-  
2 tions in conformity with the provisions of this act which shall  
3 be met by said school prior to issuance of such a certificate.

4 SECTION 9. Accreditation. (1) The state board shall have  
5 the power to investigate, appraise, and evaluate from time to  
6 time any approved proprietary school located in this state, or  
7 which may be hereafter located in this state, upon request of  
8 said school, for the purpose of determining whether said school  
9 shall be an accredited school.

10 (2) Said school shall pay the reasonable expenses not to  
11 exceed one hundred dollars incurred by state employees and of-  
12 ficers during said investigation, appraisal, and evaluation.

13 (3) If the state board determines, after the investigation,  
14 appraisal, and evaluation, that said proprietary school shall be  
15 classified as an accredited school, the state board shall issue  
16 to said accredited school a certificate of accreditation.

17 (4) The state board shall have authority to revoke or sus-  
18 pend a certificate of accreditation if, at any time, said accred-  
19 ited school shall not be maintained and operated in compliance  
20 with the rules, regulations, and standards promulgated for the  
21 accreditation of any proprietary school.

22 (5) In compliance with subsections (1), (2), (3), and (4)  
23 herein of this section 9, the state board for vocational educa-  
24 tion shall have the authority to recognize as being accredited  
25 for purposes of this act, and to issue thereto a certificate of  
26 accreditation, a school which has been accredited by a nationally  
27 recognized accrediting agency or association, qualified to ac-  
28 credit schools of a particular category, which has been so

1 designated by the commissioner of education of the United States  
2 office of education.

3 (6) The suspension or revocation of a certificate of ac-  
4 creditation or the failure to obtain such certificate, shall not  
5 in any manner affect the certificate of approval issued to said  
6 school or otherwise prevent a proprietary school from obtaining  
7 a certificate of approval under the provisions of this act.

8 SECTION 10. Revocation of agent's permits and certificates  
9 of approval. (1) An agent's permit may be revoked by the state  
10 board for fraud or misrepresentation in procuring or soliciting  
11 a student or prospective student for enrollment in a course or  
12 courses of instruction or study offered or maintained by a pro-  
13 prietary school located within or without this state. An agent's  
14 permit may be revoked by the state board for a false or mislead-  
15 ing written or oral statement in the application therefor submit-  
16 ted by the applicant with the intent to mislead or conceal the  
17 truth.

18 (2) In the event that the certificate of approval of the  
19 proprietary school designated upon an agent's permit shall be  
20 suspended or revoked, or in the event said agent shall leave the  
21 employ of said approved proprietary school, the agent's permit  
22 shall be suspended by operation of law; provided, that the agent  
23 shall be given at least ten days written notice of said suspen-  
24 sion, and of the suspension or revocation of the certificate of  
25 approval of said proprietary school; and provided further, that  
26 said agent shall be entitled to obtain a reissue of his agent's  
27 permit for the remaining unexpired period of time, without an ad-  
28 ditional fee, with another approved proprietary school designated  
29 thereon.

(3) A certificate of approval issued to a proprietary school may be suspended or revoked for the failure to maintain and operate a course or courses of instruction or study in compliance with the standards prescribed in section 8 of this act. A certificate of approval may be suspended or revoked by the state board for a false or misleading written or oral statement submitted by the applicant proprietary school with the intent to mislead or conceal the truth.

(4) An agent's permit or the certificate of approval of a proprietary school may be suspended or revoked by the state board in accordance with the procedures prescribed for revocation of permits and licenses by article 16 of chapter 3, C.R.S. 1963.

SECTION 11. Advisory committee. (1) There is hereby created an advisory committee of nine persons to advise the state board relative to the administration of this act. Each member of the committee shall be a citizen of the United States and a resident of this state. Members shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. Three members shall be representative of proprietary schools. Three members shall be representative of industry, two shall be representative of labor, and one shall represent the public.

(2) Within thirty days of the effective date of this act the above named advisory board shall be appointed by a two-thirds vote of the state board for vocational education. The chief executive officer of the department of vocational education shall recommend persons for appointment to the state board.

Terms of office shall be for three years with initial appoint-

1 ments to be divided so that one-third of the members shall serve  
2 one, two, and three years respectively. As the term of office  
3 of each member shall expire, a successor shall be appointed by  
4 a two-thirds vote of the state board for vocational education  
5 for a term of three years.

6 (3) The proprietary school advisory committee shall make  
7 recommendations to the state board relative to whether a pro-  
8 prietary school is maintained and operated, or in the event of  
9 a new proprietary school, whether it can be reasonably maintained  
10 and operated, in substantial compliance with the provisions of  
11 this act.

12 SECTION 12. Rules and regulations. The state board shall  
13 have the authority to promulgate and adopt reasonable rules and  
14 regulations for the administration of the provisions of this  
15 act.

16 SECTION 13. Effective date. This act shall take effect on  
17 July 1, 1967.

18 SECTION 14. Certificate of approval - agent's permit -  
19 time to comply. (1) Any proprietary school in operation prior  
20 to October 1, 1967, shall have until October 1, 1967, to apply  
21 for a certificate of approval. The state board shall grant or  
22 deny any such certificate of approval, pursuant to the provisions  
23 of this act, prior to April 1, 1968. Subsequent applications  
24 shall be acted upon within a ninety day period following receipt  
25 of the application.

26 (2) Any agent performing the services of an agent in this  
27 state for a proprietary school prior to October 1, 1967, shall  
28 have until October 1, 1967, to apply for an agent's permit. The  
29

1 state board shall grant or deny any such agent's permit, pursu-  
2 ant to the provisions of this act, within ninety days after  
3 application is made therefor.

4 SECTION 15. Severability clause. If any provision of  
5 this act, or the application thereof to any person or circum-  
6 stances, is held invalid, such invalidity shall not affect other  
7 provisions or applications of the act which can be given effect  
8 without the invalid provision or application, and to this end  
9 the provisions of this act are declared to be severable.

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

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A BILL FOR AN ACT  
RELATING TO REAL ESTATE AND PROVIDING FOR THE REGISTRATION AND  
CONTROL OF SUBDIVISIONS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Chapter 117, Colorado Revised Statutes 1963, is hereby amended BY THE ADDITION OF A NEW ARTICLE 3 to read:

117-3-1. Definitions. (1) (a) As used in this article:

(b) The terms "subdivision" or "subdivided lands" mean improved or unimproved land or lands divided or proposed to be divided for the purpose of sale or lease into five or more lots or parcels of land, which are contiguous or which were formerly part of a common tract or which are part of a common development; provided, that land or lands sold by lots or parcels of not less than forty acres shall not be deemed to be a "subdivision" or "subdivided lands" within the meaning of this article.

(c) The term "subdivider" means any person, firm, partnership, joint venture, association, or corporation participating as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, sale or lease of a subdivision.

(d) The term "blanket encumbrance" means a deed of trust, trust deed, or mortgage or any other lien or encumbrance, mechanics' lien or otherwise, securing or evidencing the payment of money and affecting land to be subdivided, or affecting more than one lot or parcel of subdivided lands, or an agreement affecting more than one such lot or parcel by which the owner or subdivider holds said subdivision under an option, contract to sell, or trust agreement; except, that taxes and assessments levied by public authority shall

not be considered blanket encumbrances.

(e) The term "commission" means the real estate commission created by section 117-1-3, C.R.S. 1963.

117-3-2. Registration of subdivision required. (1) It shall be unlawful to sell or offer to sell, to lease or offer to lease, or to negotiate the sale or lease of any lot or parcel of subdivided lands located within or without this state until the subdivider has applied to the commission for registration of the subdivision and the commission has prepared a report thereon and registered the subdivision.

(2) The commission shall have power to promulgate rules and regulations consistent with this article to effectuate the purposes thereof.

(3) A subdivider's registration under this article shall in no way waive any requirements, ordinances, or resolutions of any county, city and county, city, or town relative to subdivisions, planning, zoning, or any other regulatory powers.

(4) The commission shall notify the proper county, city and county, city, or town authorities of the registration or the denial, suspension, or revocation of the registration of any subdivision.

117-3-3. Application for registration. (1) Application for registration shall be made on such forms as shall be provided by the commission and shall be duly verified by oath of the applicant, or if the applicant is not a natural person, by a partner or officer of the applicant.

(2) (a) The application shall include the following information:

(b) The name of the applicant and identification of the applicant as a person, firm, partnership, association, or corporation;

(c) The principal office of the applicant wherever situated, and

the location of the principal office and of any branch offices, and if a corporation, the state in which incorporated;

(d) The name and style of doing business, and the name of the subdivision, if any;

(e) The name, residence address, and business address of each person interested in the subdivision or in the business of the subdivider as principal, partner, officer, or director, specifying which capacity and any title, and of each person who owns or controls twenty per cent or more of the outstanding shares of stock of any corporate applicant;

(f) Accompanying documents evidencing the title or other interest of the applicant in the subdivision;

(g) Where legal title to the subdivision, evidenced by a general warranty deed, does not presently vest in the applicant, a copy of any documents which create in the applicant a title interest in the subdivision;

(h) A written statement or opinion of an attorney at law, licensed to practice law in the state in which the subdivision is located, and subscribed by him, which states the attorney's opinion of the status of title in said subdivision; or, in lieu thereof, a copy of any title insurance commitment issued by a title insurance company authorized to transact title insurance business in the state in which the subdivision is located, upon which commitment one or more title insurance policies will or may be issued upon the lots or parcels to be sold in said subdivision;

(i) A statement attesting that the subdivision has been surveyed by a registered or licensed land surveyor and that a plat of the subdivision has been filed with the county clerk and recorder of the county in which the subdivision or any part thereof is located, which

statement shall be accompanied by a copy of such plat;

(j) A statement attesting that the applicant has complied with all state, county, or municipal requirements for subdivided lands and the sale thereof prior to offering such lands for sale or lease;

(k) Sample copies of contracts of sale, receipt and option contracts, deeds, and other legal documents to be used to effectuate the sale or transfer of title interest in said subdivided lands, together with a statement of the applicant's agreement to include in each such document signed by or delivered to a purchaser, a clear recital of the legal description of the property involved and of the encumbrances outstanding at the date of the document;

(l) A statement of any warranties proposed to be made to advertise the sale of said lots;

(m) A true statement of the provisions for legal access, sewage disposal, and public utilities, including water, electricity, gas, and telephone facilities, in the proposed subdivision.

(n) The commission may require additional necessary information by submitting a questionnaire to the subdivider.

117-3-4. Investigation of applicant and subdivision. (1) The commission may acquire and procure such evidence it deems necessary concerning the truthfulness, honesty, and past financial record of any applicant for registration of a subdivision, or, if the applicant is other than a natural person, of any person, director, officer, member, or stockholder where such stockholder has or exercises, directly or indirectly, a controlling interest in such applicant.

(2) The commission may investigate and examine any subdivision or proposed subdivision for which application for registration has been made.

117-3-5. Report of commission. (1) Upon an examination of the subdivision or proposed subdivision, the commission shall, pursuant to section 117-3-11, prepare a report thereon and issue at least one copy thereof to the applicant. Said report shall be a public record and a copy thereof shall be issued to any person requesting the same upon the payment to the commission of a fee of fifty cents for each page.

(2) (a) The issuance of any such report shall not be deemed to be a finding that the information contained in or accompanying any application for registration of a subdivision, or any amendment thereto, is true and accurate or that it does not contain an untrue statement of fact or omit to state a material fact, or be held to mean that the commission has in any way passed upon the merits of, or given approval to, such subdivision or subdivider.

(b) It shall be unlawful for any person in advertising, offering, selling, or leasing any subdivision or subdivided lands, or any lot or parcel in a subdivision to make or cause to be made any representation or implication in any manner whatsoever contrary to the provisions of paragraph (a) of this subsection (2).

117-3-6. Disclosure to purchaser. (1) It shall be unlawful for any subdivider to sell or lease any lot or parcel of land in any subdivision unless the lease or contract of sale and the instrument of conveyance shall disclose and identify any deed of trust, trust deed, or mortgage, or other creditor's lien affecting the lot or parcel sold or leased.

(2) It shall be unlawful for any subdivider to sell or lease any lot or parcel of land in any subdivision unless the lease or contract of sale and the instrument of conveyance shall disclose the existence of special assessments or bonded indebtedness levied by any political



subdivision or public authority which affects such lot or parcel sold or leased.

117-3-7. Release clause. It shall be unlawful for any subdivider to sell or lease any lot or parcel of land in any subdivision which is subject to a blanket encumbrance unless there exists in such blanket encumbrance or other supplementary agreement a provision, hereinafter referred to as a release clause, which by its terms shall unconditionally provide that the purchaser or lessee of such a lot or parcel can obtain legal title or other interest contracted for, free and clear of such blanket encumbrance, upon compliance with the terms and conditions of the purchase or lease.

117-3-8. Escrow, trust, or bond requirements. (1) (a) It shall be unlawful to sell or lease any lot or parcel of subdivided land unless one of the following conditions is complied with:

(b) All sums of money paid or advanced by any purchaser or lessee shall not be commingled with funds of the seller or lessor but shall be deposited in a separate account, identified as a trustee or escrow account, with a commercial bank chartered by a state or the federal government, on a demand deposit basis, unless the money is deposited under a written trust or escrow agreement with such a bank having trust powers and which is under the supervision of a state banking commission or commissioner, or the United States comptroller of the currency, until the title or other interest contracted for, whether title of record, equitable title, or other interest, is delivered to the purchaser or lessee, and, in the case of a sale, until the proper release is obtained from any existing encumbrance; or

(c) The title to the subdivision is held in escrow or trust under an agreement of escrow or trust, acceptable to the commission, until a proper release from any existing encumbrance is obtained and

title or other interest contracted for is delivered to such purchaser or lessee; or

(d) A bond payable to the state of Colorado for the benefit and protection of purchasers or lessees of such lots or parcels, conditioned upon the return of any money paid or advanced by any such purchaser or lessee for or on account of the purchase or lease of any such lot or parcel in the event the subdivider shall not, within the time specified in his contract to sell or lease, or any extension thereof, deliver the title or other interest contracted for, whether title of record, equitable title, or other interest, to such purchaser or lessee for any reason other than the incurred default of such purchaser or lessee. The bond shall be in an amount, determined by the commission, sufficient to provide ample protection for all such purchasers or lessees, or both, but in no event more than one hundred thousand dollars.

(2) Records relative to escrow deposits, bonds, or escrow or trust agreements shall be maintained by the subdivider for future use or inspection by an authorized representative of the commission. Such records shall contain such information as may be required by this article and as prescribed by rules and regulations of the commission.

117-3-9. Fees - expenses of investigation. (1) Every applicant shall submit with his application and registration fee of seventy-five dollars plus one dollar for each lot or parcel in excess of fifty lots or parcels for each subdivision. Said fee shall not be refundable.

(2) If the applicant proposes to sell or lease in this state lots or parcels in any subdivision located outside this state, the commission may require an investigation and inspection of any such subdivision. When an investigation or inspection of a subdivision or

the records of a subdivider shall be required by the commission, there shall be submitted in addition to the registration fee an amount equivalent to fifteen cents per mile for each mile going and returning, plus an amount not to exceed twenty-five dollars per day for each day consumed in the investigation and inspection of such subdivision or records. The commission shall estimate the mileage from the office of the commission to the subdivision, or the place where such records are maintained, and the return mileage therefrom, and the time necessary to complete the investigation and inspection, and shall notify the applicant of such amount.

(c) All registrations of subdivisions made under the provisions of this article shall expire twelve months after the date on which the report of the commission on such subdivision is issued. Each registration of a subdivision may be renewed upon the payment of a fee of twenty-five dollars and the filing of an application for renewal of registration not later than the expiration date of the prior registration.

(d) Any application for amendment to the report of the commission on any subdivision shall be accompanied by the payment of a fee of twenty-five dollars.

(e) All moneys received pursuant to this article shall be deposited in the state treasury to the credit of the real estate license fund, created pursuant to section 117-1-9, C.R.S. 1963.

117-3-10. Consent to service of process. Every nonresident applicant, including corporations not chartered under the laws of this state, shall file with the secretary of state an irrevocable consent to the service of process upon such applicant in any action in any court of this state by the service thereof upon the secretary of state and by mailing of a copy thereof by certified mail, return receipt

requested, to the applicant at the business or residence address contained in the application form.

117-3-11. Registration - issuance of report of commission.

(1) (a) The commission shall prepare a proper report on each application for subdivision registration, except where, upon examination and investigation, the commission shall find:

(b) The applicant cannot convey good and merchantable title according to the representations and warranties proposed to be made or as provided by the contracts of sale, deeds, or other documents proposed to be used in the sale or transfer of title or other interest in any subdivision lot or parcel proposed to be sold or leased; or

(c) The applicant or, where the applicant is not a natural person, any partner, director, officer, member, or stockholder, where such stockholder has or exercises, directly or indirectly, a controlling interest in such applicant, does not have a good reputation for truthfulness, honesty, and financial responsibility, or where the applicant is insolvent; or

(d) The applicant proposes to make representations which do not fairly state the character of the transactions or the nature and quality of the lots or parcels in the subdivision, or which are likely to mislead prospective purchasers or lessees concerning any material factor in the transaction; or

(e) The applicant conceals or omits to disclose any material fact, the disclosure of which might substantially affect the decisions of prospective purchasers or lessees; or

(f) The applicant engages or proposes in any way to engage in advertising which is false or misleading; or

(g) The applicant proposes to engage in any acts or practices

which are in violation of the laws of this state or the rules and regulations of the commission.

117-3-12. Amendment to registration. (1) After the issuance of the report of the commission, it shall be unlawful for any subdivider to change the name of the subdivision, or the plan of offering, or any of the requirements enumerated in section 117-3-3, without first notifying the commission in writing of the intended change or changes. Within ten days after receiving the notice of change, the commission shall either approve the change or require the subdivider to comply with the procedure required for an original application, and shall notify the subdivider of its action.

(2) It shall be the duty of the applicant to file promptly with the commission an amendment to the application for registration, verified under oath as in the case of the original application, setting forth any change of ownership resulting in any person's owning or controlling twenty per cent or more of the financial interest in the subdivision or in the subdivider, if a corporation, occurring after the filing of the previous application. Such amendment shall be filed within ten days after such change of ownership.

(3) The securing of a construction loan or improvement loan and the execution of a deed of trust, trust deed, or mortgage affecting a registered subdivision as security therefor shall not be considered a change of ownership nor a change of material fact or representation under this section unless the proceeds of such loan or loans are not to be used for the construction of improvements on the lots or parcels in said subdivision.

117-3-13. Investigation - Suspension or revocation of registration. (1) The commission may investigate any subdivision in which lots or parcels are offered for sale or lease in this state. It shall be the duty of the commission to suspend or revoke the registration of any subdivision if the commission finds from investigation that the subdivider has failed to comply with the provisions of this article or has failed to conduct the sale or leasing of lots or parcels in said subdivision according to the plan of offering specified in the application for registration, or amendment thereto, or where a change of facts occurring after the registration creates grounds upon which the original registration would have been denied.

(2) Whenever the commission shall find that any subdivider or any other person is violating or is about to violate any of the provisions of this article or any rule or regulation of the commission, or that the further sale or leasing of lots or parcels in a subdivision would constitute grounds for denial, suspension, or revocation of the registration thereof, the commission may order the subdivider or other person to desist and refrain from the violation of any provision of this article or the rules and regulations of the commission, or from the further sale or leasing of lots or parcels in said subdivision.

(3) After such an order is issued, the subdivider or person named therein, within thirty days after receipt of the order, may file a written request for a hearing. The commission shall hold a hearing within thirty days thereafter, unless the person requesting the hearing shall request a postponement until a later date. If the hearing is not held within said thirty days or on or before such later date, or if the decision of the commission is not rendered



within thirty days after such hearing, the order shall be rescinded.

117-3-14. Hearings - hearing officer. (1) When an application for registration, or an amendment thereto, or an application for the renewal of registration has been denied, the applicant shall be notified in writing of such denial by mailing such notice to the applicant at the business address contained in the application, by certified mail, return receipt requested. Within thirty days after the notice has been mailed, the applicant may petition the commission to set a date and a place for the hearing, affording the applicant an opportunity to be heard in person or by counsel.

(2) Before suspending or revoking any registration, the commission shall give written notice to the applicant or subdivider of the charges against him and shall afford him an opportunity to be heard in person or by counsel. Such notice may be served by delivering it personally to the applicant or subdivider at least ten days before the date set for hearing, or by mailing such notice by registered mail, return receipt requested, at least fifteen days before the date set for hearing, to the business address of the applicant or subdivider shown on the application for registration.

(3) A hearing officer, appointed pursuant to section 117-1-13, C.R.S. 1963, shall conduct all hearings for the denial, suspension, or revocation of any subdivision registration in the manner prescribed by law.

(4) Upon the request of any party before any hearing has commenced, either the commission or the hearing officer shall issue subpoenas and subpoenas duces tecum pursuant to law. After a hearing has commenced, only the hearing officer conducting the hearing may issue any subpoena or subpoena duces tecum.

(5) Upon the verified petition of any party, the commission may

order that the testimony of any material witness residing within or without this state be taken by deposition in the manner prescribed by the Colorado rules of civil procedure, insofar as practicable.

(6) The testimony and proceedings at any hearing shall be recorded and transcribed by a certified court reporter and filed in the records of the commission. The hearing officer shall conduct any hearing as presiding officer and shall make his findings of facts and recommendations, and shall deliver the same and a complete record of all proceedings so conducted to the commission within twenty days after any hearing. No registration shall be denied, suspended, or revoked until the commission shall have made its decision and issued its order based on such findings, recommendations, and record, which order shall be issued within thirty days after delivery by the hearing officer of his findings and recommendations.

117-3-15. Judicial review. (1) The decision and order of the commission in denying, suspending, or revoking any registration under this article shall be subject to judicial review as prescribed in this section. No action for judicial review of any such order of the commission shall automatically constitute or operate as a superseas or stay of execution of such order.

(2) Any party aggrieved by the order of the commission may seek judicial review of the same by filing a petition therefor in the district court in the city and county of Denver within twenty days after the issuance of such order. A copy of such complaint shall be served upon the commission within five days thereafter, and the commission shall file with the court, within ten days after such service, the complete record of all proceedings and orders of the commission concerning such order appealed from.

(3) In any such action, the court shall have the right, in its

discretion, to stay the execution or effect of any final order of the commission. In the event the court shall grant any stay of execution, the court, in its discretion, may require the petitioner to execute and file with the court a bond in such sum as the court may prescribe, with sufficient surety approved by the court, which bond shall be conditioned upon the compliance with the requirements of this article during the pendency of such action, and upon the prompt payment of all damages arising from or caused by the delay in the taking effect of or in the enforcement of the order complained of, and for all costs which may be assessed or required to be paid in connection with such proceedings.

(4) The court shall limit its review of the order of the commission to the certified transcript of the proceedings before the hearing officer and the findings of facts and recommendations of such hearing officer, unless the court shall find that the commission has exceeded its jurisdiction or authority or abused its discretion, or that the party aggrieved by the order of the commission has been denied due process of law, or that a preponderance of the evidence was contrary to the findings and recommendations of the hearing officer or the order of the commission, or both.

117-3-16. Violation - penalties - injunctions. (1) Any person who signs any written application or statement required by this article, and who willfully and falsely makes an oath to or affirms the same before any officer or other person having the power to administer oaths, is guilty of perjury and shall be punished pursuant to section 40-7-1, C.R.S. 1963.

(2) Every officer, agent, or employee of any firm, partnership, joint venture, association, or corporation, and every other person who willfully violates section 117-3-2 or 117-3-6 is guilty of a

felony and upon conviction thereof, shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment in the state penitentiary for not more than five years, or by both such fine and imprisonment.

(3) Every subdivider, or agent or employee thereof, who willfully violates section 117-3-5(2), 117-3-7, 117-3-8, or 117-3-12 is guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars.

(4) Every officer, agent, or employee of any firm, partnership, joint venture, association, or corporation, and every other person who knowingly authorizes or directs the publication, advertisement, distribution, or circulation of any false or misleading statement or representation concerning subdivisions or lots or tracts therein offered for sale or lease is guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than one thousand dollars, or by imprisonment in the state penitentiary for not more than five years, or by both such fine and imprisonment.

(5) If any person, firm, partnership, joint venture, association, or corporation violates or attempts to violate any provision of this article, the same may be restrained by a temporary restraining order or injunction in an original action brought in the district court of the judicial district in which the violation or attempted violation shall occur, or of the judicial district in which the subdivision is located, or, in the case of a subdivision located outside this state, in the district court of the city and county of Denver. Such action may be instituted by the commission through the attorney general or the district attorney of such district.

SECTION 2. Repeal. Article 16 of chapter 118, C.R.S. 1963,

and the amendment thereto enacted by chapter 243, Session Laws of Colorado 1965, are hereby repealed.

SECTION 3. Effective date. This act shall take effect on July 1, 1967.

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

A BILL FOR AN ACT

CONCERNING FRAUD IN EFFECTING SALES, AND RELATING TO FALSE ADVERTISING.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 40-15-1, Colorado Revised Statutes 1963, is hereby amended to read:

40-15-1. Misrepresentation to effect sale - penalty. (1) Any person, firm, corporation, or association, OR AGENT OR EMPLOYEE THEREOF, who, with intent to sell, PURCHASE, or in any wise dispose of, OR TO CONTRACT WITH REFERENCE TO merchandise, ~~securities~~ REAL ESTATE, service, EMPLOYMENT, or anything offered by such person, firm, corporation, or association, OR AGENT OR EMPLOYEE THEREOF, directly or indirectly, to the public for sale, PURCHASE, ~~or~~ distribution, OR THE HIRE OF PERSONAL SERVICES, or with intent to increase the consumption ~~thereof~~ OF OR TO CONTRACT WITH REFERENCE TO ANY MERCHANDISE, REAL ESTATE, SECURITIES, SERVICE, OR EMPLOYMENT, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, OR TO MAKE ANY LOAN, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper, MAGAZINE, or other publication, or in the form of a book, notice, ~~handbill, poster, bill,~~ circular, pamphlet, ~~or~~ letter, HANDBILL, POSTER, BILL, SIGN, PLACARD, CARD, LABEL, OR OVER ANY RADIO OR TELEVISION STATION, OR OTHER MEDIUM OF WIRELESS COMMUNICATION, or in any other way SIMILAR OR DISSIMILAR TO THE FOREGOING, an advertisement, ANNOUNCEMENT, OR STATEMENT of any sort regarding merchandise, securities, service, EMPLOYMENT, or anything so offered FOR USE,



PURCHASE, OR SALE, OR THE INTEREST, TERMS, CONDITIONS UPON WHICH SUCH LOAN WILL BE MADE to the public, which advertisement contains any assertion, representation, or statement OF FACT which is untrue, deceptive, or misleading, OR IS PART OF A PLAN OR SCHEME WITH THE INTENT, DESIGN, OR PURPOSE NOT TO SELL THE MERCHANDISE, COMMODITIES, OR SERVICE SO ADVERTISED AT THE PRICE STATED THEREIN, OR OTHERWISE COMMUNICATED, OR WITH INTENT NOT TO SELL THE MERCHANDISE, COMMODITIES, OR SERVICE SO ADVERTISED, shall be guilty of a misdemeanor.

(2) UNTRUE, DECEPTIVE, OR MISLEADING ADVERTISING, WITHIN THE MEANING OF THIS SECTION INCLUDES, BUT IS NOT LIMITED TO, THAT WHICH USES, WITH OR WITHOUT THE USE OF THE WORD "VALUE" OR THE WORD "WORTH" OR OTHER SYNONYMOUS TERMS, ANY WORD OR WORDS, FIGURE OR FIGURES, WHICH FALSELY AND FRAUDULENTLY CONVEY TO ANOTHER THE MEANING THAT THE MERCHANDISE, SECURITIES, SERVICE, OR OTHER THINGS SO ADVERTISED ARE OF A GREATER VALUE OR WORTH THAN THEIR ACTUAL VALUE OR WORTH.

SECTION 2. 40-15-3, Colorado Revised Statutes 1963, is hereby amended to read:

40-15-3. Exemptions. Nothing in sections 40-15-1 to 40-15-4 shall be construed to apply to any proprietor or publisher of any newspaper or periodical, BROADCASTER, PRINTER, OR OTHER PERSON ENGAGED IN THE DISSEMINATION OF INFORMATION OR REPRODUCTION OF PRINTED OR PICTORIAL MATTER who publishes, BROADCASTS, REPRODUCES, or circulates any such advertisement without knowledge of the untruthful nature of such advertisement.

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

MEMORANDUM

November 22, 1965

TO: Colorado Legislative Council  
FROM: Committee on Criminal Code  
SUBJECT: 1965 Progress Report

The Council's Criminal Code Committee has held four meetings since its creation in the spring, including two two-day meetings. Generally, the first meetings were devoted to discussion and agreement as to the committee's goals and as to how the committee should proceed, and the later meetings were devoted to the accomplishment of some of the committee's objectives.

The committee's first meeting was one of defining various objectives and methods by which to achieve these objectives, at which time the committee agreed that it would discuss the problems inherent in the state's recently-enacted general criminal attempt laws with Denver's District Attorney and would review some proposed general provisions of a criminal code previously drafted by the staff during its second meeting. The committee's third meeting was devoted again to a discussion of committee goals-procedures and to drafts of general theft and attempt statutes. During this meeting, the committee agreed to proceed in this order:

1. Review a general theft statute as proposed by the previous Criminal Code Committee;
2. Review a draft of a revised general attempt statute;
3. Beginning with section 40-1-1, C.R.S. 1963, review the language of present Colorado criminal laws, comparing the sections with the provisions of the Model Penal Code for omissions, and place all of the state's criminal laws in Chapter 40; and
4. Review criminal penalties in Colorado.

During its most recent meeting, the committee (1) reviewed the results of a questionnaire sent to 239 members of the bench and bar in Colorado to determine their reaction to (a) a general theft statute that would replace some 50 scattered stealing, larceny, etc., laws, and (b) a general attempt statute that would replace the present and apparently ineffective statute, and (2) tentatively approved the two statutes as follows:

### General Attempt Draft

Attempt. -- (1) If a person attempts to commit a crime, the person so offending shall, on conviction, in case of an attempt to commit a felony, be confined in the state penitentiary for a term of not less than one nor more than ten years, and in case of an attempt to commit a misdemeanor, be subject to a fine not to exceed one thousand dollars or imprisonment in the county jail for a term not to exceed one year, or by both such fine and imprisonment.

### General Theft Draft

Theft. -- (1)(a) Any person who knowingly does any of the following commits theft:

- (b) Obtains or exerts unauthorized control over anything of value of another; or
- (c) Obtains by deception control over anything of value of another; or
- (d) Obtains by threat control over anything of value of another; or
- (e) Obtains control over any stolen thing of value knowing the thing of value to have been stolen by another; and
  - (i) Intends to deprive another permanently of the use or benefit of the thing of value; or
  - (ii) Knowingly uses, conceals, or abandons the thing of value in such manner as to deprive another permanently of such use or benefit; or
  - (iii) Uses, conceals, or abandons the thing of value knowing such use, concealment, or abandonment probably will deprive another permanently of such use or benefit.

(2) Any person who commits theft where the value of the thing involved does not exceed one hundred dollars and any person who commits theft twice or more within a period of six months and from the same person where the aggregate value of the things involved does not exceed one hundred dollars is guilty of a misdemeanor. Any person who commits theft where the value of the thing involved exceeds one hundred dollars and any person who commits theft twice or more within a period of six months and from the same person where the aggregate value of the things involved exceeds one hundred dollars is guilty of a felony.

(3) In the enactment of this section, it is the intent of the general assembly to define one crime of theft and to incorporate therein various larcenous crimes, thereby removing distinctions and technicalities which previously existed in the pleading and proof of such crimes.

Specific dates of future meetings were not set during the last meeting, but it is the committee's intention to hold one or more meetings during the forthcoming regular session, if possible, to avoid some of the travel time and expense normally incurred by interim committee members. Additional meetings following the session's adjournment will be held, with a final committee report and recommendations to be submitted to the Council next fall.

MEMORANDUM

November 22, 1965

TO: Colorado Legislative Council

FROM: Committee on Water

SUBJECT: Progress Report on Committee Activities During 1965

In the 1965 session, numerous bills were proposed to change the water laws of Colorado. Of these bills, after prolonged and at times bitter debate, three were passed and signed into law by the governor -- S.B. 22, relating to evaporation losses sustained in on-stream reservoirs; S.B. 367, relating to ground water and authorizing the creation of designated ground water districts; and H.B. 1066, relating to the authority of the State Engineer to administer the surface waters of the state, including underground waters tributary thereto, in accordance with the right of priority of appropriation. In addition, the General Assembly also directed the Legislative Council to appoint a committee to review the administration and effects of the water laws adopted in the 1965 session and to determine problem areas where additional legislation is needed.

The 15-member committee appointed by the Council to carry out this assignment held three meetings in 1965, and its next meeting is scheduled for the first week of the 1966 session. The first two of the committee's meetings were devoted to a review of the administration of the new water legislation with various state officials. The last meeting, however, was held to obtain opinions from water users and other interested persons on the provisions and administration of S.B. 367 and H.B. 1066.

Summary of Problems and Suggested Changes Reported to Committee in 1965

On the basis of the information gathered and the testimony presented at the committee's three meetings this year, the problems being encountered under the 1965 water legislation may be summarized into 11 general areas as follows:

(1) Rumors were started, especially in the lower part of the Arkansas River Basin, that no permits for wells would be issued and it would be two or three years before any permits would be issued. These rumors were, of course, not true, but they were aided by the fact that the issuance of well permits was delayed because of the new requirement that the State Engineer had to consider the effect of a new well on any existing wells before approving an application for a new well permit.

(2) While the General Assembly adopted legislation imposing new duties on the State Engineer and the Ground Water Commis-



sion, it did not appropriate any increase in funds for the hiring of staff personnel to assist them in performing these additional duties.

(3) Because of the lack of staff, the State Engineer could not conduct field checks to determine the effects of new wells on existing wells, and a general rule was consequently used that no new well would be approved which was closer than one-half mile to an existing well. This general rule, if rigidly applied, will be harmful to certain areas in the state where smaller and more numerous wells are needed to irrigate properly, and "this rule should be modified to meet local conditions."

(4) A staggering amount of information is needed in setting up boundaries for ground water districts -- for example, maps are needed showing subsurface strata, estimates are required on the amount of ground water in the area, the use of ground water, the annual amount of ground water recharge, and so forth. In attempting to collect necessary information, the committee was informed that the administration had a problem when a power company in the southern part of the state would not let the water conservation board staff use its records to obtain information required under the provisions of S.B. 367.

(5) A substantial problem was uncovered by the committee when the members learned that permits for replacement wells were not being issued by the State Engineer. This situation was reported and discussed at the committee's meeting in November, following a report made at an earlier committee meeting indicating that such permits were being issued.

(6) One meeting participant informed the committee that "...the ground water legislation of 1965 promotes rather than prevents the head-on collision between surface users and ground water users. If 1966 becomes a dry year, some practical means of cooperation between ground water users and surface water users must be found to avoid disaster. Voluntary action on a consensus basis is imperative. An effort at basin-wide management of our water resources by consensus of the leaders of irrigation groups should be attempted."

This same meeting participant also questioned the constitutionality of S.B. 367, charging that the law is unconstitutional because it deprives people of property without due process of law; because it violates the constitutional separation of powers among the executive, legislative, and judicial branches of government; and because the provisions in the act are so indefinite and uncertain as to render the law null and void.

(7) On the other hand, another meeting participant reported to the committee that S.B. 367 is a good law, and the only problem is that more speed is needed in implementing its provisions.

(8) Because of the uncertainty regarding water well rights under the 1965 legislation, lending agencies are reluctant to grant loans until more information about their effects is known.



(9) As another problem connected with the new laws, it was pointed out to the committee by lower-basin irrigators that if ground water supplies are not used, they will merely flow on to Nebraska or Kansas instead of being put to beneficial use in this state.

(10) The State Engineer has not made public any rules and regulations which will be followed in shutting down wells under H.B. 1066. The General Assembly dropped one shoe when it passed this bill; well users are now waiting for the State Engineer to drop the other shoe.

(11) The 1965 water legislation does nothing to recognize the underground water facilities in existence at the time the laws were passed. As a result, the investments made in these facilities by thousands of citizens are in serious jeopardy, with the very real possibility that their economic well-being, and ultimately the economic well-being of the state, will suffer severe damage.

These and other problems reported to the committee were reflected in many of the recommended changes which have been suggested to the committee. These suggestions may be summarized as follows:

(1) A combined management program of surface and ground water supplies should be instituted so that (a) priorities would be tied to surface decrees; (b) ditches would be allowed to pump ground water to meet their surface decrees; and (c) senior decrees would be required to utilize all available sources of water before placing a call on the river. Questions involved with this proposal include whether additional legislation is needed or whether this could be done under a regulation by the State Engineer, and what arrangements would be made for well owners not having surface rights.

(2) The establishment of a well drillers licensing law to determine their qualifications and to issue licenses to those meeting the required standards was recommended. "The law should provide authority and funds to prosecute those who violate the established standards."

(3) Legislation should be adopted tying ground water rights to the land under the control of the State Board of Land Commissioners. This is being done now through a provision in the lease issued by the state land board.

(4) Any water law should be prospective rather than retrospective in its application so that existing wells would be protected under its provisions.

(5) Basin committees should be created to advise the State Engineer on the enforcement of H.B. 1066, or where wells tributary to stream flow may be shut down.

(6) S.B. 367 should contain authorization for the issuance of permits for replacement wells.

(7) S.B. 367 should include a provision for the late registration of wells in undesignated areas.

(8) The State Engineer should withhold all permits for the drilling of wells in the San Luis Valley until he can determine the amount of water underground and the effect new wells would have on existing wells.

(9) The General Assembly should provide the funds for the staff assistance needed by the Ground Water Commisiion.

(10) The control of water should be vested in the users. Similarly, control should be on as small an area basis as possible, no larger than a county at the most.

(11) The distance that a junior appropriator must transport water to a senior appropriator should be limited because it is an example of waste when only one-third or one-fourth of the water passed by a junior appropriator reaches the senior decree-holder.

(12) The burden of proof of injury should be placed on those persons claiming damages occurring as the result of the act of a well user.

(13) A planned program to eradicate and control the growth of phreatophytes along rivers should be undertaken by the state. At present, for example, phreatophytes along the Arkansas River are reported to consume an estimated 70,000 acre feet of water each year, or the same as the amount of water planned to be added to the basin under the Frying Pan-Arkansas Project at a cost of one hundred seventy million dollars.

(14) Provision should be made for a person to be credited with, and allowed to use, the amount of water salvaged as a result of clearing his land of phreatophytes.

(15) Adverse stream conditions should be corrected through a program to improve the channels of our rivers.

(16) S.B. 367 represents a step in the right direction, but its provisions should be reviewed by attorneys and made as perfect as possible before the law is tested in the courts.

(17) Lastly, consideration should be given to adopting a statutory definition of "tributary ground water." One view is that, "to be tributary, water so classified must be available to satisfy prior appropriators during the irrigation season, as to direct irrigation, and for storage as to storage rights."

#### Committee Action in 1965 and Activities Planned for 1966

The committee concluded its 1965 activities by adopting a resolution reporting that it was the legislative intent in the 1965 session that permits for replacement wells would be granted by the State Engineer as a matter of routine. The committee's

resolution has been presented to the State Engineer, and it was indicated to the committee that this action would be sufficient authority for him to begin issuing permits for replacement wells.

At the committee's final meeting in 1965, the majority of the members voted that no attempt to amend the 1965 water legislation need be made in the 1966 session. However, another meeting has been scheduled for the first days of the 1966 session and the members will probably again evaluate the situation at that time.

In closing, the committee has by no means reviewed all of the problems that will arise under the provisions of the 1965 water legislation. The real test of this legislation will come when the state experiences a normal or "dry" year and when a designated ground water district has been established, and it therefore appears that the scope of the committee's activities in 1966 and the areas covered will depend to a large extent on these two factors. The committee will continue to conduct meetings in 1966 to develop information on the workings of, and to explore the problems arising under, the water legislation adopted in 1965. It will end its activities early next fall and will submit its final report and recommendations to the Legislative Council in November of 1966.

MEMORANDUM

November 22, 1965

TO: Colorado Legislative Council  
FROM: Committee on Interscholastic Activities  
SUBJECT: Progress Report for 1965

House Joint Resolution No. 1024 directed the Legislative Council to make or appoint a committee to make, prior to the convening of the General Assembly in 1967, a study of the interscholastic athletic programs of the public schools of Colorado, including, but not limited to, the Colorado High School Activities Association and the extent public funds, from both local sources and the state aid program, are being expended on interscholastic athletic programs and other pertinent matters. Other subjects mentioned for possible study were: amount of school time directly or indirectly devoted to interscholastic athletic programs; the additional cost of transportation necessitated by these programs; the number of children participating in these programs in proportion to the total number of students enrolled in the public school system; the relationship in both cost and area required of facilities constructed for interscholastic athletics and the areas constructed for the general physical education of all students; and the number of additional teachers required and the amount of additional compensation paid on account of these programs.

The committee which was appointed to conduct this study met on June 8, 1965, to discuss the various aspects of the assignment and to hear representatives from the Colorado High School Activities Association. The committee concluded that the first step would be to send a questionnaire to all school districts in the state, asking for financial and other data which the committee will need before it can draw any conclusions. The staff was directed to prepare a draft of the questionnaire, to be reviewed by committee members and the activities association before being mailed. The committee agreed not to hold a second meeting until after the completed questionnaires have been received and analyzed.

As directed, the staff prepared a draft of the questionnaire, with the help of the activities association, and submitted it to members of the committee for comments and suggestions. Several revisions were made pursuant to suggestions submitted by committee members. A copy of the questionnaire, along with the letter of transmittal and the definitions, is included as Appendix A in this report.

The questionnaires were mailed on October 1 and the deadline for completion was November 15. A follow-up letter was mailed on November 19.

Replies have been received from 149 school districts, or slightly over 80 per cent of the 184 districts in the state. Attempts will be made to obtain replies from as many of the remaining 35 districts as possible.

The staff is now beginning to analyze the results of these questionnaires. No specific findings have been submitted to the committee as yet, but the committee expects to meet early in 1966 to review the findings and plan the next steps in the study.

APPENDIX A

COLORADO GENERAL ASSEMBLY

**OFFICERS**  
Sen. Floyd Oliver  
Chairman  
Rep. C.P. (Doc) Lamb  
Vice Chairman

**STAFF**  
Lyle C. Kyle  
Director  
Phillip E. Jones  
Senior Analyst  
David F. Morrissey  
Senior Analyst  
Janet Wilson  
Research Associate  
Roger M. Weber  
Research Assistant



LEGISLATIVE COUNCIL

ROOM 341, STATE CAPITOL  
DENVER, COLORADO 80203  
222-9911 - EXTENSION 2285

October 1, 1965

**MEMBERS**  
Lt. Gov. Robert L. Knous  
Sen. Fay DeBerard  
Sen. William O. Lennox  
Sen. Vincent Massari  
Sen. Ruth S. Stockton

Speaker Allen Dines  
Rep. Forrest G. Burns  
Rep. Richard G. Gebhardt  
Rep. Harrie E. Hart  
Rep. Mark A. Hogan  
Rep. John R. P. Wheeler

TO COLORADO SCHOOL SUPERINTENDENTS:

As you probably know, the General Assembly in its 1965 regular session created a special legislative committee to study the interscholastic athletic programs of the public schools of Colorado -- the extent to which public funds are involved, the number of students participating, the time spent, and the personnel required compared with intramural sports, other extra-curricular student activities, and physical education.

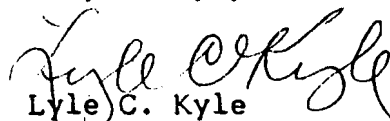
The committee has asked our office to gather some basic facts about interscholastic athletic programs. Most of the information needed is outside the scope of the annual reports which you prepare for the State Department of Education. Consequently, although we are reluctant to add to the number of required reports, we are asking you to assist us in our study by answering the questions on the enclosed questionnaire.

You will notice that there are three parts to the questionnaire. Part I is for the school district as a whole; Part II is for each individual high school within the district; and Part III is for each junior high school within the district. We have attempted to enclose the appropriate number of copies of Parts II and III for districts having more than one high school or junior high.

WE WOULD APPRECIATE YOUR RETURNING ALL PARTS OF THE QUESTIONNAIRE TO THE COLORADO LEGISLATIVE COUNCIL BY NOVEMBER 15.

Thank you for your cooperation. We recognize that compiling the information requested will require considerable time and effort on the part of you and your high school and junior high principals and coaches, but we are convinced that the results of this study will be beneficial to individual school districts as well as to the General Assembly. We plan to send you a copy of the committee's final report when it is completed.

Very truly yours,

  
Lyle C. Kyle  
Director

LCK/mp



## DEFINITIONS FOR QUESTIONNAIRE ON INTERSCHOLASTIC ATHLETICS AND OTHER ACTIVITIES

This questionnaire is divided into three parts. The first part should be completed for the school district as a whole, the second part for each individual high school, and the third part for each junior high school. The following definitions are applicable to all three parts:

High School. High school includes grades 9 through 12 or 10 through 12, but does not include grades 7 and 8. Do not include adult programs.

Junior High School. Junior high school includes grades 7 and 8 or 7, 8 and 9. Please report for these grades even if they are housed with the lower grades.

Fiscal Year. Fiscal year means the most recently completed 12-month fiscal period for the school district. For most districts this will be either July 1, 1964 to June 30, 1965 or January 1, 1963 to December 31, 1964. If the accounting period for the general fund is not the same as for the activity fund, please indicate.

Activity Fund. Activity fund includes receipts and expenditures for all activities handled apart from the general fund. Receipts may include the sale of activity tickets, admissions and gate receipts from various activities, sales of school publications, and receipts from class projects, fairs, dances, and concessions. Expenditures may include the purchase of equipment and supplies, uniforms, operation and maintenance of facilities used for activities, transportation to and from activities, officials' fees, additional compensation to teachers and coaches, and expenditures for class projects, fairs, dances, and concessions. Items should be reported under the activity fund only if they were financed through that fund and not through the general fund. Do not omit items from the activity fund simply because they were not handled through the district's central business office; all items of this nature should be reported even if the receipts and expenditures took place at an individual school within the district.

Interscholastic Athletics. Interscholastic athletics include all athletic contests between schools, whether or not the schools are in the same district. All teams involved in interschool competition should be included. All practice conducted apart from the regular physical education classes and intramural sports should be included, whether during school hours, during the noon hour, or before or after school. Unless otherwise indicated, "interscholastic" includes both interdistrict and intradistrict competition between schools.

Intramural Sports. Intramural sports include athletic competition and other school-sponsored recreational activities among students of the same school, conducted apart from the regular physical education classes, whether during school hours, during the noon hour, or before or after school. Do not include recreational programs for adults or out-of-school youth. Unless otherwise indicated, "intramural" includes intraschool activities but excludes intradistrict activities between schools.

Equipment, Materials, and Supplies. Expenditures for equipment, materials, and supplies include the purchase of such items as athletic uniforms and equipment, gymnasium and playing field equipment, band uniforms, instruments and music, cheerleaders' uniforms, properties for dramatic productions, and working materials for school newspapers and annuals. Numerous other items probably will fit into this category. If any of the items are used for two or more purposes (whether school activities or part of the regular instructional program or an adult program), please estimate the proportion of the cost attributable to the specific school activity in question. This probably can be done by estimating the proportionate amount of time the item is used for the specific school activity and applying this proportion to the total cost of the item. If expenditures are particularly high due to the opening of a new school or for some other reason, please indicate.

Transportation. Transportation expense includes the total cost of operating school buses or private vehicles for trips connected with the specified school activities. Compensation for drivers on activity trips should be included. If transportation costs for the various activities have not been separated from other transportation costs for the district, please estimate the proportion of the total cost attributable to the specific activity in question. This probably can be done by estimating the proportionate number of miles traveled on activity trips and applying this proportion to the total transportation cost.

Travel Expense. Travel expense includes the cost of meals and lodging for trips connected with the specified school activities.

Operation of Plant. Expenditures for operation of plant include the cost of housekeeping functions related to the specific school activity in question. Heat, utilities, and custodial services are examples of this type of expenditure. If operating costs for the various activities have not been separated from other operating costs for the district, please estimate the proportion of the cost attributable to the specific activity in question. This probably can be done by estimating the cost of operating the part of the plant used for the specific activity, estimating the proportionate amount of time that that part of the plant is used for the activity, and applying this proportion to the total cost of operating that part of the plant.

Maintenance of Plant. Expenditures for maintenance of plant include the cost of repairs and replacements needed for upkeep of grounds, buildings and equipment used for the specific school activity in question. If maintenance costs for the various activities have not been separated from other maintenance costs for the district, please estimate the proportion of the cost attributable to the specific activity in question. This probably can be done by estimating the cost of maintaining the part of the plant used for the specific activity, estimating the proportionate amount of time that that part of the plant is used for the activity, and applying this proportion to the total cost of maintaining that part of the plant.

Additional Compensation to Teachers and Coaches. Additional compensation means the extra salary paid for coaching duties, conducting marching band, or for sponsoring other types of activities. It does not include the regular teaching salary paid according to the basic salary schedule. Do not attempt to estimate the cost of time spent on student activities if extra salary is not paid.

QUESTIONNAIRE ON INTERSCHOLASTIC ATHLETICS  
AND OTHER ACTIVITIES

Part I: For the School District As a Whole

County \_\_\_\_\_ School District \_\_\_\_\_

Total High School Enrollment in District (Fall, 1964) \_\_\_\_\_

Activity Fund Information

Please give the following activity fund information for your school district. Indicate the fiscal year for which the information is given:

July 1, 1964 to June 30, 1965 \_\_\_\_\_  
January 1, 1964 to December 31, 1964 \_\_\_\_\_  
Other \_\_\_\_\_

Beginning Balance \_\_\_\_\_

Receipts

Sale of Activity Tickets \_\_\_\_\_  
Gate Receipts from Interscholastic Athletics (other than activity tickets) \_\_\_\_\_  
Receipts from Other Sources \_\_\_\_\_

Total Receipts \_\_\_\_\_

Transfers from General Fund to Activity Fund \_\_\_\_\_

GRAND TOTAL \_\_\_\_\_

\* \* \* \* \*

Expenditures

Expenditures for Interscholastic Athletics \_\_\_\_\_  
Expenditures for Other Purposes \_\_\_\_\_

Total Expenditures \_\_\_\_\_

Transfers from Activity Fund to General Fund \_\_\_\_\_

Ending Balance \_\_\_\_\_

GRAND TOTAL \_\_\_\_\_

Activity Fund Information (continued)

Activity Tickets

What was the price of an activity ticket for the 1964-65 school year?

Price for students \_\_\_\_\_

Price for others (if sold to others) \_\_\_\_\_

Was the purchase of an activity ticket mandatory or voluntary for students?

Mandatory \_\_\_\_\_

Voluntary \_\_\_\_\_

Handling of Activity Fund Moneys

Were activity fund moneys kept physically separate from other school district moneys or were they commingled with other district moneys and given a separate accounting on paper?

Kept physically separate \_\_\_\_\_

Commingled but accounted for separately \_\_\_\_\_

Other method (please explain under "Comments") \_\_\_\_\_

If your activity fund moneys were kept physically separate, where were they kept and what officials and other persons had authority to draw on them?

Where Activity Funds Were Kept

Persons Authorized to Withdraw

Deposited in checking account covering activity moneys of entire district?

Yes\_\_\_ No\_\_\_

Deposited in checking account for activity moneys of each school in districts having more than one school?

Yes\_\_\_ No\_\_\_

Deposited in several different checking accounts covering different activities?

Yes\_\_\_ No\_\_\_

Kept in a safe for the school or district? Yes\_\_\_ No\_\_\_

Deposited with the county treasurer?

Yes\_\_\_ No\_\_\_

Other (please explain under "Comments")

IF YOU HAVE EXPLANATORY COMMENTS, PLEASE ATTACH ADDITIONAL SHEETS.

Information on Current Expenditures for Interscholastic  
Athletics and Other Activities

Please give the following expenditure information for your school district. Indicate the fiscal year for which the information is given:

Activity Fund

July 1, 1964 to June 30, 1965 \_\_\_\_\_  
 Jan. 1, 1964 to Dec. 31, 1964 \_\_\_\_\_  
 Other \_\_\_\_\_

General Fund

July 1, 1964 to June 30, 1965 \_\_\_\_\_  
 Jan. 1, 1964 to Dec. 31, 1964 \_\_\_\_\_  
 Other \_\_\_\_\_

| <u>Type of<br/>Expenditure</u>  | <u>Expend. From<br/>Activity Fund</u> | <u>Expend. From<br/>General Fund</u> | <u>Total<br/>Expenditure</u> |
|---|---------------------------------------|--------------------------------------|------------------------------|
| <u>Interscholastic Athletics</u>  |                                       |                                      |                              |
| Equipment, Materials, Supplies  | _____                                 | _____                                | _____                        |
| Transportation  | _____                                 | _____                                | _____                        |
| Travel Expense  | _____                                 | _____                                | _____                        |
| Officials' Fees   | _____                                 | _____                                | _____                        |
| Operation of Plant  | _____                                 | _____                                | _____                        |
| Maintenance of Plant  | _____                                 | _____                                | _____                        |
| Additional Compensation to Coaches  | _____                                 | _____                                | _____                        |
| Other Expenditures Attributable to<br>Interscholastic Athletics (please<br>list major items):   |                                       |                                      |                              |
| _____   | _____                                 | _____                                | _____                        |
| _____   | _____                                 | _____                                | _____                        |
| _____   | _____                                 | _____                                | _____                        |
| TOTAL EXPENDITURES FOR<br>INTERSCHOLASTIC ATHLETICS   | _____                                 | _____                                | _____                        |
| Of the above totals, how much was ex-<br>pended for the junior high and ele-<br>mentary levels? | _____                                 | _____                                | _____                        |

Entire School District

| <u>Type of<br/>Expenditure</u>  | <u>Expend. From<br/>Activity Fund</u> | <u>Expend. From<br/>General Fund</u> | <u>Total<br/>Expenditure</u> |
|---|---------------------------------------|--------------------------------------|------------------------------|
| <u>Intramural Sports</u>  |                                       |                                      |                              |
| Equipment, Materials, Supplies  | _____                                 | _____                                | _____                        |
| Officials' Fees   | _____                                 | _____                                | _____                        |
| Operation of Plant  | _____                                 | _____                                | _____                        |
| Maintenance of Plant  | _____                                 | _____                                | _____                        |
| Additional Compensation to Teachers   | _____                                 | _____                                | _____                        |
| Other Expenditures Attributable to<br>Intramural Sports                                     | =====                                 | =====                                | =====                        |
| TOTAL EXPENDITURES FOR<br>INTRAMURAL SPORTS   | _____                                 | _____                                | _____                        |
| Of the above totals, how much was<br>expended for the junior high and<br>elementary levels? | _____                                 | _____                                | _____                        |



Entire School District

| <u>Type of<br/>Expenditure</u>  | <u>Expend. From<br/>Activity Fund</u> | <u>Expend. From<br/>General Fund</u> | <u>Total<br/>Expenditure</u> |
|---|---------------------------------------|--------------------------------------|------------------------------|
| <u>Music Activities</u>   |                                       |                                      |                              |
| Equipment, Materials, Supplies  |                                       |                                      |                              |
| Transportation  |                                       |                                      |                              |
| Travel Expense  |                                       |                                      |                              |
| Fees for Adjudicators and Clinicians  |                                       |                                      |                              |
| Additional Compensation for Teachers  |                                       |                                      |                              |
| Other Expenditures Attributable to<br>Music Activities  |                                       |                                      |                              |
| TOTAL EXPENDITURES FOR<br>MUSIC ACTIVITIES  |                                       |                                      |                              |
| Of the above totals, how much was ex-<br>pended for the junior high and ele-<br>mentary levels? |                                       |                                      |                              |
| <u>Speech Activities</u>  |                                       |                                      |                              |
| Transportation  |                                       |                                      |                              |
| Travel Expense  |                                       |                                      |                              |
| Additional Compensation to Teachers   |                                       |                                      |                              |
| Other Expenditures Attributable to<br>Speech Activities   |                                       |                                      |                              |
| TOTAL EXPENDITURES FOR<br>SPEECH ACTIVITIES   |                                       |                                      |                              |
| Of the above totals, how much was ex-<br>pended for the junior high and ele-<br>mentary levels? |                                       |                                      |                              |

Entire School District

| <u>Type of<br/>Expenditure</u>  | <u>Expend. From<br/>Activity Fund</u> | <u>Expend. From<br/>General Fund</u> | <u>Total<br/>Expenditure</u> |
|---|---------------------------------------|--------------------------------------|------------------------------|
| <u>Dramatics</u>  |                                       |                                      |                              |
| Equipment, Materials, Supplies  | _____                                 | _____                                | _____                        |
| Additional Compensation to Teachers   | _____                                 | _____                                | _____                        |
| Other Expenditures Attributable to<br>Dramatics   | _____                                 | _____                                | _____                        |
| TOTAL EXPENDITURES FOR<br>DRAMATICS   | _____                                 | _____                                | _____                        |
| Of the above totals, how much was<br>expended for the junior high and<br>elementary levels? | _____                                 | _____                                | _____                        |
| <u>Student Council</u>  |                                       |                                      |                              |
| Transportation  | _____                                 | _____                                | _____                        |
| Travel Expense  | _____                                 | _____                                | _____                        |
| Additional Compensation to Teachers   | _____                                 | _____                                | _____                        |
| Other Expenditures Attributable to<br>Student Council                                       | _____                                 | _____                                | _____                        |
| TOTAL EXPENDITURES FOR<br>STUDENT COUNCIL   | _____                                 | _____                                | _____                        |
| Of the above totals, how much was<br>expended for the junior high and<br>elementary levels? | _____                                 | _____                                | _____                        |

Entire School District

| <u>Type of<br/>Expenditure</u>  | <u>Expend. From<br/>Activity Fund</u> | <u>Expend. From<br/>General Fund</u> | <u>Total<br/>Expenditure</u> |
|---|---------------------------------------|--------------------------------------|------------------------------|
| <u>Pep Club</u>   |                                       |                                      |                              |
| Equipment, Materials, Supplies  | _____                                 | _____                                | _____                        |
| Transportation  | _____                                 | _____                                | _____                        |
| Travel Expense  | _____                                 | _____                                | _____                        |
| Additional Compensation to Teachers   | _____                                 | _____                                | _____                        |
| Other Expenditures Attributable to<br>Pep Club  | _____                                 | _____                                | _____                        |
|   | =====                                 | =====                                | =====                        |
| TOTAL EXPENDITURES FOR<br>PEP CLUB  | _____                                 | _____                                | _____                        |
| Of the above totals, how much was<br>expended for the junior high and<br>elementary levels? | _____                                 | _____                                | _____                        |
| <u>School Publications</u>  |                                       |                                      |                              |
| Equipment, Materials, Supplies  | _____                                 | _____                                | _____                        |
| Additional Compensation to Teachers   | _____                                 | _____                                | _____                        |
| Other Expenditures Attributable to<br>School Publications                                   | _____                                 | _____                                | _____                        |
|   | =====                                 | =====                                | =====                        |
| TOTAL EXPENDITURES FOR<br>SCHOOL PUBLICATIONS   | _____                                 | _____                                | _____                        |
| Of the above totals, how much was<br>expended for the junior high and<br>elementary levels? | _____                                 | _____                                | _____                        |

Entire School District

| <u>Type of Expenditure</u>  | <u>Expend. From Activity Fund</u> | <u>Expend. From General Fund</u> | <u>Total Expenditure</u> |
|---|-----------------------------------|----------------------------------|--------------------------|
| <u>Other School Clubs and School-Sponsored Activities Not Covered Above*</u>          |                                   |                                  |                          |
| Transportation  | _____                             | _____                            | _____                    |
| Travel Expense  | _____                             | _____                            | _____                    |
| Additional Compensation to Teachers   | _____                             | _____                            | _____                    |
| Other Expenditures Attributable to Other School Clubs                                 | _____                             | _____                            | _____                    |
| TOTAL EXPENDITURES FOR OTHER SCHOOL CLUBS   | _____                             | _____                            | _____                    |
| Of the above totals, how much was expended for the junior high and elementary levels? | _____                             | _____                            | _____                    |
| <u>Service Fees to Activities Association</u>   | _____                             | _____                            | _____                    |
| TOTAL EXPENDITURES FOR ALL PURPOSES ON PRECEDING PAGES                                | _____                             | _____                            | _____                    |

What were your Total General Fund Expenditures for all purposes for the most recently completed fiscal year? (This is the item found on page 7, line 49, Secretary's Annual Report, Form DS-1.)

\* Please list all of the other school clubs and school-sponsored activities for which you have included expenditures in this category:

IF YOU HAVE EXPLANATORY COMMENTS, PLEASE ATTACH ADDITIONAL SHEETS.

Information on Transportation for  
Interscholastic Athletics and Other Activities

What form of transportation is ordinarily used in your district for each of the following activities? (School-owned bus; bus under contract; chartered bus; school-owned car or station wagon; private car or station wagon; or other forms of transportation.)

Interscholastic Athletics \_\_\_\_\_

Music Activities \_\_\_\_\_

Speech Activities \_\_\_\_\_

Student Council Activities \_\_\_\_\_

Pep Club \_\_\_\_\_

Other Clubs \_\_\_\_\_

In the ordinary accounting procedures for your district, do you separate transportation costs for activities from other transportation costs for the district?

|                           |           |          |
|---------------------------|-----------|----------|
| Interscholastic Athletics | Yes _____ | No _____ |
|---------------------------|-----------|----------|

|                  |           |          |
|------------------|-----------|----------|
| Music Activities | Yes _____ | No _____ |
|------------------|-----------|----------|

|                   |           |          |
|-------------------|-----------|----------|
| Speech Activities | Yes _____ | No _____ |
|-------------------|-----------|----------|

|                            |           |          |
|----------------------------|-----------|----------|
| Student Council Activities | Yes _____ | No _____ |
|----------------------------|-----------|----------|

|          |           |          |
|----------|-----------|----------|
| Pep Club | Yes _____ | No _____ |
|----------|-----------|----------|

|             |           |          |
|-------------|-----------|----------|
| Other Clubs | Yes _____ | No _____ |
|-------------|-----------|----------|

If you do account for transportation costs for activities separately from other transportation costs, what method do you use? (Specified mileage allowance; actual cost of gas, oil, etc.; compensation of drivers; or other methods.)

Interscholastic Athletics \_\_\_\_\_

Music Activities \_\_\_\_\_

Speech Activities \_\_\_\_\_

Student Council Activities \_\_\_\_\_

Pep Club \_\_\_\_\_

Other Clubs \_\_\_\_\_

IF YOU WISH TO ADD EXPLANATORY COMMENTS CONCERNING YOUR TRANSPORTATION COSTS, PLEASE USE THE REVERSE SIDE OF THIS SHEET.

Entire School District

Information on Junior High School  
and Elementary School Activities

Did your school district have athletic competition with other districts at the junior high school or elementary school level for any sport during the school year 1964-65?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, please list the sports and the grade level:

| <u>Sports</u> | <u>Grade Level</u> |
|---------------|--------------------|
| _____         | _____              |
| _____         | _____              |
| _____         | _____              |
| _____         | _____              |
| _____         | _____              |

Did your school district have athletic competition among schools within the district at the junior high school or elementary school level for any sport during 1964-65?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, please list the sports and the grade level:

| <u>Sports</u> | <u>Grade Level</u> |
|---------------|--------------------|
| _____         | _____              |
| _____         | _____              |
| _____         | _____              |
| _____         | _____              |
| _____         | _____              |

Are any of your junior high school or elementary school activities (athletic or other activities) financed through the activity fund in your district?

Yes \_\_\_\_\_ No \_\_\_\_\_



Entire School District

Information on  
Physical Education Courses

How many years of physical education are required in high school in  
your district? \_\_\_\_\_ In junior high? \_\_\_\_\_  
In elementary school? \_\_\_\_\_

How many hours per week does each student spend in the typical high  
school physical education course? \_\_\_\_\_

Is participation in interscholastic athletics accepted as a substi-  
tute for physical education? \_\_\_\_\_

\_\_\_\_\_  
COMMENTS:

Each High School

QUESTIONNAIRE ON INTERSCHOLASTIC ATHLETICS AND OTHER ACTIVITIES

Part II: For Each High School in the School District

Please give information for school year 1964-65.

County \_\_\_\_\_ School District \_\_\_\_\_ Name of High School \_\_\_\_\_

Grades in High School \_\_\_\_\_ No. in High School: Boys \_\_\_\_\_ Girls \_\_\_\_\_ Total \_\_\_\_\_

No. of Teachers in High School \_\_\_\_\_ No. of Hours in School Week \_\_\_\_\_

Student Participation, Time Spent, and Personnel Required

|                           | No. of Students<br>Actively Partic'g |       |       | No. of Hrs. Per Week<br>For Partic'g Student |                        | No. of Hrs. Per Week<br>For Partic'g Teacher |                        | No. of Tchrs.<br>Receiving Addtl.<br>Compensation<br>For Activity |
|---------------------------|--------------------------------------|-------|-------|--|------------------------|--|------------------------|---|
|                           | Boys                                 | Girls | Total | During<br>School Hrs.                        | Outside<br>School Hrs. | During<br>School Hrs.                        | Outside<br>School Hrs. |   |
| Interscholastic Athletics | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| Intramural Sports         | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| Music Activities          | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| Speech Activities         | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| Dramatics                 | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| Student Council           | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| Pep Club                  | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| Other School Clubs        | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| School Publications       | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |

Information on Student Participation in Regular Interscholastic,  
Other Intradistrict, and Intrascchool Athletics

Please give the following information for school year 1964-65:

|                             | No. of Students<br>on Regular<br>Interscholastic<br>Teams |       | No. of Students<br>in Other Intra-<br>district Compe-<br>tition Only |       | No. of Students<br>in Intrascchool<br>Competition<br>Only |       |
|-----------------------------|---|-------|--|-------|---|-------|
|                             | Boys  | Girls | Boys   | Girls | Boys  | Girls |
| Football                    | _____   | _____ | _____  | _____ | _____   | _____ |
| Basketball                  | _____   | _____ | _____  | _____ | _____   | _____ |
| Baseball                    | _____   | _____ | _____  | _____ | _____   | _____ |
| Track                       | _____   | _____ | _____  | _____ | _____   | _____ |
| Wrestling                   | _____   | _____ | _____  | _____ | _____   | _____ |
| Gymnastics                  | _____   | _____ | _____  | _____ | _____   | _____ |
| Swimming                    | _____   | _____ | _____  | _____ | _____   | _____ |
| Golf                        | _____   | _____ | _____  | _____ | _____   | _____ |
| <u>Others (please list)</u> |   |       |  |       |   |       |
| _____                       | _____   | _____ | _____  | _____ | _____   | _____ |
| _____                       | _____   | _____ | _____  | _____ | _____   | _____ |
| _____                       | _____   | _____ | _____  | _____ | _____   | _____ |
| _____                       | _____   | _____ | _____  | _____ | _____   | _____ |
| _____                       | _____   | _____ | _____  | _____ | _____   | _____ |

IF YOU HAVE EXPLANATORY COMMENTS, PLEASE ATTACH ADDITIONAL SHEETS.

Each Junior High School

QUESTIONNAIRE ON INTERSCHOLASTIC ATHLETICS AND OTHER ACTIVITIES

Part III: For Each Junior High School in the School District

Please give information for school year 1964-65.

County \_\_\_\_\_ School District \_\_\_\_\_ Name of Junior High School \_\_\_\_\_

Grades in Jr. High School \_\_\_\_\_ No. in Jr. High School: Boys \_\_\_\_\_ Girls \_\_\_\_\_ Total \_\_\_\_\_

No. of Teachers in Junior High School \_\_\_\_\_ No. of Hours in School Week \_\_\_\_\_

Student Participation, Time Spent, and Personnel Required

|                           | No. of Students<br>Actively Partic'g |       |       | No. of Hrs. Per Week<br>For Partic'g Student |                        | No. of Hrs. Per Week<br>For Partic'g Teacher |                        | No. of Tchrs.<br>Receiving Addtl.<br>Compensation<br>For Activity |
|---------------------------|--------------------------------------|-------|-------|--|------------------------|--|------------------------|---|
|                           | Boys                                 | Girls | Total | During<br>School Hrs.                        | Outside<br>School Hrs. | During<br>School Hrs.                        | Outside<br>School Hrs. |   |
| Interscholastic Athletics | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| Intramural Sports         | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| Music Activities          | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| Speech Activities         | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| Dramatics                 | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| Student Council           | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| Pep Club                  | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| Other School Clubs        | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |
| School Publications       | _____                                | _____ | _____ | _____  | _____                  | _____  | _____                  | _____   |

Information on Student Participation in Regular Interscholastic,  
Other Intradistrict, and Intrascchool Athletics

Please give the following information for school year 1964-65:

|                             | No. of Students<br>on Regular<br>Interscholastic<br>Teams |              | No. of Students<br>in Other Intra-<br>district Compe-<br>tition Only |              | No. of Students<br>in Intrascchool<br>Competition<br>Only |              |
|-----------------------------|---|--------------|--|--------------|---|--------------|
|                             | <u>Boys</u>   | <u>Girls</u> | <u>Boys</u>  | <u>Girls</u> | <u>Boys</u>   | <u>Girls</u> |
| Football                    | _____   | _____        | _____  | _____        | _____   | _____        |
| Basketball                  | _____   | _____        | _____  | _____        | _____   | _____        |
| Baseball                    | _____   | _____        | _____  | _____        | _____   | _____        |
| Track                       | _____   | _____        | _____  | _____        | _____   | _____        |
| Wrestling                   | _____   | _____        | _____  | _____        | _____   | _____        |
| Gymnastics                  | _____   | _____        | _____  | _____        | _____   | _____        |
| Swimming                    | _____   | _____        | _____  | _____        | _____   | _____        |
| Golf                        | _____   | _____        | _____  | _____        | _____   | _____        |
| <u>Others (please list)</u> |   |              |  |              |   |              |
| _____                       | _____   | _____        | _____  | _____        | _____   | _____        |
| _____                       | _____   | _____        | _____  | _____        | _____   | _____        |
| _____                       | _____   | _____        | _____  | _____        | _____   | _____        |
| _____                       | _____   | _____        | _____  | _____        | _____   | _____        |
| _____                       | _____   | _____        | _____  | _____        | _____   | _____        |

IF YOU HAVE EXPLANATORY COMMENTS, PLEASE ATTACH ADDITIONAL SHEETS.

MEMORANDUM

November 22, 1965

TO: Colorado Legislative Council  
FROM: Committee on Vocational Education  
SUBJECT: Progress Report for 1965

The assignment given the Committee on Vocational Education was so broad and all-inclusive that the committee has had to spend most of this year just gathering information in an attempt to get an over-all view of the programs and issues involved. (See Appendix A for a copy of the study assignment.)

The first meeting of the committee was held on June 7, 1965. At that time the members discussed all aspects of the assignment and outlined plans for the two-year study. It was tentatively agreed that the committee would concentrate on high school programs and would not attempt to look at vocational education beyond the high school for the time being.

However, after subsequent meetings at which various people described the many types and levels of vocational education, the committee concluded that it would be unwise to limit its study to any single level or type of institution. The committee has come to realize the vital importance of looking at the total picture.

The second, third, and fourth meetings of the committee were devoted primarily to conferring with individuals who are concerned with various aspects of vocational education. On September 8, Mr. Herrick Roth, President of the Colorado Labor Council AFL-CIO, and Mr. Basil Allen, Director of Adult and Vocational Education in the Boulder schools, were heard during the morning session. Mr. Lawrence Meier, Supervisor of Vocational and Technical Education in the Jefferson County schools, and Mr. Russell Britton, Director of Adult, Vocational and Special Education in the Denver schools, were heard during the afternoon session.

On September 30, following a committee discussion session which took up the entire morning, President Victor Hopper, Dean Leland Benz, and Dean Leonard Smith (all of Southern Colorado State College in Pueblo) and Mr. Fred Betz, Sr., Mr. A. R. Bunger, and Dr. M. G. Linson (all of the State Board for Vocational Education) were heard in the afternoon.

On December 2, at a joint meeting with the Committee on Education Beyond High School, Mr. Shelby Harper, Dr. Frank Abbott, and Miss Elaine Homan, Commission on Higher Education, appeared for the morning session and Dr. Fred Bremer and Dr. Leland Luchsinger, State Department of Education, appeared in the afternoon.



The presentations of each of these individuals are summarized below.

Mr. Herrick Roth

Mr. Herrick Roth, President of the Colorado Labor Council AFL-CIO, urged the committee to recognize the fact that vocational education is much broader than the public schools and junior colleges. He emphasized the need for an interlocking system of vocational education equipped to meet differing needs at various levels. He suggested that all money, talent, and resources for the over-all system of vocational education should be organized through a single vocational education authority which could provide leadership and coordination.

Mr. Basil Allen

Mr. Basil Allen, Director of Adult and Vocational Education in the Boulder schools, described Boulder's recently developed approach to vocational education. The school district has built a separate facility for vocational education, to which interested students from each high school are transported for a full half day of vocational training. Students attend their own high schools during the other half day for academic courses and can participate in athletics and other activities there. Five areas of vocational education are now offered at the Boulder facility: two courses in automotives, one in electronics, one in welding and metal fabrications, and one in machine shop. The type of work offered is intended to be terminal in nature; in some cases students have been interested in continuing training beyond the twelfth grade.

Mr. Lawrence Meier

Mr. Lawrence Meier, Supervisor of Vocational and Technical Education in the Jefferson County schools, stressed the importance of flexibility in vocational education programs in the public schools. Vocational education must be able to meet the changing needs of society, he said. He described the Jefferson County program, which is based on the premise that vocational type courses should be introductory and exploratory from grades 8 through 12, with terminal training taking place after graduation from grade 12. He reported that all eighth grade boys are required to take a general course covering five or six broad vocational areas (carried out through the use of several made-over mobile homes, each of which is equipped for a different subject and manned by a qualified teacher, which move from school to school for units of six to nine weeks). This exploratory approach is carried into grade 9 and then into the high school, where there is an opportunity for a small degree of specialization but no attempt to provide terminal education. Vocational education courses in Jefferson County are one-hour courses which are simply a part of the curriculum in the same sense as English, mathematics, and social studies. No half-day blocks are set aside. The Jefferson County philosophy assumes the availability of terminal education beyond the high school, Mr. Meier emphasized.

### Mr. Russell Britton

Mr. Russell Britton, Director of Adult, Vocational and Special Education in the Denver schools, described the operation of Denver's Emily Griffith Opportunity School. He stated that the great value of Opportunity School lies in its close contact with practitioners in the fields of training and in its flexibility to change quickly with the needs of industry. Opportunity School is open to all Denver residents, whether high school graduates or not. It is supported almost entirely by Denver; it receives little in state and federal aid. It does not attempt to meet accreditation standards, and credits are not transferable. The general feeling has been that to submit to state, federal, and North Central Association standards would be to sacrifice much of the value of the school, Mr. Britton indicated. Such standards would probably cut down on flexibility and adaptability, he said.

### President Hopper, Dean Benz, Dean Smith

President Victor Hopper, Dean Leland Benz, and Dean Leonard Smith described the current status of the vocational education program at Southern Colorado State College in Pueblo. They stated that the trade-technical division of the school was actually strengthened, not weakened, by the transition from a junior college to a senior college. The school still maintains an extensive night program as well as the day program for full-time students. Some courses in the trade-technical division are offered for credit applicable toward a baccalaureate degree while others apply only toward an associate in applied science degree.

### Mr. Betz, Mr. Bunger, Dr. Linson

Mr. Fred Betz, Sr., Mr. A. R. Bunger, and Dr. M. G. Linson provided the committee with information concerning the work of the State Board for Vocational Education. They answered a series of committee questions concerning the composition of the board and its advisory committees, the department's budget and staffing, status of implementation of Senate Bill 241 (the vocational education bill enacted in 1965), amount and distribution of federal aid for vocational education in Colorado, changes resulting from the federal Vocational Education Act of 1963, the features of Colorado's State Plan for vocational education, the program for development of area vocational schools, and the over-all philosophy of the board and its plans for the future. They supplied the committee with printed information relating to several of the questions.

### Mr. Harper, Dr. Abbott, Miss Homan

Mr. Shelby Harper, chairman, Dr. Frank Abbott, executive director, and Miss Elaine Homan, staff officer, of the Commission on Higher Education reported on the activities of the Commission since it was established by the 1965 session of the General Assembly. Mr. Harper explained that between July and October the Commission visited

all state-supported universities, colleges, and junior colleges in the state to become familiar with existing facilities and programs and to meet the administrative officers of each school. They also selected an executive director, who assumed his duties in early November. Specific items for consideration by the Commission in December and later, said Mr. Harper, include: (1) review of capital construction requests and policies; (2) development of a workable plan, including adequate vocational-technical facilities, for the Denver metropolitan area; (3) clarification of the role of the junior college; (4) review of the "blueprint" published in December, 1964, by the Association of State Institutions of Higher Education; and (5) review of operating budget requests of the institutions. Mr. Harper said the Commission's function is to provide the General Assembly with proposals, alternatives, and background information which will be of help in making the final decisions about higher education in this state. He noted that vocational education is an area of great concern to the Commission, and they are working with the State Board for Vocational Education and other groups to try to find answers to the many questions involved.

#### Dr. Bremer and Dr. Luchsinger

Dr. Fred Bremer, junior college consultant, and Dr. Leland Luchsinger, director, Division of Education Beyond High School, State Department of Education, discussed the role of the junior college. Colorado has six junior colleges (and two more to be opened soon), run by local governing boards and financed partially from state funds and partially from local funds. Dr. Bremer and Dr. Luchsinger voiced their support of the community college concept and stressed the value of the diversity of offerings possible in the community junior college. When academic and vocational courses can be offered in the same institution the student can change from one program to another while remaining in the same institution, they said.

#### Status of Committee at End of 1965

From the information presented to the committee thus far it would appear that vocational education is a somewhat haphazard proposition in Colorado today. Vocational education is being handled by the public schools, junior colleges, four-year institutions of higher learning, and various semi-public and private agencies. It appears that no over-all objectives have been defined and there has been little success in efforts to achieve effective coordination of all vocational education activities.

Several groups are striving to remedy this situation. These include the State Board for Vocational Education and its new advisory committee, the State Board of Education (in regard to both the secondary schools and the junior colleges), the Commission on Higher Education, the Board of Trustees of the State Colleges (especially in relation to Metropolitan State College and Southern Colorado State College), the junior college governing boards, and the Legislative Committee on Education Beyond High School, as well as this committee. The efforts

of these groups are complicated by the rapidity with which the federal government is encouraging expansion of various vocational training programs by grants-in-aid which are funneled through various public and private state and local agencies.

This committee will undoubtedly encounter difficulties in attempting to reach any definitive conclusions on the subject of vocational education in Colorado. Consequently the year 1966 will be a busy one for the committee members. The staff of the Legislative Council has already compiled some information for the committee on such things as vocational course offerings in Colorado high schools, school dropouts and their characteristics, and employment projections for the state. More information is being prepared for use in 1966. The committee also hopes to be able to utilize the findings of the Occupational Research Center at Colorado State University in Fort Collins, which should be available by the fall of 1966. When all of this background information has been compiled and reviewed by the members, the committee will prepare and submit its report and recommendations to the Legislative Council in November of 1966.

## Appendix A

### STUDY ASSIGNMENT

House Joint Resolution No. 1024 directed the Legislative Council to make or appoint a committee to make, prior to the convening of the General Assembly in 1967, a thorough study of all laws pertaining to:

1. Secondary school vocational programs designed to help prepare students for employment;
2. Youth employment services designed to promote the employment of youth, including any laws not specifically relating to job preparation and placement but which are affected thereby; and
3. Availability and utilization of federal assistance for vocational education and job placement.

The study shall include but need not be limited to consideration of the following:

1. Projection of types of job opportunities open to youth;
2. Projection of future needs of industry regarding trained youth;
3. Factors that keep youngsters from employment;
4. Needs of high school students and youths who are not attending school;
5. Present vocational education programs, including business courses; and needs of other persons in the community for training and retraining, both those unemployed and those in need of training to upgrade themselves in their present employment;
6. Industrial arts courses;
7. The extent and effectiveness of existing programs in guidance and counseling, both in the public schools and those offered by public and private agencies, and the needs, if such exist, for expansion and broadening of such programs;
8. Youth employment services;
9. Apprenticeships;
10. On-job training programs;
11. Work-study programs;
12. Organization, cost, and financing of job preparation and placement programs; and
13. Availability and training of teaching personnel.