

# DIGEST OF BILLS ENACTED BY THE FIFTY-NINTH GENERAL ASSEMBLY

1994 SECOND REGULAR SESSION  
JUNE 1994

Publication of the Colorado Revised Statutes occurs several months following the end of each regular legislative session. Prior to such publication, the Office of Legislative Legal Services prepares the Digest of Bills and concurrent resolutions as required under section 2-3-504, C.R.S. The Digest consists of summaries of all bills and concurrent resolutions enacted by the Fifty-ninth General Assembly at its Second Regular Session ending May 11, 1994. The summaries include the dates bills are approved and the effective dates of the bills. The Digest is not a substitute for the text of the bills or for provisions of Colorado Revised Statutes, but gives the user notice of and summary information on recent changes to the statutes.

## ADMINISTRATIVE RULE REVIEW

**S.B. 94-069** Continuation of 1993 rules of executive agencies - exceptions. Provides for the continuation of the rules and regulations of state agencies that were adopted or amended on or after January 1, 1993, and before November 1, 1993; except that certain rules and regulations shall expire as scheduled on May 15, 1994.

Postpones indefinitely the rules and regulations of the public employees' retirement association scheduled to expire on May 15, 1994.

Postpones until November 1, 1994, the expiration of certain rules of the hazardous waste commission in the department of health that incorporate by reference a federal publication concerning test methods.

Postpones until January 1, 1995, the expiration of certain rules of the motor vehicle division of the department of revenue concerning enforcement and hearing procedures for violations of title or registration regulations.

Postpones until May 15, 1996, the expiration of rules of the department of personnel concerning affirmative action that are scheduled to expire on June 1, 1994, but requires the department of personnel, prior to August 1, 1995, to submit to the committee on legal services specified information to aid in the evaluation of the operation and legal sufficiency of the affirmative action rules.

Provides that the recommendations of the Committee on Legal Services as reflected in the act apply to the specified rules in the form in which the rules were considered and acted upon by the committee and that any subsequent amendments or other changes to the rules are not affected by this act.

Repeals specified instructions to assessors of the division of property tax relating to implementation of section 20 of article X of the state constitution (Amendment #1), including instructions containing minor technical errors and an instruction stating that there cannot be a negative local growth factor for non-school district governments.

**APPROVED** by Governor May 12, 1994

**EFFECTIVE** May 12, 1994

## AGRICULTURE

**S.B. 94-023** Pet animal care - facilities and operators - regulation - licensure - unlawful acts - advisory committee - establishment - continuation under sunset law - commissioner of agriculture - duties - creation of fund - continuation under sunset law - appropriation. Enacts the "Pet Animal Care and Facilities Act". Transfers regulatory and licensing power over pet animal facilities from the department of health to the department of agriculture.

Exempts pet animal facility operators from the routine inspection provisions of the act if their facility was licensed by the United States department of agriculture as of December 31, 1993. Exempts a pet animal facility from requirements that concern physical premises if such facility was licensed through 1991. Exempts from the act certain veterinary hospitals, research facilities, circuses, zoos, training facilities, greyhound kennels and facilities, livestock, wildlife, and hobby breeder facilities. States that the act shall not require the construction of new buildings or the major reconstruction of existing ones.

Requires pet animal facility operators to hold a license from the commissioner of agriculture ("commissioner") for each location of such a facility. Requires each licensure applicant to pay an annual fee in an amount not to exceed \$200. Describes the procedure for obtaining a license. States that such licenses shall expire March 1 of each year and are not transferable. Describes the record-keeping requirements for pet animal facilities.

States the duties of pet animal facility operators, which include providing sanitary conditions, adequate ventilation, nutrition, and health care.

Makes it unlawful for a person to operate a pet animal facility or perform the services of such a facility without a license, refuse to comply with a cease and desist order, make a material misstatement in a license application, or aid or abet another in any violation of the act.

Makes it unlawful for specified persons to import or transfer certain species of birds unless they are appropriately banded; transfer or import a nonhuman primate or a turtle with a length in carapace of less than 4 inches; transfer a dog or cat under 8 weeks of age, any guinea pig, hamster, or rabbit under 4 weeks of age, or any other specified animal in violation of the act. Makes it unlawful to fail to take reasonable care to release for sale or adoption only those pet animals that are free of undisclosed disease, abnormality, or injury. Makes certain acts a deceptive trade practice and a violation of the "Colorado Consumer Protection Act".

Describes the powers and duties of the commissioner. States that the commissioner may perform such investigations as are necessary to ensure compliance with the act, and grants the commissioner access during regular business hours to areas in which animals are kept, if consent or a search warrant has been obtained.

Grants the commissioner the authority to adopt rules, conduct hearings, use administrative law judges, and delegate duties to qualified employees of the department of agriculture. Requires the commissioner to appoint an advisory committee to make recommendations and provide an ongoing review of the act. States that such committee shall

be subject to automatic termination on July 1, 2000, pursuant to sunset law provisions.

Authorizes the commissioner to issue a cease and desist order, bring suit for a temporary restraining order or permanent injunction, issue letters of admonition, and deny, suspend, refuse to renew, restrict, or revoke any license authorized under the act.

Subjects persons who violate the act to a civil penalty of not more than \$1000 per violation, after notice and opportunity for a hearing and taking into account the effect such penalty will have on the person's ability to stay in business. Requires that fees and fines be credited to the pet animal care and facility fund.

States that a person commits a class 2 misdemeanor if he or she operates a pet animal facility without a license, refuses to comply with a cease and desist order, or impersonates a state, county, or municipal official or inspector.

Authorizes the state board of health to issue rules concerning the breeding and sale of psittacine birds and to prevent or minimize the danger of transmission of psittacosis. Eliminates duties of the board of health with respect to pet animal facilities. Provides that the United States department of agriculture and other specified agencies may inspect a pet animal facility when conducting an official disease investigation. States that a person making a material misstatement or providing false information to the department of health during a disease investigation or refusing to permit inspection commits a class 2 misdemeanor.

Requires the general assembly to make annual appropriations from the pet animal care and facility fund to the department of agriculture for expenses incurred in carrying out the purposes of the act. Appropriates \$4,973 to the department of law and \$48,120 to the department of agriculture for the implementation of the act.

Prohibits local regulations from interfering with enforcement of the act by the department of agriculture. Authorizes agents of the bureau of animal protection to enforce the act.

States that the act shall be subject to automatic termination on July 1, 2000, pursuant to provisions of the sunset law.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1096** Alternative livestock - "domestic elk" - regulation - transfer to state board of stock inspection commissioners - licensing - appropriation. Transfers the regulation of domestic elk, defined as "alternative livestock", from the division of wildlife in the department of natural resources to the state board of stock inspection commissioners in the department of agriculture.

Enacts the "Alternative Livestock Act" which includes the following provisions:

(1) Requires a person raising alternative livestock to be licensed. Sets forth bases for

issuance or denial of a license.

(2) Sets forth procedural requirements for obtaining a license and requirements for the renewal of such license. Specifies record keeping requirements for licensees.

(3) Grants the state board of stock inspection commissioners the power to enforce the provisions of the act and any rules regulating alternative livestock. Grants the board the power to promulgate rules necessary for the enforcement of the act including rules covering operating standards, inspection of alternative livestock procedures, records requirements, standards of practice for licensees, setting classifications of alternative livestock, grounds for disciplinary actions, fees, and disposition of estrays. Specifies that the wildlife commission may review such rules and may make recommendations to the board concerning such rules.

(4) Defines certain acts in conjunction with raising alternative livestock as unlawful. Defines such unlawful acts as class 1 misdemeanors.

(5) Sets out the procedure for the board to inspect properties including the manner of access. Specifies that the division of wildlife may accompany the board on an inspection and may request a specific inspection. Provides that the board may investigate possible violations of the act. Empowers the board to issue subpoenas for the attendance of a witness at a hearing or for the production of documents. Sets out the procedure for the board to apply to the district court to seek enforcement of an order to compel appearance or the production of documentary evidence.

(6) Creates the alternative livestock farm cash fund.

(7) Sets out disciplinary procedures for licensees or applicants who violate the act. Sets out civil penalties for persons who violate the act.

(8) Provides a procedure for the recovery and disposition of escaped alternative livestock. Provides a procedure by which a stock inspection commissioner may declare an alternative livestock an estray and the procedure to dispose of such alternative livestock. Sets out how the true owner may seek remuneration for an alternative livestock which has been declared estray and destroyed. Empowers a stock inspection commissioner to seize an alternative livestock for which the holder cannot prove ownership. Requires the commissioner to notify the district attorney when an alternative livestock has been seized.

Grants the wildlife commission the power to propose and adopt rules concerning the hunting of alternative livestock, maintaining the purity of native species of elk, taking samples for purposes of identifying individual animals, and fencing requirements. Sets forth the review process for such rules by the state agricultural commission. Specifies that the state agricultural commission shall approve all rules promulgated by the wildlife commission prior to the adoption of such rules. Empowers the wildlife commission to inspect properties for purposes of carrying out rules which are adopted.

Creates the captive wildlife and alternative livestock board in the department of natural resources. Requires the board to act jointly with the department of agriculture.

Requires the board to review or initiate and consider rules or policies that concern the regulation or control of captive wildlife or alternative livestock including rules or policies concerning the spread of disease within privately owned facilities holding captive wildlife or alternative livestock and the importation into the state or distribution of captive wildlife or alternative livestock. Requires the board to send such rules or policies to the wildlife commission for promulgation. Sets out the procedure for regulating the destruction of captive wildlife or alternative livestock or for quarantining captive wildlife facilities through cooperation between the division of wildlife or the state veterinarian's office, the department of agriculture, and the board.

Empowers the state agricultural commission to promulgate rules concerning requiring owners to obtain certification to show that alternative livestock meet the requirements of a tuberculosis surveillance plan and applicable regulations concerning the control of infectious diseases and parasites. Specifies that such rules shall be reviewed by the wildlife commission and that the wildlife commission shall make recommendations concerning such rules to the commission. Sets out the areas in which the commission may not promulgate rules without prior approval of the wildlife commission. Allows the wildlife commission to propose rules to the commission designed to protect native big game wildlife.

Requires the wildlife commission to determine ownership of an animal the ownership of which is disputed if such animal is not an alternative livestock as determined by the state board of stock inspection commissioners.

Creates the cervidae disease revolving fund to indemnify owners of cervidae (elk) that are destroyed for the control of contagious and infectious diseases. Specifies that the captive wildlife and alternative livestock board shall administer the fund. Provides that a fee may be assessed by the state agricultural commission on each head of cervidae to maintain the fund.

Appropriates \$30,403 from the alternative livestock farm cash fund to the department of agriculture for allocation to the agricultural services division of which \$2,323 shall be appropriated to the department of law for the provision of legal services. Reduces the annual general appropriation to the department of natural resources by \$28,902 and 0.5 FEE.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1168** Agricultural chemicals - regulation - preemption of local authority. Expressly preempts certain categories of local governmental regulations pertaining to agricultural chemicals. Categories exempted include identification of the product and manufacturer, directions for use, use classification, mixing and loading, method, rate, and frequency of application, warnings and precautionary statements, and recordkeeping requirements.

Contains saving provisions allowing local governments to zone for sale or storage of agricultural chemicals, designate disposal sites, regulate discharges into sanitary sewer systems, protect drinking water supplies, comply with state and federal requirements and intergovernmental agreements, regulate the use of agricultural chemicals on government-owned property, and issue local occupational licenses.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** April 28, 1994

**H.B. 94-1235** State and county fairs - security - use of peace officers. Allows the board of directors or executive committee of an agricultural, horticultural, or stock society sponsoring a state or county fair to contract with the chief law enforcement official of the city, town, county, or city and county to provide peace officers to protect the fairgrounds and exhibits.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** April 28, 1994

**H.B. 94-1290** Trade restraint - agricultural products. Adds knowingly making a false statement to the list of prohibited acts in the general prohibition on destroying certain agricultural products for purposes of restraining trade. Requires that persons sentenced for violating this law be ordered to make restitution to victims.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** July 1, 1994

## APPROPRIATIONS

**H.B. 94-1314** Supplemental appropriation - department of administration. Amends the 1993 general appropriation act to increase the total appropriation to the department of administration. Increases the general fund and cash funds exempt portions of the appropriation and decreases the cash funds portion. Amends a section of a 1993 act that made adjustments to the 1993 general appropriation bill by decreasing the cash funds portion and increasing the cash funds exempt portion of the appropriation.

**APPROVED** by Governor April 1, 1994

**EFFECTIVE** April 1, 1994

**H.B. 94-1315** Supplemental appropriation - department of agriculture. Amends the 1993 general appropriation act to increase the total appropriation to the department of agriculture. Increases the general fund, cash funds exempt, and federal funds portions of the appropriation and decreases the cash funds portion.

**APPROVED** by Governor April 1, 1994

**EFFECTIVE** April 1, 1994

**H.B. 94-1316** Supplemental appropriation - department of corrections. Amends the 1993 general appropriation act to increase the total appropriation to the department of corrections. Increases the general fund and cash funds exempt portions of the appropriation and decreases the cash funds portion. Amends an appropriation made to the department in the 1992 general appropriation act.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1317** Supplemental appropriation - department of education. Amends the 1993 general appropriation act to increase the total appropriation to the department of education. Increases the general fund and federal funds portions of the appropriation and decreases the cash funds and cash funds exempt portions.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1318** Supplemental appropriation - office of the governor. Amends the 1993 general appropriation act to decrease the total appropriation to the office of the governor. Increases the cash funds exempt portion of the appropriation and decreases the general fund, cash funds, and federal funds portions.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1319** Supplemental appropriation - department of health. Amends the 1993 general appropriation act to increase the total appropriation to the department of health. Increases the general fund, cash funds exempt, and federal funds portions of the appropriation and

decreases the cash funds portion.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1320** Supplemental appropriation - department of higher education. Amends the 1993 general appropriation act to decrease the total appropriation to the department of higher education. Increases the general fund and cash funds exempt portions of the appropriation and decreases the cash funds and federal funds portions.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1321** Supplemental appropriation - department of institutions. Amends the 1993 general appropriation act to decrease the total appropriation to the department of institutions. Increases the cash funds exempt portion of the appropriation and decreases the general fund and cash funds portions. Adds a footnote to the 1993 general appropriation act.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1322** Supplemental appropriation - judicial department. Amends the 1993 general appropriation act to increase the total appropriation to the judicial department. Increases the general fund and cash funds exempt portions of the appropriation and decreases the cash funds portion. Amends a section of a 1993 act enacted at the first extraordinary session which made appropriations to the judicial department.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1323** Supplemental appropriation - department of labor and employment. Amends the 1993 general appropriation act to increase the total appropriation to the department of labor and employment. Increases the general fund, cash funds, and cash funds exempt portions of the appropriation and decreases the federal funds portion.

**APPROVED** by Governor June 1, 1994

**EFFECTIVE** June 1, 1994

**H.B. 94-1324** Supplemental appropriation - department of law. Amends the 1993 general appropriation act to increase the total appropriation to the department of law. Increases the general fund, cash funds exempt, and federal funds portions of the appropriation and decreases the cash funds portion.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1325** Supplemental appropriation - department of local affairs. Amends the 1993 general appropriation act to increase the total appropriation to the department of local affairs.

Increases the general fund, cash funds, cash funds exempt, and federal funds portions of the appropriation.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1326** Supplemental appropriation - department of military affairs. Amends the 1993 general appropriation act to increase the total appropriation to the department of military affairs. Increases the general fund, cash funds exempt, and federal funds portions of the appropriation and decreases the cash funds portion.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1327** Supplemental appropriation - department of natural resources. Amends the 1993 general appropriation act to increase the total appropriation to the department of natural resources. Increases the general fund, cash funds exempt, and federal funds portions of the appropriation and decreases the cash funds portion. Adds a footnote to the 1993 general appropriation act.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1328** Supplemental appropriation - department of personnel. Amends the 1993 general appropriation act to decrease the total appropriation to the department of personnel. Increases the cash funds exempt portion of the appropriation and decreases the general fund, cash funds, and federal funds portions. Amends a footnote in the 1993 general appropriation act. Amends a section of a 1993 act that made an appropriation to the department to increase the general fund, cash funds exempt, and federal funds portions of the appropriation and decrease the cash funds portion.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1329** Supplemental appropriation - department of public safety. Amends the 1993 general appropriation act to increase the total appropriation to the department of public safety. Increases the general fund and cash funds exempt portions of the appropriation and decreases the cash funds portion.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1330** Supplemental appropriation - department of regulatory agencies. Amends the 1993 general appropriation act to increase the total appropriation to the department of regulatory agencies. Increases the cash funds exempt portion of the appropriation and decreases the general fund, cash funds, and federal funds portions. Amends an appropriation made to the department in a 1993 act to change the source of appropriation. Repeals a section of a 1993 act that transferred moneys to the department from the department of law.

**APPROVED** by Governor June 1, 1994

**EFFECTIVE** June 1, 1994

**H.B. 94-1331** Supplemental appropriation - department of revenue. Amends the 1993 general appropriation act to increase the total appropriation to the department of revenue. Increases the cash funds exempt portion of the appropriation and decreases the general fund and cash funds portions.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1332** Supplemental appropriation - department of social services. Amends the 1993 general appropriation act to decrease the total appropriation to the department of social services. Increases the cash funds and cash funds exempt portions of the appropriation and decreases the general fund and federal funds portions. Amends a footnote in the 1993 general appropriation act. Amends the 1992 general appropriation act to increase the assistance payments and the medical assistance division portions of the appropriation to the department of social services.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1333** Supplemental appropriation - department of transportation. Amends the 1993 general appropriation act to increase the total appropriation to the department of transportation. Increases the cash funds exempt and federal funds portions of the appropriation and decreases the cash funds portion.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1334** Supplemental appropriation - department of the treasury. Amends the 1993 general appropriation act to decrease the total appropriation to the department of the treasury. Increases the general fund and cash funds exempt portions of the appropriation and eliminates the cash funds portion.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1335** Supplemental appropriation - capital construction. Amends the 1993 general appropriation act to increase the total appropriation for capital construction. Increases the cash funds exempt and federal funds portions of the appropriation and decreases the cash funds portion. Amends the 1992 general appropriation act to increase a capital construction appropriation in the department of higher education to Fort Lewis college by increasing the cash funds portion of the appropriation. Decreases the capital construction fund portion.

**APPROVED** by Governor April 1, 1994

**EFFECTIVE** April 1, 1994

**H.B. 94-1336** Supplemental appropriation - legislative department. Amends the 1993 general appropriation act and the 1993 legislative appropriation act to increase the total appropriation to the legislative department by increasing the general fund portion of each appropriation.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1350** Legislative appropriation. Appropriates \$18,858,185 to the general assembly and the legislative service agencies for the 1994-95 fiscal year. Specifies that \$90,000 of this sum is from cash funds and the remainder is from the general fund.

**APPROVED** by Governor April 20, 1994

**EFFECTIVE** April 20, 1994

**H.B. 94-1356** General appropriation act - long bill. Makes appropriations for the payment of the expenses of the executive, legislative, and judicial departments of state government for the fiscal year beginning July 1, 1994. Sets the grand total of the operating budget at \$7,640,228,502, of which \$3,573,729,784 is from the general fund, \$2,379,676,425 is from cash funds, and \$1,686,822,293 is from federal funds.

Appropriates \$220,740,065 for capital construction, of which \$95,277,064 is from the capital construction fund, \$74,012,167 is from cash funds, and \$51,450,834 is from federal funds.

For the 1993-94 fiscal year, decreases the general fund appropriation and increases the cash funds exempt appropriation to the department of administration for personal services for the division of accounts and control, increases the cash funds exempt appropriation to the department of administration for the risk management fund administered by the risk management division, increases the cash funds and cash funds exempt appropriations and the FTE authorization to the department of corrections for personal services for correctional industries, decreases the general fund appropriation and the FTE authorization to the department of corrections for personal services for minimum security facilities and for the Limon correctional facility, increases the general fund appropriation and decreases the cash funds and cash funds exempt appropriations to the department of education for public school finance, decreases the general fund appropriations to the department of law for litigation expenses, consultant expenses, and section 30b of article II of the state constitution (Amendment #2) expenses of the general enforcement and appellate sections, increases the general fund appropriation to the department of law for litigation expenses relating to legal services to state agencies, decreases the general fund appropriation to the department of public safety for youth diversion programs - restitution and youth diversion programs - all other administered by the division of criminal justice, increases the general fund appropriation to the department of social services for personal services for county administration, decreases the general fund, cash funds exempt, and federal funds appropriations to the department of social services for assistance payments as basic grants for aid to families with dependent children, increases the general fund appropriation to the department of social services for social services placements for child welfare, decreases the

general fund appropriation and the federal funds appropriation to the department of social services for medical programs administered by the medical assistance division, and makes an appropriation of \$6,000,000 from the capital construction fund to the office of the governor for implementation of the Americans with Disabilities Act by the office of state planning and budgeting.

**APPROVED** by Governor May 6, 1994  
**PORTION VETOED** May 6, 1994

**EFFECTIVE** May 6, 1994

## CHILDREN AND DOMESTIC MATTERS

**S.B. 94-005** Adoption - limitation on annulment - best interests of child. Specifies that the intent of the general assembly in adoption proceedings is to protect and promote the best interests of the children who are the subjects of such proceedings while giving due regard to the interests of any other individuals affected. Requires a court to consider the best interests of a child who is subject to an adoption proceeding when the final decree of adoption is attacked on any basis, and directs the court to sustain the decree unless there is clear and convincing evidence that the decree is not in the best interests of the child.

Applies to all decrees of adoption entered on or after the date of passage.

**APPROVED** by Governor May 19, 1994

**EFFECTIVE** May 19, 1994

**S.B. 94-021** Children's code recodification - task force - legislative oversight committee - appropriation. Specifies the necessity of recodifying the "Colorado Children's Code". Creates an oversight committee responsible for proposing recodification legislation and adopting policy based on recommendations from a recodification task force. Directs the oversight committee to complete its legislative proposal by November 15, 1995. Describes the membership of the committee.

Establishes a task force for the recodification of the "Colorado Children's Code". Requires that 15 members be appointed by the Governor and represent principle departments and groups affected by the recodification, that 5 members be appointed by the legislative oversight committee and represent local governments, and that 4 members be appointed by the chief justice of the Colorado supreme court and represent certain aspects of the judiciary. Describes the duties of the task force, including requirements that the task force evaluate the "Colorado Children's Code"; provide guidance and make recommendations to the legislative oversight committee in its development of recodification legislation; communicate with affected agencies, providers, and members of the public; and report to the legislative oversight committee. Authorizes the task force to create subcommittees or subgroups in carrying out its duties and allows for such committees or subgroups to be made up of persons other than those on the task force. Describes the issues to be evaluated by the task force and to be addressed in a legislative recodification proposal.

Authorizes the task force to receive contributions, grants, services, and other in-kind donations from private sources to be used for the direct and indirect costs associated with the development of proposed legislation for the recodification of the "Colorado Children's Code", and describes staff who will provide support for the oversight committee.

Repeals the statutory article creating the task force and the oversight committee and mandating the recodification of the "Colorado Children's Code", effective July 1, 1997.

Appropriates \$75,000 of federal funds to the department of public safety for allocation to the division of criminal justice for the implementation of the act. Of such moneys, \$16,832 is appropriated to the general assembly for allocation to the legislative service agencies.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**S.B. 94-070** Adoption - nonpublic agency interstate and foreign adoptions - provision of services. Authorizes the department of human services to select nonpublic agencies to provide services to individuals seeking assistance in nonpublic agency interstate and foreign adoption cases. Requires that such agencies be licensed child placement agencies authorized to handle adoptions or agencies that meet the qualifying criteria to be licensed child placement agencies. Directs the department of human services to promulgate rules establishing criteria by which such agencies are to be selected and identifying the services and functions to be rendered by the agencies. Requires the department to include standards by which the department is to evaluate the agencies' delivery of services.

Permits the agencies selected by the department of human services to provide services in nonpublic agency interstate and foreign adoption cases to charge reasonable and necessary fees and costs to defray the direct and indirect expenses associated with the provision of such services. Directs the department of human services to issue rules establishing guidelines for such fees and costs. Defines "nonpublic agency interstate and foreign adoption".

**APPROVED** by Governor May 19, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-088** Child support - establishment and enforcement - determination of parentage - determination of income for child support - postsecondary educational expenses. Effective July 1, 1994, establishes a time limit within which any objection to genetic testing to determine parentage must be made. Establishes the admissibility of such evidence if an objection is not timely made.

Effective upon passage, includes moneys deposited in tax-deferred compensation funds in the definition of "disposable earnings" in garnishment matters. For purposes of determination of income or earnings, identifies that the term "wages" includes tips calculated pursuant to the federal internal revenue service percentage of gross wages.

Effective July 1, 1994, requires a parent seeking an adjustment to his or her income for the support of other children to show that he or she is actually providing support for the other children. Changes the limitation on orders for postsecondary education for a child to the amount listed under the schedule of basic child support obligations. Requires such amount to be subtracted from the obligor's income prior to the calculation of child support for any remaining children in the family. Redefines the term "postsecondary education support" to include only tuition, books, and fees and reduces the age to which room and board may be ordered if the child resides in the home of one parent while attending school or during periods of time in excess of 30 days when school is not in session. Permits the court to order a child seeking postsecondary education expenses, or on whose behalf postsecondary education expenses are sought, and the parent from whom such expenses are sought to attend mediation services prior to a hearing on the issue of postsecondary education expenses. For purposes of determining a parent's income in calculating child support, identifies that a parent enrolled in an educational program reasonably intended to result in a degree or certification within a reasonable period of time and which will result in a higher

income shall not be deemed to be underemployed.

Effective upon passage, requires decrees of dissolution of marriage, legal separation, custody, or support to contain an order for immediate deductions for family support in certain circumstances.

Effective upon passage, authorizes the accrual of compounded monthly interest on child support arrearages and debt. Requires interest which is collected by the delegate child support enforcement unit on child support arrearages or debt to be treated as child support collection and distributed in accordance with federal regulations.

Effective upon passage, changes the requirement that attorney fees be awarded at a hearing on an objection to a wage assignment and, instead, permits the award of attorney fees. Establishes that a copy of the family support registry payments record is prima facie evidence of noncompliance with an order for support or maintenance.

For actions filed on or after July 1, 1994, requires the court in ordering a provision for health insurance coverage for any child to direct the obligor's employer to also enroll the obligor, if enrollment of the obligor is a requirement of the health insurance plan. For all orders entered prior to August 1, 1992, requires the obligee or delegate child support enforcement unit to send a copy of the notice of health insurance deduction to the obligor and to the obligor's employer.

Effective upon passage, includes final judgments among those court papers and records that are confidential in paternity actions and authorizes inspection only by the parties to the action and their attorneys of record. Subjects such parties and attorneys to a court order prohibiting such persons from disclosing the genetic testing information contained in the court's record. Restricts access to all papers and records related to paternity actions in the custody of the county department of social services except upon consent of all parties and as permitted by discovery rules and the department's confidentiality procedures; however, permits the results of genetic testing in paternity actions to be provided to all parties when available, without the necessity of formal discovery.

Effective upon passage, establishes statutory procedures for the commencement of a paternity action. Allows the court or delegate child support enforcement unit to enter an order for child support for a period of time that precedes the establishment of paternity. Authorizes any party to demand a jury trial in a paternity action, but requires the trial to be to the court if the results of genetic or other tests indicate the probability of the alleged father's paternity is 99% or greater. Recognizes a paternity determination made by another state as enforceable in the same manner as a judgment of this state.

Effective upon passage, establishes the putative father as the father for purposes of a child's birth certificate if a court determines that the mother's husband is not the father, and the mother and the putative father execute affidavits attesting that the putative father is the father of the child. Allows paternity to be established by default orders issued by the delegate child support enforcement unit under the "Colorado Administrative Procedure Act for the Establishment and Enforcement of Child Support" in circumstances in which the obligor fails to appear for the initial negotiation conference and fails to reschedule such

conference.

Effective upon passage, adds the modification of an obligor parent's legal obligation to support his or her dependent children to those matters which the child support enforcement program shall include. Authorizes the state parent locator service or delegate child support enforcement unit to obtain information from credit bureaus concerning individuals obligated to pay support. Eliminates the requirement that an obligor's or obligee's request for modification of an administrative support order be served upon the delegate child support enforcement unit by certified mail.

Effective January 1, 1995, clarifies that the child support enforcement agency is not authorized to establish a spousal support order. Establishes procedures for the enforcement of interstate income withholding.

**APPROVED** by Governor May 31, 1994

**PORTIONS EFFECTIVE** July 1, 1994  
January 1, 1995

**S.B. 94-111** Out-of-home placement - reasonable efforts standard - services - definition of child abuse and neglect. Conforms the "reasonable efforts" requirements to avoid out-of-home placements for children to the description of services to be provided by counties and cities and counties. Makes the requirement that counties and cities and counties provide certain services contingent upon available federal moneys and other appropriations for the services. States that the financing of intensive family preservation services is subject to available federal moneys, moneys realized from avoiding costs associated with out-of-home placements, and other appropriations from the general assembly.

Includes acts or omissions described in the "neglected or dependent child" statute in the definition of "child abuse or neglect" for purposes of the child abuse reporting statutes.

**APPROVED** by Governor May 4, 1994

**EFFECTIVE** May 4, 1994

**S.B. 94-155** Direct filing of charges in district court - habitual juvenile offender - sentencing to the youthful offender system - reports. Establishes a new category of juvenile offenders, the "habitual juvenile offender", who may be charged by the direct filing of an information or indictment in the district court. Requires the sentencing court to sentence an habitual juvenile offender to the youthful offender system in the department of corrections, unless such habitual juvenile offender is ineligible for such sentencing due to prior convictions of certain crimes.

Requires the department of corrections to report to the general assembly and the joint budget committee on or after January 1, 1995, concerning the number of offenders entering the youthful offender system as habitual juvenile offenders, including the criminal history of each habitual juvenile offender. Requires the department of corrections to report annually on the number of habitual juvenile offenders entering the youthful offender system and the number of offenders who have completed the youthful offender system and reoffended.

Applies to any delinquent act that constitutes a felony which is committed on or after July 1, 1994, and which is committed subsequent to 2 prior adjudications of delinquency for separate delinquent acts that constitute felonies, regardless of whether the delinquent acts, upon which the prior adjudications of delinquency were based, were committed on or before July 1, 1994.

Appropriates \$8,824 and 0.2 FTE to the judicial department for allocation to the state public defender for the implementation of the act. Reduces the general fund appropriation to the department of human services, division of youth services, community programs, purchase of contract placements, by \$1,157,481 and allocates beds provided for in House Bill 94-1340 to implement the act.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-192** Juveniles - youthful offenders - intensive family preservation program for offenders authorized - implementation - plans required. Provides for 2 urban judicial districts and one rural judicial district selected by the chief justice of the Colorado supreme court to participate in a pilot program for the provision of intensive family preservation services for juveniles who might otherwise be committed or sentenced to the department of human services or placed under the supervision of the county department of social services or have been sentenced or committed to the department of human services and are subject to parole, as a condition of parole. Requires that the judicial districts selected for the pilot program commit to implement a plan developed by the department of human services and the state judicial department to include in the pilot program juveniles who are placed on probation and who will be required to participate in the pilot program as a condition of probation. Requires that the judicial districts commit to use a portion of a juvenile services block grant from the state judicial department for the implementation of the plan.

Describes juveniles who are eligible and those who are ineligible for participation in the family preservation pilot program. Describes how juvenile offenders and adjudicated juveniles may be placed in the pilot program. Describes the criteria and the process for the selection of the pilot judicial districts. Describes consequences for a juvenile's failure to cooperate or participate in the family preservation program.

Requires the department of corrections to develop a plan that provides for a similar pilot program for juveniles who: Have been convicted as adults, have had that sentence suspended, have been committed to a determinate sentence in the youthful offender system in the department of corrections, and have successfully completed the institutional phase in the youthful offender system and are subject to intensive supervised community release as a condition of parole. Requires the department of corrections to submit the plan to the general assembly on or before January 1, 1995.

Requires the executive director of the department of human services, in consultation with the judicial department, to develop and implement an intensive family preservation plan for the judicial districts participating in the pilot program. Describes the services available to juveniles and their families under the pilot program, including those that focus on family strengths, crisis intervention, concentrated assistance in the development and enhancement

of parenting skills, and individualized and group counseling. Allows the executive director of the department of human services to contract with any public or private entity to provide services.

Requires the department of human services, in consultation with the judicial department, to contract with an independent entity to evaluate annually the progress of the pilot program. Requires the department of human services, in consultation with the judicial department, to submit an annual report to the general assembly on the effectiveness of the program that addresses projected cost-savings and the feasibility of implementing the intensive family preservation program for juveniles statewide.

Repeals the statutory section that requires the department of corrections to develop a plan for implementing the family preservation pilot program for juveniles sentenced to the youthful offender system, effective July 1, 1995. Repeals the family preservation pilot program, effective July 1, 1998.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-205** Child abuse and neglect - grievances against county departments of social services regarding abuse reports - creation of citizen review panels - notice of rights to families. Requires the state department of human services to adopt rules by January 1, 1995, pursuant to which each county department of social services may, at the county's option, implement a conflict resolution process concerning the county department's response to reports of child abuse and neglect. Requires that the rules provide for creation of citizen review panels in participating counties to hear grievances and for transmittal of final appeals to the governing body of each county. Requires that participating counties provide an annual report on the complaints received and their resolution and that the state department report to the general assembly on compliance.

Requires the state department to prepare a standardized notice of rights and remedies for families from whom children have been removed.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** June 3, 1994

**H.B. 94-1042** Parental rights - relinquishment and termination - annulment of adoption decree - time limitations. Acknowledges that parental relinquishment and adoption of children are important and necessary options to facilitate the permanent placement of minor children in certain circumstances. Identifies the intent of the general assembly to promote the integrity and finality of adoptions and to protect children from being uprooted from adoptive placements.

Requires courts to set relinquishment hearings expeditiously and permits an order of relinquishment of one parent's parental rights prior to the relinquishment or termination of the other parent's parental rights. Authorizes the revocation of a relinquishment only within 90 days after the entry of the relinquishment order and only if the relinquishing parent establishes by clear and convincing evidence that the relinquishment was obtained by fraud

or duress. Disallows the revocation of a relinquishment if the relinquishment or termination of the other birth parent's rights was not obtained because the relinquishing parent knew, but did not disclose, the name or whereabouts of the other parent. If the relinquishment is revoked and no other grounds for termination exist, directs the court to dismiss any proceeding for adoption and to determine custody in accordance with the best interests of the child.

When one parent relinquishes, proposes to relinquish, or consents to the adoption of a child, specifies that the requirement to file a petition to terminate the other parent's parent-child legal relationship applies whether or not such other parent is a presumed parent of the child. Requires the court to terminate such other parent's parental rights if, after notice, such other parent fails to appear or appears but cannot personally assume legal and physical custody promptly.

If the other parent demonstrates the desire and ability to personally assume legal and physical custody promptly and if the court determines that the person is the child's other birth parent, directs the court to set a hearing as expeditiously as possible to determine whether the individual's parental rights should be terminated or whether the custody of the child needs to be determined or a dependency and neglect action filed. Specifies the bases upon which the court may terminate the other parent's parental rights. Requires the court to give paramount consideration to the physical, mental, and emotional conditions and needs of the child in considering the termination of the parent-child legal relationship. Creates an affirmative defense for a parent of a child less than one year of age, that any neglect, failure to establish a substantial relationship, or failure to take substantial responsibility for the child was due to impediments created by the other parent or the custodian. Creates a rebuttable presumption that the best interests of the child will be served by granting custody to the person in whose care the child has been for more than one year.

Authorizes persons who have or did have the child in their care to intervene as interested parties to present evidence to the court regarding the nonrelinquishing parent or regarding their own suitability as a placement of the child.

Reduces from 3 months to 30 days the time period within which the termination of a birth parent's parent-child legal relationship may be questioned except upon the basis of fraud. Limits the period of time within which a termination may be questioned on the basis of fraud to 90 days. Requires that the notice provided to those persons identified as the other birth parent or possible birth parent identify that the failure to file an answer or to appear within a specified period of time may likely result in the termination of parental rights.

Reduces from 2 years to 90 days the time period within which a final decree of adoption may be attacked by reason of any jurisdictional or procedural defect; except that in the case of a stepparent adoption, identifies that a decree of adoption may not be attacked by reason of fraud, whether or not there is a jurisdictional or procedural defect, after the expiration of one year.

Applies to all orders of relinquishment and termination and all decrees of adoption entered on or after the effective date.

**APPROVED** by Governor April 20, 1994

**EFFECTIVE** April 20, 1994

**H.B. 94-1070** Adoption - designated relative adoptions - waiver of assessment and approval procedures. Authorizes the court to waive assessment and approval requirements when a birth parent designates a child's grandparent, aunt, uncle, brother, or sister as the person with whom they wish to place their child for purposes of adoption. Specifies that the court may proceed to finalize such adoptive placements upon finding that placement is in the best interests of the child.

**APPROVED** by Governor March 15, 1994

**EFFECTIVE** March 15, 1994

**H.B. 94-1141** Juveniles - accessibility of arrest and criminal records - detention - bail and transfer proceedings. Allows public access to juvenile arrest and criminal records in the custody of the investigative law enforcement agency and the agency responsible for filing a delinquency petition, rather than only those in the custody of the court. Adds records based on additional types of offenses and juvenile conduct to records that are currently available to the public. Includes fire investigators as law enforcement personnel who have access to certain juvenile records.

Requires that any juvenile held for criminal charges as an adult pursuant to a direct filing or transfer in a facility where adults are held be segregated, rather than separated by sight and sound, from the adults in the facility. Requires that a juvenile held in such a facility who is determined to be an escape risk or a threat to the safety of detention center personnel continue to be separated by sight and sound from the adults.

Specifies that, if any juvenile is denied bail on the basis that such juvenile is alleged to have committed specific acts and is presumed dangerous, such presumption shall continue to apply for the purposes of an application for modification of bail. Deletes criteria for the juvenile diversion program. Adds multiple juvenile probation revocations based on felonious acts to multiple adjudications based on a felony as factors in establishing prima facie evidence that retention of the case by the juvenile court would be contrary to the best interests of the juvenile or the community.

Upon request, requires the municipal and county courts to issue a subpoena for the appearance of the parent, guardian, or lawful custodian of a child under the court's jurisdiction for a violation of a municipal or county ordinance. Allows the courts to hold a person in contempt for failure to appear without good cause.

For the purposes of specifying which juvenile may be sentenced to the youthful offender system in the department of corrections, defines a juvenile as a person who is under the age of 18 years at the time of sentencing.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** April 28, 1994

**H.B. 94-1178** Dependency and neglect - expedited procedures - children under the age of

6 - implementation on county-by-county basis - report - appropriation. Establishes expedited placement procedures applicable to children who are under 6 years of age at the time a petition alleging abuse or neglect is filed. Stipulates that such expedited procedures are to be implemented on a county-by-county basis beginning July 1, 1994 and directs the department of human services, in consultation with the judicial department and the governing boards of each county department of social services, to establish an implementation schedule which provides for statewide implementation by June 30, 2004. Requires each county to implement the expedited placement procedures for each new case filed on and after the applicable implementation date set for each county.

Prohibits dependency and neglect hearings involving a child under the age of 6 from being delayed or continued unless good cause is shown and the court finds that the best interests of the child will be served by granting a delay or continuance. In the event a delay or continuance is granted, requires that the hearing be rescheduled within 30 days and that the court set forth the grounds for granting the delay or continuance. Requires the court to include other children who reside in the same household as a child who is under 6 years of age in any hearing where the placement of such children is subject to determination. In the absence of good cause, prohibits a transfer of legal venue when a delay in judicial proceedings would result. Establishes a rebuttable presumption that any such delay would be detrimental to the best interests of such child.

Requires adjudicatory hearings involving a child under the age of 6 to be held within 60 days after the service of a dependency and neglect petition. In the absence of good cause and a finding that the best interests of the child will be served, requires the dispositional hearing to be held within 30 days following the adjudicatory hearing. Requires a decree of disposition to be entered within 30 days after adjudication. Declares the intent of the general assembly that, whenever possible, the dispositional and adjudicatory hearings be held on the same day.

Requires treatment plan placement reports prepared for a child under the age of 6 to include a list of services that are specific to the needs of the child and the child's family and that are available in the community where the family resides. Requires such reports to establish a priority of services when multiple services are recommended. Specifies that the treatment plan shall require the family to obtain services specific to the family's needs if such services are available in the community where the family resides and based on treatment plan placement reports. Authorizes the court to terminate the parent-child legal relationship in cases involving a child who is under 6 years of age when the parent is determined to be unfit as a result of long-term confinement of such duration that the parent is ineligible for parole for at least 36 months after the date the child was adjudicated dependent or neglected and where the court has found by clear and convincing evidence that no appropriate treatment plan can be devised to address the unfitness. Establishes criteria to be applied in determining whether a parent has complied with the requirements of any court-approved treatment plan.

Requires permanency planning hearings for a child under 6 years of age to be held within three months after the decree of disposition. In the event a child has been placed out of the home for 3 months, requires the court to review the progress of the case and the treatment plan. Authorizes the court to order a county department of social services to show cause why a motion to terminate the parent-child relationship should not be issued. Specifies

conditions which may constitute such cause.

Requires a child under 6 years of age to be placed in a permanent home no later than 12 months after the original placement out of the home unless the court determines that such placement is contrary to the best interests of the child. In determining whether delay is in the best interests of the child, requires clear and convincing evidence that reasonable efforts were made to find the child a permanent home and such home is not currently available or that the child's mental health and/or physical needs or conditions deem it improbable that the child would be successfully placed. Requires the caseworker and the child's guardian ad litem to provide the court with a report specifying which services are being provided to the child to remedy the child's problems. Requires the case to be reviewed at least every 6 months until the child is permanently placed. Specifies that clear and convincing standards of evidence shall be applicable at any such review. Defines permanent home.

On or before December 31, 1995, and on December 31 each year thereafter, requires a written report to be submitted by the department of human services, in consultation with the judicial department, to the joint budget committee regarding program effectiveness, progress toward statewide implementation, and whether any out-of-home placement costs have been avoided as a result of the expedited procedures. In the event costs have been avoided, requires the department of human services to request that any available moneys be transferred from the out-of-home placement budget category to the family issues cash fund for the purpose of implementing the act.

Appropriates \$300,000 from the family issues cash fund to the department of human services for the implementation of the act. Decreases the amount appropriated from cash funds in the annual general appropriation act to the department of human services, child welfare, family and children's programs category by \$300,000. Specifies that no additional general fund moneys shall be expended for the program beyond those appropriated to the family issues cash fund for the purpose of the act.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1226** Domestic abuse prevention - restraining orders. Adds a general relief provision to the list of topics that a restraining order to prevent domestic abuse may include. Deletes the provision that renders a restraining order to prevent domestic abuse null and void if the restraining order is not written in a prescribed form. Prohibits any judge, magistrate, or other judicial officer from issuing a temporary restraining order to prevent domestic abuse that is not in the prescribed form. Authorizes the court to make a temporary restraining order to prevent domestic abuse permanent, without the necessity of further notice or service upon the responding party, if such party fails to appear at the show cause hearing.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1283** Dependency and neglect - mediation services - pilot program. Creates a pilot program to provide mediation services in child dependency and neglect cases. Directs the state board of human services to designate 2 or more counties for the pilot program.

Authorizes a court within a pilot program county to refer a dependency or neglect case to mediation at any time after the court obtains jurisdiction over any of the parties. Prohibits mediation unless a party is represented by counsel or has waived the right to counsel. Prohibits mediation in a case if there is a criminal charge or conviction involving the issues of the case or if there is a victim who alleges physical injury, sexual abuse, or domestic violence involving the issues of the case. Terminates the mediation in a case under the pilot program upon request of one of the parties, upon a determination by the mediator that the case is inappropriate for mediation or that an agreement between the parties is unlikely, upon a determination by the court that the case is not a proper case for mediation, or upon the reaching of a partial settlement by the parties.

Requires each county in the pilot program to establish a fee for mediation services that is sufficient to fund the pilot program. Authorizes the use of a sliding fee scale. Prohibits the provision of mediation services under the pilot program to any person who has not paid the established fee.

Authorizes the court to continue any pending court hearing if the parties in a case are engaging in good faith mediation. If a full or partial agreement is reached in a mediation, directs the parties to prepare a written agreement to be presented to the court as a stipulation. Authorizes a mediator to provide mediation services if the mediator has been approved by the office of dispute resolution in the judicial department and has obtained any training or approval required by the county. Allows a guardian ad litem or other mediator to provide mediation services in a case only if he or she has not previously had contact with any of the parties. Provides that any mediation is subject to confidentiality requirements.

Requires each county in the pilot program to prepare a written report regarding the pilot mediation program in the county on or before January 1, 1996.

Repeals the program on July 1, 1999.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1308** Adoption - placement of children - avoidance of delay due to consideration of racial resemblance. Allows consideration of racial background in out-of-home foster care placements and in placements with adopting families, but prohibits any delay in such placements due to attempts to assure racial resemblance between the child and the foster family or the adopting family.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1357** Child welfare services - authorization for county establishment of noncategorical program fund. Authorizes any county to establish a noncategorical program fund identical to the program implemented in Mesa county on a pilot basis. The fund, consisting of federal, state, and county moneys, is used to provide child welfare services to at-risk children and their families. Disallows the allocation of general fund moneys to any other participating county in the manner such moneys were allocated to Mesa county under

the pilot program. Specifies that the fund for any county may include contributions from the fund of any other participating county. Requires the county board of social services for any participating county to follow the same procedures that were applicable under the pilot program for adoption of a three-year plan for the program and for revision and readoption of such plan prior to its expiration.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1368** Colorado children's trust fund - disbursement of moneys - appropriation. Authorizes the Colorado children's trust fund board to disburse moneys from the Colorado children's trust fund, which moneys cannot otherwise be disbursed until the total amount of assets in the fund exceeds five million dollars, only in accordance with an appropriation from the fund made by the general assembly.

Appropriates \$500,000 to the department of higher education for allocation to the Colorado children's trust fund board for the implementation of this act.

**APPROVED** by Governor May 23, 1994

**EFFECTIVE** July 1, 1994

## CONSUMER AND COMMERCIAL TRANSACTIONS

**S.B. 94-132** Security interests - filing - committee - creation - hospital liens - appropriation. Eliminates the requirement for nonresidents that a security interest on farm products, to be perfected, must be filed both in the office of the clerk and recorder of the county where the goods are kept and where the land is located. Provides instead that such a security interest will be perfected if it is filed in the office of any county clerk and recorder. States that a security interest filed after July 1, 1994, will not be deemed perfected unless an effective financing statement is also filed. Provides that when such statements are filed by computer modem access they may be filed in the same office as the security interest.

Creates a committee to study the establishment of a system to simplify the filing of security interests and the retrieval of information concerning same. Requires the committee to examine methods of providing filers with a system whereby they will perfect security interests, including certain effective financing statements, with one filing at one location. Requires the committee to report its recommendations to the general assembly by January 1, 1995. Specifies the composition of the committee and repeals such committee effective July 1, 1995.

Defines effective financing statement to include a fax copy of a statement and, if permitted by federal law or rule, an electronically transmitted filing. Requires that an annual maintenance fee of \$10 per filing be paid for an effective financing statement to remain effective 5 years.

Eliminates the requirement that master lists be distributed by the state central filing system board on a quarterly basis and provides instead that the board shall determine the frequency with which such lists shall be distributed.

Eliminates the stated hours during which inquiries concerning information provided by effective financing statements may be made at the office of the state central filing system board and provides instead that the board shall designate the times during which such inquiries may be made.

Eliminates a requirement that the general assembly approve any contract which the board enters to design, implement, operate, or improve the central filing system.

Repeals the "Central Filing of Effective Financing Statement Act" and provisions concerning the state central filing system board, effective July 1, 1996.

Provides that a hospital lien shall take effect when a written notice is filed with the secretary of state, not the division of insurance. Exempts liens properly recorded before July 1, 1994, from the new requirement.

Appropriates \$30,584 to the department of agriculture for allocation to the state central filing system board for the implementation of the act.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-176** Consumer credit - allowable charges - practices of issuers - notice to and consent of buyers - federal preemption - exemption from usury laws. In connection with revolving charge accounts and revolving loan accounts, allows creditors to impose minimum credit service charges or finance charges up to 50 cents, cash advance charges up to 2½ of the amount advanced, annual fees, and returned-check fees up to \$20.00. Requires advance notice to the consumer of certain changes in the terms of a credit agreement, including an increase in the minimum periodic payments required on the unpaid balance. Relocates and revises requirements for clear and conspicuous disclosure in any solicitation or application to open an account of applicable annual percentage rates, the variability of annual percentage rates and the ranges in which rates apply, if variable, and annual or monthly charges imposed.

Construes the use of a revolving charge account or revolving loan account as an acceptance by the consumer of the seller's or lender's terms then in effect, creating a binding contract on those terms.

Prohibits a seller from charging a buyer in advance for lodging or motor vehicle rental services to be provided in the future without first giving the buyer notice and an opportunity to reject the services.

Repeals existing state opt-out provisions under federal laws prescribing uniform interest rates and preempting state interest-rate controls.

Exempts from state usury laws the minimum interest charges and other charges and fees authorized by the act as well as other similar charges and fees specifically authorized by law.

Applies to purchases and extensions of credit on or after July 1, 1994.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1102** Deceptive trade practice - use of the term "dietitian" by unauthorized persons. Makes it a deceptive trade practice for persons to claim orally or in writing that they are a "dietitian", "dietician", "certified dietitian", or "certified dietician" or to use the abbreviation "C.D.", or "D.", unless they have at least a baccalaureate degree in nutrition, dietetics, nutrition education, food systems management, public health nutrition, or another specified discipline from an accredited or other specified institution and either hold a certificate of registered dietician through the commission on dietetic registration or have completed 900 hours of preprofessional work experience under the supervision of a qualified dietitian.

**APPROVED** by Governor March 15, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1132** Negotiable instruments - bank deposits and collections. Rewrites article 3 of the "Uniform Commercial Code" to update its provisions as recommended by the National Conference of Commissioners on Uniform State Laws. Changes the code as follows: Narrows the scope of the article by applying it to bearer or order instruments and checks;

eliminates the requirement that instruments contain a sum certain and substitutes a "readily ascertainable amount of money"; expands contribution rules to provide that a party who satisfies an instrument has a right of contribution from coparties who signed the instrument in the same capacity; includes a statute of limitations in the rules for determining when a cause of action accrues; when an instrument is an order instrument, requires an indorsement for negotiation; limits the effect of restrictive indorsements on the right to receive payment; explicitly makes a nondepository payor bank exempt from liability with intermediary banks; adds a requirement for indicia of a regularly executed instrument to the other requirements for a "holder in due course".

Makes various amendments to article 4 of the "Uniform Commercial Code" to assure compatibility with the rewrite of article 3, including the following: Expands the definition of bank to include institutions that have customers with accounts and checking privileges; makes it clear that "truncation" can be used in transmitting instruments (sending images of an instrument rather than the actual instrument); adds a statute of limitations upon actions to enforce an obligation, duty, or right arising under article 4; expands warranty provisions to include "encoding" and "retention" warranties; and clarifies the acceptability of providing customers with detailed statements of accounts rather than actual items.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** January 1, 1995

## CORPORATIONS AND ASSOCIATIONS

**S.B. 94-107** Limited liability companies - organization - powers - rights and liabilities of members - dissolution - merger and conversion. Makes a number of changes to the "Colorado Limited Liability Company Act" governing limited liability companies ("LLCs"), including both tax-related changes and non-tax-related changes.

Principal tax-related changes are as follows: (1) Provides options in terms of both continuation and admission to membership of transferees of property of an LLC; (2) Allows management by members in addition to managers; (3) Allows for the existence of one-person LLCs; (4) Eliminates the current requirement that there be 2 members remaining after dissolution in order for the LLC's business to continue; (5) Requires LLCs organized under the current act to make an affirmative election by all members to adopt the new act.

Other principal changes to existing LLC law are as follows: (1) Eliminates the 30-year limitation on duration; (2) Allows an LLC to carry on any lawful activity regardless of whether the activity is engaged in for profit or whether it could be engaged in by a limited partnership; (3) Prohibits "piercing the corporate veil" for mere failure to observe the formalities or requirements relating to the management of an LLC's business and affairs; (4) Adds provisions allowing mergers and the conversion of partnerships into LLCs; (5) Allows nonwritten operating agreements while specifying certain matters that must be agreed to in writing; (6) Prohibits amendment to the articles of organization except with the written consent of all members unless otherwise provided in a written operating agreement; (7) Provides for management by entities that are not natural persons; (8) Tightens resignation and buyout provisions, eliminating the right of a resigning member to receive the full value of the member's interest and limiting payments after resignation to income plus the return of contributions; (9) Eliminates the current requirement that the right to continue be included in the articles of organization; (10) Modifies rules governing the liability of members for contributions and for wrongful and rightful return of contributions; (11) Adds a provision permitting dissolution at the time or upon the occurrence of events specified in writing in the articles of organization or an operating agreement, in addition to currently existing grounds for dissolution such as death of a member; and, to cover cases of the death of a member, adopts rules similar to those applicable to a deceased partner in a partnership; (12) Provides for indemnification of members for expenditures following the partnership model rather than the corporate model, on which existing statutes are based; (13) Clarifies language dealing with agency authority of managers.

Wherever possible, incorporates into the act provisions based on uniform statutes such as the "Colorado Uniform Limited Partnership Act of 1981" ("CRULPA"), the Colorado "Uniform Partnership Law" ("UPL"), and recently updated drafts of the "Uniform Limited Liability Company Act" ("ULLCA"), the "Revised Uniform Partnership Act" ("RUPA"), and the "Revised Uniform Limited Partnership Act" ("RULPA").

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-168** Unincorporated nonprofit associations - regulation - uniform act. Allows unincorporated nonprofit associations to receive, hold, and transfer real and personal property

in the name of the association in this state regardless of the relationship the association has with the state. Requires nonprofit associations to record statements of authority for the transference of real property before any property may be transferred. Sets forth what information must be contained in a recorded statement. Allows such statements to be relied upon by third parties involved in real estate transactions. Specifies the procedure for disposition of personal property belonging to an inactive nonprofit association.

Provides a limitation on the contract and tort liability of members of an association while permitting such an association to incur liabilities in its own name. Specifies that a judgment or order entered against the association is not necessarily a judgment or order entered against a member of the association. States that a claim against an association does not abate merely because of a change in its structure.

Permits associations to designate agents for service of process. Sets out how a summons and complaint must be served. Specifies that associations do not need to create any sort of corporation for this act to apply.

States that the provisions of the act apply to transfers of property which occurred before July 1, 1994, if the parties treated the transfer as effective. Specifies that a pre-July 1, 1994, transfer will only effectively impart notice if the transfer is recorded in the county in which the property is located on a date after July 1, 1994. Specifies that notice shall be effective as of the date after July 1, 1994, on which the recording occurs.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1127** Cooperative telephone associations - use of patronage capital. Expands the term "patronage capital" to include capital credits, patronage dividends, and patronage refunds allocated by cooperative telephone associations. Allows cooperative telephone associations to use unclaimed patronage capital for expenditures associated with the provision of service.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1131** Documents - filing - duties of secretary of state - service of process on business entities - registering and filing of trademark documents - classification of goods for trademark purposes - tradenames of and use of assumed names by corporations, limited partnerships, and limited liability companies. Allows notice of dissolution of a corporation or of revocation of authority of a foreign corporation to do business in Colorado, as well as notice of reinstatement, to be sent via regular mail rather than certified mail, return receipt requested. Defines "registered agent" of a nonprofit corporation and of a foreign nonprofit corporation. Outlines procedures for service of process on such corporations.

Adds provisions detailing procedures for filing of documents by the secretary of state.

Clarifies the criteria by which the secretary of state registers a trademark application

or an assignment of a trademark. Repeals certain requirements of the secretary of state when registering a trademark registration (including the listing of date and place of registration, date of first use of trademark, and class of goods and services covered by the trademark) and simplifies the filing procedure by making it the same as for other corporate documents. Allows for appeal if a trademark application is rejected. Revises the statutory classification of goods and services for trademark purposes. Requires that a corporate or limited liability company name not be confusingly or deceptively similar to a registered trademark.

Adds limited liability companies to the entities mentioned in trademark statutes and other statutes relating to filing of documents with the secretary of state, including provisions relating to assumed names, trade names, and name changes. Deletes the separate requirement of "acknowledgment" of documents which are required to be "signed" by authorized persons and expands the list of persons who may sign such document. Deletes the requirement that limited liability companies and other entities include certain abbreviations such as "Ltd." in their registered tradenames.

Adds provisions concerning proof of receipt of documents to be filed by the secretary of state, including receipt of facsimile transmissions and procedures for requesting issuance of such proof.

**APPROVED** by Governor March 15, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1193 Health care coverage cooperatives - provider networks - creation - powers and duties - requirements - appropriation.** Authorizes the creation of health care coverage cooperatives for purposes of providing member health coverage and health care purchasing services and information and provider networks for purposes of enabling health care providers to engage in collaborative systems to deliver health care at competitive market prices to cooperatives and other purchasers. Establishes procedures for the organization of such health care coverage cooperatives in the form of not-for-profit business organizations currently recognized in law and provider networks in any form currently recognized in law. Requires health care coverage cooperatives to pay fees to the secretary of state as required by law and authorizes the executive director of the department of health care policy and financing to collect fees to cover the administrative costs of the executive director's duties under this act.

Provides that cooperatives shall consist of voluntary members and shall have governing bodies elected by such members. Specifies requirements for the privacy of health information obtained by such cooperatives. Requires cooperatives to obtain a certificate of authority from the executive director of the department of health care policy and financing and, until January 1, 1996, allows existing cooperatives or newly created cooperatives to be granted a certificate of authority. Authorizes the executive director of the department of health care policy and financing to promulgate rules to regulate health care coverage cooperatives under this act. Authorizes such executive director to provide, within available grants and donations, technical assistance in the form of in-kind services to cooperatives meeting certain requirements. Sets requirements for granting, denying, suspending, or revoking certificates of authority and authorizes administrative action to be taken directly against any responsible party of a cooperative for any violation of this act. Unless

specifically authorized, prohibits cooperatives from engaging in activities constituting the transaction of the business of insurance as defined in the insurance laws. Specifies the powers, duties, and functions of such cooperatives, including provisions with which cooperatives are required to comply, optional provisions, and provisions which specifically prohibit cooperatives from engaging in certain activities. Sets standards for marketing requirements for cooperatives.

Authorizes health care providers to conduct business collaboratively as provider networks. Specifies that if a provider network or individual provider is engaged in the transaction of insurance business, as defined in the insurance laws, such provider network or individual provider must be granted a certificate of authority by the insurance commissioner to do business as an insurance company or a health maintenance organization. Provides that a provider network or individual provider using a capitated contract or other agreement with a health insurer shall not itself be grounds for a determination by the insurance commissioner that the provider network or individual provider is engaged in the transaction of insurance business so long as an officer of the provider network or individual provider certifies annually to the insurance commissioner that it is not engaged in the transaction of insurance business.

Requires the insurance commissioner, in consultation with health care providers and other appropriate persons, to evaluate the need for specific legislation or regulations for the licensure of provider networks and individual providers, with recommendations to the general assembly where appropriate. Authorizes the insurance commissioner to evaluate and, if found appropriate, to promulgate rules setting forth standards or requirements specific to licensed provider networks or licensed individual providers concerning solvency and operational capacity or the performance of services consistent with the extent of risk being accepted. Requires the commissioner to make recommendations to the general assembly by July 1, 1995, on any needed statutory changes for the regulation of such provider networks and individual providers.

Creates a limited exception to the prohibition on the corporate practice of licensed health care providers for practitioners involved in provider networks so long as the agreement allowing such relationship contains certain specified safeguards on the exercise of the licensed person's independent judgment in the practice of such person's profession.

Provides that no provision of this act shall be construed to permit a provider network or individual provider to act in a concerted way to restrain trade or otherwise engage in practices which are otherwise prohibited by federal or state antitrust law. Specifies that the state antitrust laws shall not be construed to prohibit the lawful formation and operation of health care coverage cooperatives or provider networks. Specifies that licensed provider networks operating under an approved collaborative agreement are also subject to the regulatory authority of the insurance commissioner and are not exempt from such regulation.

Appropriates \$61,000 from the department of health care policy and financing cash fund to such department for the implementation of this act, and appropriates \$35,511 from the division of insurance cash fund to such division for the implementation of this act.

**APPROVED** by Governor June 2, 1994

**EFFECTIVE** July 1, 1994



## CORRECTIONS

**S.B. 94-018** Denver reception and diagnostic center - juvenile correctional institution - relocation of inmates. Permits the department of corrections to use facilities other than the Colorado mental health institute at Pueblo to house adult inmates relocated from the Denver reception and diagnostic center to provide space for a juvenile correctional institution at said center.

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** April 14, 1994

**S.B. 94-143** Cost of care for adult and juvenile offenders - actions to recover. Requires a court to order that adult and juvenile offenders make payments toward the cost of care as appropriate and sets standards for the court to determine the amount of such payments.

Requires that an offender's presentence report include information regarding the offender's ability to pay all or part of the cost of care, and repeals provisions relating to the collection of financial data from offenders after sentencing.

Repeals and reenacts the article which provides for actions to recover the cost of care based on acquisition of an offender's financial information in the presentence report. Covers reimbursement for cost of care both in state correctional facilities and county jails. Increases the number of entities which may file an action to recover the cost of care. Requires the plaintiff in such an action to demonstrate that the offender substantially misrepresented the offender's financial condition to the sentencing court. Establishes what the court shall consider in ordering an offender to make cost of care payments. Allows the court to order an offender to pay the costs of an action to recover the cost of care. Defines "offender" as a person confined to a correctional facility, a local jail, or home detention, a person placed on probation, or a person placed on parole by the state board of parole. Repeals provisions for recovering the cost of care for persons confined to county jails.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-172** State board of parole. For noncriminal violations of parole, authorizes the state board of parole to revoke parole for a specified period of time and to send the inmate to a community corrections facility, a facility within the department of corrections, a county jail, or a private facility operated under contract to the department of corrections. Specifies that placement of the inmate in a community corrections program is subject to approval by the community corrections board.

Increases from 2 to 3 the number of consecutive terms that each member of the state board of parole may serve after the initial term. Specifies that any member who is appointed to fill a vacancy on the board and serves at least half of a term is considered to have served a full term.

Authorizes the chairperson of the state board of parole to appoint an administrative law judge from the department of administration, rather than a private attorney, to conduct

parole revocation hearings.

Authorizes the state board of parole to reconsider parole applications only once every 3 years, rather than annually, if the inmate applying for parole was convicted of a class 1 or class 2 crime of violence, a class 3 sexual offense, or a habitual criminal offense or if the inmate received an indeterminate sentence for a sexual offense.

Expands the definition of "inmate" to include a person placed on parole for purposes of the "State Prison Inmate Care and Custody Reimbursement Act". Repeals one of the sections specifying parole hearing notice rights as being repetitive of other sections. Specifies that the department of corrections has responsibility for sending notice of a parole hearing. Specifies that parole hearings may be held in any facility suitable to the board.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** June 3, 1994

**H.B. 94-1099** Division of correctional industries - enterprise status. Designates the division of correctional industries as an enterprise for purposes of section 20 of article X of the state constitution (Amendment #1) so long as it satisfies the requirements for such status. Authorizes the division to issue revenue bonds not to exceed a specified amount after approval by the correctional industries advisory committee and the general assembly. Establishes procedures and requirements for bond issuance.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1158** Correctional facilities - restriction of privileges. Requires the department of corrections to deny the privileges of persons confined in certain state correctional facilities who do not perform any available labor, participate in any available educational or work program, or undergo any available counseling required by the department. Identifies that such privileges shall include, but shall not be limited to, television, radios, entertainment systems, cigarettes, and access to snacks. Authorizes the department to allow such privileges if a person is physically unable to perform labor, participate in an educational or work program, or undergo counseling. Clarifies that such labor, educational or work programs, counseling, and privileges are not granted as a right.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1201** Community corrections programs - time credits. Establishes uniform standards for granting time credits to offenders sentenced directly to community corrections programs by the sentencing court.

Applies to offenders sentenced directly to community corrections programs on or after the effective date of the act.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** April 28, 1994

**H.B. 94-1217** Panel of medical consultants - appointment. Directs the executive director of the department of corrections, upon the recommendation of the department's chief medical officer, to appoint a panel of medical consultants and to determine the membership of the panel based on the medical and surgical needs of the department. Specifies that the executive director shall determine the qualifications for appointment and requires that all panel members be licensed by the state board of medical examiners. Provides for the compensation of panel members as approved by the executive director.

Directs the panel members to act as medical consultants to the department with respect to persons receiving services from certain correctional facilities. Entitles the member of the panel of medical consultants to all of the protections of the "Colorado Governmental Immunity Act" for all activities performed within the course and scope of a member's responsibilities.

**APPROVED** by Governor April 20, 1994

**EFFECTIVE** April 20, 1994

**H.B. 94-1288** Inmates - access during week of execution - correctional facilities - transfer of inmate records - clarification of statutory references. Specifies that during the week of an execution, access to an inmate sentenced to death shall be permitted in accordance with prison rules. Requires such rules to provide for access to the inmate by specified persons.

Removes the requirement that inmates who are transferred be accompanied by a complete set of records. Requires that such inmates be transferred with relevant medical records and any other record necessary and relevant to the nature and length of the transfer. Repeals the criminal penalty for failure to transfer inmate records.

Clarifies statutory references to redefine "diagnostic center" to reflect the center's location within the city and county of Denver. Changes the references "director" and "warden" to "superintendent" when referring to the administrative head of a correctional facility.

**APPROVED** by Governor April 7, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1340** State criminal justice facilities - construction of additional beds and new facilities - population forecasting - appropriations. Based upon the projected correctional facility need over the next 5 years, provides for the construction of the following new beds and makes the appropriations therefor during the 1993-94 fiscal year from the capital construction fund: 250 close security beds at the Colorado state penitentiary; 180 minimum security beds at the Delta correctional facility; 248 women's beds at the Denver reception and diagnostic center; and 300 youth offender system beds at the Colorado mental health institute at Pueblo. In addition, provides for the construction of 500 new medium security beds and for the provision of additional minimum security beds, either through contract with nonstate facilities, through construction of state beds, or a combination thereof, and makes appropriations therefor during the 1994-95 fiscal year. Authorizes the construction of a total of 228 beds in youth detention facilities, with 108 beds in Arapahoe County, 60 beds in the

city and county of Denver or the metro area, and 60 beds in the northeast area of the state, using the appropriation made during the 1993 special session and an additional 1993-94 fiscal year appropriation. Also makes an appropriation for the 1994-95 fiscal year from the capital construction fund for an additional 70 youth detention beds in El Paso county, Grand Junction, and Pueblo.

To provide additional moneys to the capital construction fund for the construction of these facilities, makes an appropriation from the general fund to the capital construction fund for approximately \$36.1 million for the 1993-94 fiscal year and increases the statutory transfer from the general fund to the capital construction fund for the 1993-94 fiscal year by approximately \$47 million and for the 1994-95 fiscal year by approximately \$59.7 million.

When appropriations are made for the construction of either correctional facilities or youth detention facilities, provides that no construction can begin until the facility plans have been reviewed by the capital development and joint budget committees of the general assembly acting jointly. Allows the general assembly to contract with a consultant to assist the committees in their review of construction plans and makes an appropriation therefor for the 1994-95 fiscal year.

To insure adequate contract administration for the correctional facility and juvenile detention facility projects authorized, allows the department of administration to contract with one or more persons or firms to provide contract administration and oversight of contractors and other project management services and makes an appropriation for the 1994-95 fiscal year from the general fund to the department of administration through an adjustment to the long bill.

Repeals and relocates the authority in the 1990 Session Laws for the executive director of the department of corrections to contract for up to 300 beds in parole facilities at a cost of \$40 per bed per day and places it in statute, but increases the number of beds to 386 and the cost per day per bed is to be established annually by the general assembly in the long bill.

Makes the director of research of the legislative council responsible for prison population forecasting for the general assembly, including juvenile offender populations, and for reviewing bills that affect prison sentencing and providing the general assembly with information on the long-term fiscal impact of each bill and makes an appropriation therefor for the 1994-95 fiscal year. Directs the departments of corrections and institutions, the division of criminal justice in the department of public safety, and the state court administrator to provide information concerning population projections and other related data.

Makes an appropriation for the 1993-94 fiscal year for the provision or replacement of fire alarm and smoke detection systems and for the addition of required exits at specified correctional facilities.

**APPROVED** by Governor May 9, 1994

**EFFECTIVE** May 9, 1994

## COURTS

**S.B. 94-002** Exemption from attachment or levy - child support obligations and payments. Exempts any past or present child support obligation or payment required by a support order from any writ of attachment, writ of execution, or writ of garnishment to collect any debt owed by either parent. Eliminates the exemption if the recipient of a child support payment intermingles the payment with other moneys. Provides that a child support payment is only exempt after deposit in a bank, savings and loan, or credit union account if the account is a custodial account for the benefit of the child that is designated for child support payments and no moneys other than child support payments made pursuant to a support order and interest are deposited into the account.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** May 22, 1994

**S.B. 94-224** Support registry - fees. Authorizes the chief justice of the Colorado supreme court to set annually the amount of the initial one-time fee, not to exceed \$30, imposed on persons directed to make support payments through the registry of the court. Such fee is to cover the direct and indirect costs associated with the establishment of an account for that person. Also authorizes the chief justice to set the amount of a processing fee, not to exceed \$3, that such persons must pay on each payment made through the registry of the court to cover the direct and indirect costs associated with processing that payment.

Applies to court orders entered on or after July 1, 1994.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1147** Landlord and tenant law - forcible entry and detainer - termination of tenancy for substantial violation - defenses to action for possession. Determines that in certain cases it is necessary to curtail the right of occupancy of certain persons in order to protect the rights and safety of neighbors, property owners, and others. Declares that it is an implied term of every lease of real property in the state that the tenant shall not commit a substantial violation while in possession of the premises. Defines a substantial violation as any act or series of acts by the tenant or any guest or invitee of the tenant which occurs on or near the premises and endangers life or property or constitutes a violent or drug-related felony prohibited by state law. Allows a landlord to terminate a lease before the end of the lease term for any substantial violation. Makes the termination effective 3 days after service of written notice to quit. Allows a tenant the defense that domestic violence is the basis for the termination notice or that the tenant could not reasonably have known of or prevented the substantial violation but immediately notified a law enforcement officer of his knowledge of the substantial violation.

Applies to leases executed on or after the date of passage of the act and to leases in effect on such date when a substantial violation occurs on or after said date.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**H.B. 94-1153** Evidence - admissibility of communications using TDD or TTY. Prohibits the admission of the contents of any communication made directly or indirectly through a telecommunications device for the deaf (TDD) or a teletype (TTY) and of any writing or recording resulting from the communication as evidence of the existence or contents of the communication. Provides an exception for any communication intercepted pursuant to a lawful court order.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1254** Evidence - electronic business and public records - admissibility. Adds electronically recorded, copied, or reproduced business and public records as records which are as admissible in evidence as the original itself in any judicial or administrative proceeding under the "Uniform Photographic Copies of Business and Public Records as Evidence Act".

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1281** Limitation of actions - motor vehicle operations - uninsured and underinsured motorists - accrual of actions. Requires that any tort action for bodily injury or property damage arising out of the use or operation of a motor vehicle be commenced within 3 years after the cause of action accrues. Excludes any action for strict liability, absolute liability, or failure to instruct or warn. Provides that a cause of action for bodily injury or property damage arising out of the use or operation of a motor vehicle accrues on the date that both the existence of the injury or damage and the cause of the injury or damage are known or should have been known by the exercise of due diligence.

Requires that an action or arbitration of an uninsured motorist insurance claim be commenced or demanded within 3 years after the cause of action accrues or, if the underlying bodily injury liability claim is preserved by commencing an action against the uninsured motorist, within 2 years after the insured knows that the tortfeasor is uninsured. Requires that an action or arbitration of an underinsured motorist insurance claim be commenced or demanded within 3 years after the cause of action accrues or, if the underlying bodily injury liability claim is preserved by commencing an action against the underinsured motorist or by payment of the liability claim settlement or judgment, within 2 years after the insured received payment of the settlement or judgment on the underlying claim. Provides that an uninsured or underinsured motorist cause of action accrues after both the existence of the death, injury, or damage giving rise to the claim and the cause of the death, injury, or damage are known or should have been known by the exercise of due diligence.

Applies to any motor vehicle accident occurring on or after July 1, 1994.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** July 1, 1994

## CRIMINAL LAW AND PROCEDURE

**S.B. 94-051** Domestic violence - evidence of similar acts. Amends the definition of "domestic violence" to include invasion of home or property or the threat thereof. Allows the admission of evidence of prior domestic violence acts or transactions in prosecutions which involve domestic violence.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** June 3, 1994

**S.B. 94-065** Criminal procedures - miscellaneous amendments. Allows access to arrest history records of applicants for professional or occupational licensure, registration, or certification by any division, board, commission, or person responsible for such licensure, registration, or certification.

Requires a defendant, at the time jeopardy attaches with respect to a first prosecution, to object to the prosecution's failure to join additional charges if defendant actually knows of additional pending prosecutions which the prosecution is required to join. States that, if a defendant fails to make the objection, the defendant waives the "compulsory joinder claim".

Provides that the itemized victim impact statement may include any loss incurred by a victim of a crime after criminal charges have been filed formally against a defendant, rather than only the losses incurred up to the time at which criminal charges are filed.

Defines "profits from the crime", and requires that any person who contracts with a person convicted of a crime for payment of such "profits from the crime" shall pay such profits to the victims assistance and law enforcement advisory board. Requires the board to deposit the money in an escrow account for the benefit of any victim of the crime from which the profits were derived and to notify such victim of the existence of the escrow account. States that a victim may, within 5 years of establishment of the escrow account, enforce any order of restitution against the moneys in the escrow account.

Clarifies that persons sentenced to county jails who participate in certain employment programs shall receive one day credit against their sentences for each day spent in the program.

Deletes the automatic repeal dates for the statute of limitations for certain offenses against children.

Repeals statutory provisions governing a grand jury's duty to oversee the accountability of the county treasurer.

**APPROVED** by Governor May 4, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-089** Criminal offenses - penalties - jurisdiction. Clarifies that, in imposing a jail sentence for violating a municipal ordinance, a municipal court does not have the authority

to order a child under 18 years of age to be confined in a department of institutions facility.

Makes defacing property a class 2 misdemeanor rather than an unclassified misdemeanor.

Specifies that repeated communications at inconvenient hours must invade the privacy of another or interfere in the use of private property in order to constitute harassment and specifies that repeated communications in offensively coarse language must be in a manner likely to provoke a disorderly response in order to constitute harassment.

Limits the exclusive original jurisdiction of the juvenile court over a violation of any county or municipal ordinance allegedly committed by a juvenile to a violation for which the penalty may be a jail sentence of more than 10 days rather than a violation for which the penalty may be a jail sentence of any length.

Requires that the juvenile court, in determining whether to waive juvenile court jurisdiction over a juvenile for the commission of a delinquent act and to transfer the case to the district court, consider whether the juvenile used or possessed and threatened to use a deadly weapon in the commission of the delinquent act.

Rewrites the statute that prohibits the possession of weapons by persons previously convicted of certain felonies to extend its application to persons convicted of any felony. Classifies the offense as a class 1 misdemeanor, but continues to apply more serious penalties if the previous conviction involved the use of a dangerous weapon or was for a specified felony.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-123** Unlawfully carrying concealed weapon - affirmative defense - federal officers. Includes, within the list of persons who are entitled to an affirmative defense to the crime of unlawfully carrying a concealed weapon, United States probation officers and United States pretrial services officers while on duty and serving in the state of Colorado pursuant to rules and regulations promulgated by the judicial conference of the United States.

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-136** Death penalty - additional aggravating factor - child under age of 12 killed. Adds to the statutory aggravating factors for death penalty determinations the fact that the defendant intentionally killed a child under the age of 12 years.

**APPROVED** by Governor May 4, 1994

**EFFECTIVE** May 4, 1994

**S.B. 94-196** Life sentence - third violent felony - habitual criminals. Amends the state habitual offender statute to impose a life sentence for persons who are convicted of a class 1 or 2 felony or a class 3 felony that is a crime of violence and who have twice previously

been convicted for any such felonies. Denies eligibility for parole until the person has served at least 40 calendar years.

Makes the act applicable to felonies committed on or after the date of passage and subsequent to the two prior convictions, regardless of whether the two previous convictions were committed on or before such date.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**S.B. 94-201** Sentences - youthful offender system - administration. Changes the mandatory sentence to the youthful offender system from a one-to-5-year determinate sentence and one year of mandatory parole supervision to a 2-to-6-year determinate sentence, with 6 to 12 months of community supervision during the last 12 months of the sentence. When a juvenile's sentence to the youthful offender system is revoked, authorizes one day of credit toward the adult sentence for each day served in the youthful offender system.

Expands the population of juveniles who may be sentenced to the youthful offender system by increasing the maximum age of a juvenile at the time of sentencing from age 18 to 19 and by applying the sentencing provisions retroactively to include certain juveniles who committed acts before the effective date of the original youthful offender system act, which was enacted September 13, 1993.

Describes the components of the youthful offender system as: An intake, diagnostic, and orientation program; phase I, during which time a range of core programs, supplementary activities, and educational and prevocational programs are provided to youthful offenders; phase II, during which time the department of corrections is authorized to transfer a youthful offender to a prerelease halfway facility in preparation for supervised release; and phase III, during which the youthful offender is monitored as the offender reintegrates into society.

Allows the department of corrections to contract with providers to operate phase I of the system as the youthful offender system reaches its capacity at the specified location and until permanent facilities are available for the youthful offender system. Requires that youthful offenders under the supervision of a contract provider during phase I be returned to the supervision of the department of corrections upon completion of phase I. Authorizes the department of corrections to operate or to contract with a prerelease halfway house for youthful offenders, and authorizes the department to move youthful offenders to such facilities as an initial phase of community supervision. Places the prerelease halfway house under the administration of the department of corrections, and requires that the prerelease halfway house have 24-hour custody of youthful offenders and be a minimum restricted security facility.

Permits the department of corrections to transfer a youthful offender to an appropriate facility for the purpose of accomplishing a youthful offender's redirection goals, as long as the transfer does not jeopardize the safety and welfare of the youthful offender. Gives the department of corrections the authority to operate an "emancipation house" for youthful offenders participating in phases II and III under the youthful offender system for whom family reintegration poses difficulties. Specifies that a youthful offender placed in an

emancipation house will be provided reintegration support services. Allows the department of corrections to contract for programs that are comparable to the youthful offender system for female youthful offenders sentenced to the youthful offender system until permanent facilities are available for the youthful offender system.

Reassigns parole supervision responsibilities that were placed with the state board of parole to the department of corrections as community supervision responsibilities. Authorizes the executive director of the department of corrections to review the department's decisions related to the revocation of the youthful offender's sentence to the youthful offender system and specified transfer issues. Requires the department of corrections to notify the district attorney of record concerning the executive director's decision to uphold the department's recommendation for revocation of an offender's sentence, and makes the district attorney of record responsible for seeking the revocation of an offender's sentence.

Requires annual reports, rather than a single report, concerning the administration of the youthful offender system. Adds a summary of the recidivism rate

for offenders to the list of items to be included in annual reports.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** June 3, 1994

**S.B. 94-202** Criminal extortion. Repeals and reenacts the statute relating to the crime of criminal extortion, including aggravated criminal extortion. Makes it a crime of criminal extortion for a person by substantial threat of specified acts to cause another person to act or refrain from acting. Describes the nature and extent of the threats included in the commission of the crime of criminal extortion. Describes the nature and extent of the threats included in the commission of aggravated criminal extortion.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**S.B. 94-204** Death penalty - expedited process - use of state moneys in appeals limited. Expresses the general assembly's intent that review of death penalty cases by the Colorado supreme court be given priority over other cases. Excepts challenges based on newly discovered evidence and ineffective assistance of counsel from the requirement that, in any direct appeal of a death penalty case, all challenges to the conviction or sentence shall be included in the appellate brief at the time such brief is filed with the Colorado supreme court, or such issues shall be deemed irrevocably waived.

Limits applications for postconviction review in class 1 felony cases where the death penalty is imposed to only those that raise claims of newly discovered evidence and ineffective assistance of counsel. Directs the district court to consider expeditiously any applications for postconviction relief in class 1 felony cases where the death penalty is imposed, and to give priority to those cases. Requires a person seeking appeal of a denial of postconviction remedy from the district court in a death penalty case to file the appeal directly with the Colorado supreme court, in accordance with any rules adopted by the supreme court, and exempts such cases from initial jurisdiction by the court of appeals.

Prohibits the use of state moneys to prosecute any appeal on behalf of a defendant in any class 1 felony case in which a sentence of death has been imposed that is not an "appeal as of right", or to prosecute any habeas corpus proceeding on a petitioner's behalf unless the petitioner is seeking to prevent extradition.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1045** Harassment by stalking - penalties. Clarifies that the crime of harassment by stalking is a "knowing" offense and therefore distinct from the crime of harassment. Extends the crime of harassment by stalking to afford protection to the victim's immediate family members. Expands the crime of harassment by stalking to include circumstances in which the defendant indirectly threatens the victim through another person. Defines the term "immediate family" to include the person's spouse, parent, grandparent, sibling, or child. Defines the term "in connection with" for acts occurring before, during, or after the act of threatening the victim. Mandates a sentence of 60 days in county jail upon conviction of harassment by stalking if the victim had previously obtained a restraining order or injunction against the defendant. Clarifies that the mandatory sentences are in addition to any other sentence that may be imposed for the class 1 misdemeanor.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1052** Endangering public transportation - appropriations. Expands the crime of endangering public transportation to include threatening any operator, crew member, attendant, or passenger on a public conveyance with death or imminent serious bodily injury; knowingly or recklessly causing bodily injury to another person on a public conveyance; or with criminal negligence causing bodily injury to another person on a public conveyance by means of a deadly weapon.

Appropriates \$57,000 out of the mass transportation account to the corrections expansion reserve fund in the state treasury to implement this act. Makes future appropriations to the department of corrections for fiscal years 1995-96 through 1998-99.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1063** Probation - effectiveness of order. For offenses committed on or after July 1, 1994, specifies that any order granting probation takes effect upon entry of the order and, if an appeal is brought, remains in effect pending determination of the appeal, unless the court grants a stay of probation. Allows any defendant who is sentenced to probation to move for a stay of probation pending a ruling on a motion for a new trial or a motion in arrest of judgment or pending review by an appellate court. Authorizes any court that grants a stay of probation to require the defendant to post an appeal bond while probation is stayed. Specifies that the district attorney shall be present when the court rules on the defendant's motion for stay of probation.

**APPROVED** by Governor March 18, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1090** Restraining orders - central registry - violation and enforcement. Consolidates and makes uniform the procedures for enforcement of temporary restraining orders issued to prevent emotional abuse of the elderly, issued to prevent domestic abuse, issued pursuant to the "Uniform Dissolution of Marriage Act" or the "Uniform Parentage Act", issued against an adult or a juvenile charged with a violation of the "Colorado Criminal Code", or issued in a dependency and neglect action. Requires such restraining orders to be on standardized forms prescribed by the judicial department.

Requires the court, at the time a restraining order is requested, to inquire about all information concerning the existence of prior restraining orders on the same subject matter. Imposes an independent duty on the requesting party or such party's attorney to disclose knowledge concerning the existence of prior restraining orders of any court.

Authorizes the court to award interim legal custody of a child to a person entitled to bring a custody action when such award is reasonably related to preventing domestic abuse or preventing the child from witnessing domestic abuse. Authorizes the issuance of temporary restraining orders and temporary orders in actions filed pursuant to the "Uniform Parentage Act".

Identifies the grounds for the criminal violation of a restraining order as contacting, harassing, injuring, intimidating, molesting, threatening, or touching a protected person, or entering or remaining on premises, or coming within a specified distance of a protected person or premises when such conduct is prohibited by a restraining order. Defines certain terms including "restraining order". Changes the violation of a restraining order, other than the violation of restraining orders issued pursuant to the "Colorado Criminal Code" or second or subsequent convictions for the violation of a restraining order, from a class 3 misdemeanor to a class 2 misdemeanor. Specifies that a prior conviction for the violation of a restraining order need not be pled or proven at trial.

Sets forth the procedure for enforcement of restraining orders. Identifies the duties of peace officers in enforcing such orders including the requirement that a peace officer arrest, or, if an arrest would be impractical, seek a warrant for the arrest of a restrained person when such peace officer has probable cause to believe that a restraining order has been violated. Limits a peace officer's liability when enforcing a restraining order.

Creates a computerized central registry of restraining orders in the Colorado bureau of investigation accessible to any state law enforcement agency and to any local law enforcement agency with compatible computer capabilities. Requires the registration of all restraining orders by the clerk of the issuing court.

Applies to restraining orders and subsequent orders issued on or after January 1, 1995.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** January 1, 1995

**H.B. 94-1092** Contact between defendant and victim - prevention - mandatory restraining orders. Requires the court to provide, as a condition of any appeal bond or probation order,

that the defendant shall not harass, molest, intimidate, retaliate against, or tamper with the victim of or any prosecution witnesses to the crime, unless the court makes written findings that the condition is not necessary. Requires any mandatory restraining order, including a mandatory restraining order against a juvenile, to remain in effect until the disposition of any appeals that may be brought. Specifies that the trial court retains jurisdiction to enforce, modify, or dismiss the restraining order pending any appeal that may be brought.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** June 3, 1994

**H.B. 94-1105** Gambling - vintage slot machines. Allows a person to own a vintage slot machine so long as such device is not used for gambling. Defines "vintage slot machine" as any model of slot machine that was marketed before 1984.

**APPROVED** by Governor March 2, 1994

**EFFECTIVE** March 2, 1994

**H.B. 94-1122** Crime stopper organizations - confidentiality - repayment of reward. Specifies that the records of a crime stopper organization concerning reports of criminal activity are confidential. Stipulates that such records are not required to be produced except as directed by court order after an ex parte in camera review. Authorizes a court to subpoena such records on motion of a criminal defendant alleging that the records contain impeachment or exculpatory evidence. Limits the court's inspection to records and information that are relevant to the specific case pending before the court. Directs the court to present impeachment or exculpatory evidence to the defendant together with a certifying affidavit. Prohibits the court from disclosing the identity of any person who was the source of such evidence unless the state or federal constitution requires otherwise. Provides for the return of crime stopper records to the crime stopper organization. Requires the crime stopper organization to retain such records until the time for filing an appeal of the criminal offense has expired. Specifies that any person who knowingly or intentionally discloses confidential crime stopper records or information commits a class 1 misdemeanor. Requires any prosecution for such offense be commenced within 5 years from the date of the violation.

Authorizes the court to order a defendant to repay all or part of a crime stopper reward when the reward led to the defendant's arrest and conviction in a felony case, the defendant has entered a plea of guilty or nolo contendere to a felony offense, or when the defendant enters into a plea bargain agreement which reduces the felony to a misdemeanor. Requires repayment as a condition of any sentence to probation. Establishes an order of priority for the repayment of crime stopper rewards among other debts and obligations required to be paid by a criminal defendant. Limits the amount of repayment to the actual amount of the reward paid by a crime stopper organization. Creates the crime stopper reward reimbursement fund, and requires repayments to be credited to such fund. Specifies that moneys repaid to a crime stopper organization may be used solely for paying other crime stopper rewards.

Establishes requirements for articles of incorporation applicable to any crime stopper organization that elects to avail itself of the confidentiality provisions of the act.

**H.B. 94-1126** Criminal laws - miscellaneous amendments - crimes of violence defined - unlawful sexual offenses defined - speedy trial computation when mental condition raised - 11-member jury - verdict authorized - peace officer defined - 2nd degree assault - crimes against children expanded - crimes of wholesale promotion and promotion of obscenity to children created - penalties - miscellaneous offenses amended - repeal - controlled substance offenses. Repeals statutory language related to functions performed by the criminal justice commission to conform with the automatic termination of the commission.

Replaces the phrases "person with a disability" and "elderly person" with the phrase "at-risk adult or at-risk juvenile" in the definition of "crimes of violence". Adds as crimes of violence any conspiracy or attempt to commit any of the crimes, other than unlawful sexual offenses, enumerated in the definition of crimes of violence. Adds the crimes of enticement of a child and indecent exposure to the crimes enumerated as "unlawful sexual offenses", which are referenced as "crimes of violence" and for which greater sentences may be imposed because the crimes pose "extraordinary risks of harm to society".

Excludes from the time computation for speedy trial any period during which a defendant is under observation or examination after an issue of insanity, incompetency, or impaired mental condition is raised, rather than only the period during which a defendant is under observation or examination following a plea of not guilty by reason of insanity. Authorizes the court in all cases except class 1 felony cases to allow 11 members of a 12-person jury to issue a verdict after the court excuses a juror for cause once the jury retires to consider the verdict. Includes as a peace officer, level Ia, the state attorney general, the deputy attorney general, and any other deputy or assistant attorney general assigned to a criminal enforcement function in the attorney general's office. Requires that notice be provided to specified district attorneys regarding the initiation of contempt proceedings against defendants.

Eliminates, as a crime of 2nd degree assault, intentionally causing serious bodily injury to another. Changes references to the perpetrator in the 3rd degree sexual assault statute from "adult" to "person". Expands the offense of 2nd degree criminal trespass to include the act of remaining upon the common areas, rather than upon the premises, of a hotel, motel, condominium, or apartment building. Expands the definition regarding the "false completion" of a written instrument to include an act to transform an incomplete instrument into a complete one by adding or inserting materially false information or statements. Gives an investigator with the attorney general's office access to bank records. Repeals the crime of intentional misrepresentation by an employer. Expands the crime of obscenity by adding the offenses of wholesale promotion and promotion of obscenity to a minor, and makes the commission of such offenses class 6 felonies. Increases the penalties for the crime of indecent exposure so that the penalty for 2nd and subsequent offenses is greater than the penalty for a 1st offense.

Eliminates references to the term "secondary" from the series of educational institutions subject to the statute prohibiting persons from carrying concealed weapons on or near school grounds and to the statutes prohibiting persons from dispensing controlled

substances on or near school grounds or in any school bus that is transporting students. Adds certain drugs to the specified schedules of controlled substances. Reduces from a class 3 to a class 4 felony the classification for the commission of possession of a schedule II controlled substance.

Increases the penalty for the crime of theft of livestock.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1144** Death penalty - additional aggravating factor - 2 or more persons killed. Adds to the statutory aggravating factors for death penalty determinations the fact that a defendant unlawfully and intentionally, knowingly, or with universal malice manifesting extreme indifference to human life generally, killed 2 or more persons during the same criminal episode.

**APPROVED** by Governor March 15, 1994

**EFFECTIVE** March 15, 1994

**H.B. 94-1192** Convicted sex offenders - duty to register with local law enforcement agencies - duty of agencies. Repeals and reenacts the statute that requires persons convicted of certain sexual offenses against children to register with local law enforcement agencies where the person plans to reside to extend the requirement to any offender convicted of any sexual offense.

Requires probation and parole officers and personnel with the department of corrections to require an offender under their jurisdiction to sign a notice that informs the offender of the duty to register with local law enforcement agencies when the offender is placed on probation or parole or is released from the department of corrections. Requires the same law enforcement personnel, within 48 hours after an offender has been placed on parole or probation, to notify local law enforcement agencies of the address that the offender provided in the signed notice.

Imposes a specified jail sentence for a 1st offense of failing to register with the local law enforcement agency and a specified sentence to the department of corrections for 2nd and subsequent offenses for failing to register with the local law enforcement agency.

Extends the duty to register to any person adjudicated as a juvenile based on the commission of the specified sexual offenses and imposes the same sanctions against a juvenile for failing to register. Makes current provisions concerning the duties of local law enforcement agencies, the sexual offender registry, confidentiality, and discontinuance of the duty to register applicable to a juvenile offender.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1253** Domestic violence - domestic abuse - restraining orders - peace officers'

duties. Redefines "domestic violence" for purposes of the criminal statutes. Requires a person preparing certain initiating documents for a criminal case to indicate on the face of the document whether the facts, if proven, could constitute an act of domestic violence.

In sentencing a person convicted of a criminal offense the underlying factual basis of which includes an act of domestic violence, requires the court to order the defendant into a certified treatment program unless a treatment provider determines that such a treatment program would be inappropriate. In such cases, requires the defendant to be referred back to the court for alternative disposition. Prohibits a defendant from entering into a plea bargain arrangement whereby the domestic violence designation of the crime with which the defendant is charged is not included in the offense to which the defendant would plead guilty, unless the prosecuting attorney makes a record, and the court finds, that the prosecuting attorney would not be able to establish the necessary relationship required in an offense involving domestic violence. Renders a person accused or convicted of a crime involving domestic violence ineligible for deferred prosecution or for home detention in the home of the victim. Directs the court to consider the safety of the victim and the victim's children before granting probation to a person convicted of a domestic violence crime.

Increases the crime of violation of a restraining order, other than an automatic restraining order in criminal cases, from a class 3 misdemeanor to a class 2 misdemeanor. Makes a 2nd or subsequent violation of a restraining order a class 1 misdemeanor. Indicates that a prior conviction need not be pled or proven at trial and may be established by a certified copy of a judgment of conviction from the court in which it was entered. Requires a peace officer to use every reasonable means to enforce a restraining order. Mandates such officer to arrest, or, if an arrest would be impractical, to seek a warrant for the arrest of a restrained person when the officer has probable cause to believe that a restrained person has violated or attempted to violate a restraining order. Identifies other duties of peace officers related to the enforcement of restraining orders.

Mandates a peace officer to arrest a person who the officer has probable cause to believe has committed a crime or offense involving domestic violence. Identifies a peace officer's duties when the officer receives complaints of domestic violence from 2 or more opposing persons. Directs the arresting agency to make every reasonable effort to collect and preserve evidence pertinent to an arrest. Prohibits a peace officer from arresting and releasing a person at the scene of a domestic violence offense. Limits the liability of a peace officer in domestic violence matters. Adds communications between a victim of domestic violence and a private victim's advocate to the list of privileged communications.

Charges the Colorado bureau of investigation with the duty of reporting annually to the governor, the president of the senate, and the speaker of the house of representatives concerning the number of assaults related to and the number of deaths directly attributable to domestic violence.

Authorizes a court issuing a restraining order to prevent domestic abuse to grant parenting time with conditions, including supervision of such parenting time. Prohibits a court from denying such a restraining order solely due to a lapse in time between an act of domestic abuse and the filing of the petition for the restraining order. If the petitioning party is unable to serve the defendant, directs the court to extend the temporary restraining order

to prevent domestic abuse without the necessity of a hearing. Prohibits a court from granting a mutual restraining order to prevent domestic abuse for the protection of opposing parties unless each party meets the required burden of proof. Clarifies that a person who has been excluded from a shared residence due to a restraining order to prevent domestic abuse is entitled to avail himself or herself of the remedies under the forcible entry and detainer statutes. Gives landlords the same ability if the lessee has been excluded by a restraining order. Centralizes and standardizes the duties of a peace officer in enforcing restraining orders to prevent domestic abuse.

Identifies the procedure to be followed for registering a restraining or similar order issued by a court of another state or jurisdiction, and empowers a court in this state to enforce such orders.

Authorizes the restriction of a criminal defendant's calling privileges from a jail or correctional facility if such defendant's alleged victim is able to demonstrate the violation of a restraining order by the defendant.

Adds the evaluation of the safety of the victim and the victim's children to the list of items which the probation department's presentence victim impact statement may include. Requires as a condition of every bail bond in domestic violence cases that the released person acknowledge the restraining order in effect. Includes the restraint of the defendant from contact with the victim or the victim's family members in domestic violence cases among those conditions of probation which a court may order. Lists additional items which the court shall require as conditions of probation in domestic violence cases.

Repeals the peace bond statute.

When requesting the filing of any criminal case, requires a law enforcement agency to identify whether the factual basis of the charge being requested includes an act of domestic violence. Requires law enforcement agencies that issue complaints, summonses, or summonses and complaints to identify on the face of such documents whether the charge includes an act of domestic violence. Directs such information to be provided in the criminal justice information system network. Requires the court to identify whether the factual basis of the charges includes an act of domestic violence and whether such designation needs to be added or eliminated from the system based upon the court's findings in the case. Directs the court to eliminate the designation of domestic violence if the defendant is found not guilty of the alleged crime or if the case is dismissed. Establishes access to such computerized criminal justice information by any sentencing court, probation office, or other pretrial services agency preparing a report on domestic violence cases.

Lists additional provisions which a court may order on the motion of the prosecuting attorney or on its own motion as part of the automatic criminal justice restraining order in domestic violence cases. In domestic violence cases, conditions the release of a criminal defendant on bail on the statement of the terms of the restraining order by the court and the acknowledgment by the defendant of such order. Requires the prosecuting attorney to notify the alleged victim, the complainant, and the protected person of the restraining order if such persons are not present at the time the restraining order is issued. Authorizes a defendant or the prosecuting attorney to request a hearing before the court to modify the terms of the

restraining order. Directs the prosecuting attorney to send notice of such a hearing to the defendant and to the alleged victim.

Sets forth a victim's right to be informed of the defendant's violation of any condition of probation and the right to receive copies of all probation reports sent to the court and to receive notice of probation revocation hearings in domestic violence cases.

Applies to orders entered on or after July 1, 1994.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1276** Transfer of handguns - statewide instant criminal background check established - transferor duties - duties and powers of the Colorado bureau of investigation - fees - cash fund created - penalties - repeal - appropriation. Requires the Colorado bureau of investigation (CBI) to administer a statewide instant criminal background check system in connection with the transfer of handguns in this state. Expresses the general assembly's intent that the system be implemented in a manner that is consistent with the federal "Brady Handgun Violence Prevention Act", and any federal rules adopted pursuant to the act. Also states the general assembly's intent that the CBI act as the authorized government official for the purpose of implementing the act in accordance with the federal law.

Prohibits licensed firearm importers, manufacturers, and dealers from transferring a handgun to any person who: Is prohibited under local, state, or federal law from purchasing, receiving, or possessing a handgun; has been convicted of specified crimes involving the use of force against a spouse, a former spouse, or a child; or is subject to a restraining order to prevent domestic abuse or a restraining order issued in connection with the specified crimes. Limits the prohibition with respect to restraining orders issued by state courts.

Disallows licensed firearm importers, manufacturers, and dealers from transferring a handgun to any person, other than another transferor or licensed collector, until the transferor completes each of the following actions: Provides to and obtains from the transferee a form adopted by the CBI which requests the transferee's name, date of birth, gender, race, and social security number or other acceptable identification number; inspects proper identification of the transferee, which may include a form containing a photograph of the transferee; collects a fee from the transferee for the purpose of processing the criminal history instant check of the transferee; requests the CBI, via a toll-free telephone call, to conduct an instant check of any information concerning the transferee that has been reported and is reflected in the CBI's computerized data base system as of the date of the request; and receives a unique approval number for the inquiry from the CBI and records the date and the approval number on the form completed by the transferee.

Defines "handgun" as a firearm that has a short stock and is designed to be held and fired by the use of a single hand, and any combination of parts from which such firearm can be assembled.

Describes the transferor's responsibilities under circumstances where telephone services are interrupted due to natural disasters, situations involving a risk to the public

safety, or other bona fide emergency, or for any other reason beyond the control of the transferor. Under those circumstances, prohibits a transferor from transferring a handgun for 30 hours or until telephone service is available, whichever occurs earlier, and requires the transferor to complete a CBI form and submit a report to the CBI within 24 hours after the transfer of a handgun.

Makes the CBI responsible for administering a statewide instant criminal background check system in connection with the transfer of handguns. Upon receipt of a request from a transferor for a criminal history check, requires the bureau to review its criminal history records during the transferor's call. Requires the CBI to check its records as quickly as possible. If the CBI's review indicates that the transferee is not prohibited from purchasing, receiving, or possessing a handgun, requires the bureau to provide an approval number to the transferor. If the CBI's review indicates that the transferee is prohibited from purchasing, receiving, or possessing a handgun, requires the CBI to provide a non-approval number to the transferor. Requires the executive director of the department of public safety to adopt rules concerning the instant criminal background check system.

Describes the CBI's responsibilities in the event of any scheduled computer downtime, electronic failure, or similar problem that delays the CBI's ability to respond during a transferor's phone call. Requires the bureau to immediately notify the transferor of the reason for and estimated length of any delay and within 24 hours to issue an approval or non-approval number. Allows a transferor to transfer a handgun if the CBI has failed to provide an approval or non-approval number within 24 hours.

Allows a transferee to request a review of the CBI's decision to issue a non-approval number for a transferee and a review of the CBI's criminal history records. Requires a transferor to provide a transferee with written information prepared by the CBI concerning the procedure by which the person may request a review of CBI's decision and records. Makes the transferee responsible for obtaining and providing any dispositional information to the CBI if that information is not included in the CBI's records and the information indicates that a transferee is not prohibited from receiving or possessing a handgun.

Makes records that are created or maintained by the CBI to conduct the criminal history check confidential, and prohibits the CBI and all of its employees from disclosing any information pertaining to the check. Requires the bureau to destroy any record created or obtained for the background check as soon as possible, but no later than 48 hours after the day the CBI issues an approval number to the transferor.

Allows the CBI to maintain records of the national crime information center transactions to the extent required by federal law and to maintain a log of the dates of requests for criminal history records checks, unique approval and non-approval numbers, license identification numbers, and transaction numbers corresponding to such dates for a period of no more than 2 years, unless otherwise prohibited by federal law.

Prohibits use of information obtained under the instant check system against a transferee for any purpose other than law enforcement purposes. Requires the CBI to immediately notify law enforcement agencies after it provides a transferor with a non-approval number for a transferee. Directs the CBI to provide the law enforcement agencies

with any criminal background information and any information provided by the transferor concerning the transferee.

Requires the CBI director to establish a fee to be charged to a transferor each time the transferor makes a request using the statewide instant criminal background check system. Creates the statewide instant criminal background check cash fund, and requires the CBI to transfer any fees collected to the fund.

Makes it unlawful for: Any transferee willfully and knowingly to provide false information or fraudulent identification in connection with a transfer; any transferor, or employee or agent of the transferor, to violate the provisions of the act; any person to acquire knowingly a handgun for a person who is prohibited by local, state, or federal law from purchasing, receiving, or possessing a handgun; any transferor to request criminal history records under false pretenses or willfully and intentionally to disseminate criminal history record information to any person other than the transferee; or any agent or employee, or former agent or employee, of the CBI to intentionally violate the provisions of the act. Makes each violation a class 1 misdemeanor punishable by 6 to 18 months imprisonment, a \$500 to \$5,000 fine, or both.

Provides immunity from civil, criminal, or licensing sanctions to CBI, law enforcement, and court personnel who, in good faith, comply with the act. Provides the same immunity to transferors who comply with the act.

Exempts law enforcement officers and CBI agents as transferors and transferees under the act when the transfer of a handgun is made for official law enforcement purposes. Exempts licensed collectors as transferors and transferees under the act.

Prohibits transferors from complying with the federal "Brady Handgun Violence Prevention Act" in any manner other than that set forth in the article.

Appropriates \$105,669 and 2.0 FTE from the statewide instant criminal background check cash fund during the current fiscal year for the implementation of the act.

Appropriates \$187,985 and 6.0 FTE for fiscal year 1994-95 from the statewide instant criminal background check cash fund for the implementation of the act.

Makes the act applicable to handgun transfers on and after February 28, 1994, the implementation date required under the federal "Brady Handgun Violence Prevention Act".

Repeals the new law, effective February 28, 1999, which is the date of the implementation of the federal national instant criminal background check system.

**APPROVED** by Governor February 26, 1994

**EFFECTIVE** February 26, 1994

**H.B. 94-1278** Conditional release from commitment of criminal defendants - revocation. Provides that a court order conditionally releasing a criminal defendant from commitment after a verdict of not guilty by reason of insanity or impaired mental condition shall include

notice of the statutory provisions pursuant to which such release may be revoked.

Changes how revocation proceedings shall be initiated. Requires the superintendent of the Colorado mental health institute at Pueblo or the director of a community mental health center, upon probable cause to believe that a defendant is ineligible to remain on conditional release, to apply for a warrant directing the appropriate law enforcement officer to take custody of such defendant. Requires the law enforcement officer to deliver the defendant to the Colorado mental health institute at Pueblo. Upon the defendant's return to the institute, requires the superintendent to provide notice to the district attorney for the 10th judicial district who shall, within 72 hours after such notice, file a petition for the revocation of the defendant's conditional release.

Establishes that the district court for the 10th judicial district shall have jurisdiction and venue to accept a petition and to enter an order for the temporary revocation of a defendant's conditional release. Clarifies that the committing court shall hold the final hearing on the petition for revocation.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** July 1, 1994

## EDUCATION - PUBLIC SCHOOLS

**S.B. 94-004** Participation in non-public home-based educational programs - notice requirements - evaluation of students. Prohibits any school district from requiring a parent whose child is participating in a non-public home-based educational program to use a district form to file information concerning the child. Allows a parent whose child is participating in a non-public home-based educational program to select a qualified person to evaluate the child's academic progress in lieu of determining academic progress using standardized tests. For parents who choose to evaluate their children using standardized tests, authorizes the use of nationally standardized tests other than those used by the school district. Requires the parent to enroll the child in school if the evaluation or the test results show that the child is not making sufficient academic progress. Removes the provision that a child's academic progress is evaluated by comparison with other children within the child's age group.

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** April 14, 1994

**S.B. 94-072** School attendance - compulsory attendance proceedings - participation in non-public home-based educational programs - participation in interscholastic activities - maximum unexcused absences. Specifies the venue for bringing proceedings to enforce compulsory attendance. Authorizes the original court to transfer jurisdiction of the proceeding under certain circumstances. Requires the transferring court to transmit all documents and reports, or certified copies, to the receiving court.

Bars any child who is habitually truant from participation in any non-public home-based educational program unless the child's parent first gives written notification of the establishment of the program and a written description of the program's curricula to the superintendent of the child's school district of residence. Allows any child who is participating in a non-public home-based educational program to participate in interscholastic activities in any private school, as well as in any public school, so long as the child lives within the attendance boundaries of such private or public school and meets the appropriate eligibility requirements.

Requires each school district attendance policy to specify the number of unexcused absences that may trigger a compulsory attendance enforcement proceeding. Specifies that calculation of the number of unexcused absences incurred by a child includes all unexcused absences occurring during any school year or any calendar year.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** April 19, 1994

**S.B. 94-100** Tobacco products - use on school property - prohibition. Prohibits the use of tobacco products on all school property and at all school-sponsored activities. Requires the governing board of each school to adopt policies and rules to enforce such prohibition. Mandates that signs regarding the prohibition be displayed on school property no later than September 1, 1994. Allows for specific exemptions from such prohibition. Specifies that no school shall be prohibited from enacting more stringent policies or rules than required by the act.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** April 19, 1994

**S.B. 94-160** Content standards and assessments - state standards and assessments development and implementation council - power to contract. Authorizes the state standards and assessments development and implementation council to contract with any individual, group, or corporation, in addition to nonprofit groups, for the development of state model content standards and state assessments.

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** April 14, 1994

**S.B. 94-162** State board of education - development of data collection system - reporting of persons who complete high school later in life. Identifies that a correct assessment of the number of persons who complete a high school education beyond the typical length of time and later in life is necessary. Effective July 1, 1994, requires the state board of education, in cooperation with the local boards of education, to develop and implement a model student accounting method and data collection system which results in the reporting of persons who complete high school when 21 years of age or older. Effective July 1, 1998, requires the state board to integrate such system with the statewide financial, student management, and human resource electronic data communications and reporting system.

**APPROVED** by Governor April 13, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-185** Special education - student's school district of residence - determination. Adds facilities operated by or under contract to the department of institutions to the list of facilities in which a child receiving special education services may reside without causing a change in the child's school district of residence.

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** April 14, 1994

**S.B. 94-215** Charter schools - alteration of facilities - enrollment - financing - waiver of state regulations. Clarifies that the intent of the "Charter Schools Act" is to address the formation of charter schools. Specifies that a charter school is not required to make alterations to a facility unless otherwise required by state or federal law. Requires the charter school applicant to specify in the charter school application a nondiscriminatory method of making enrollment decisions. Specifies that any waiver of state regulations shall be for the term of the charter, but that the waiver shall be reviewed every 2 years and may be revoked if deemed no longer necessary. For purposes of school finance, provides that pupils enrolled in a charter school shall be included in the pupil count of the school district in which the charter school is located. Requires each school district to report to the department of education the number of students enrolled in any charter school within the school district. Clarifies that if a child with disabilities attends a charter school, the child's school district of residence shall enter into a contract with the charter school for payment of the excess costs of educating the child.

**H.B. 94-1001** School finance - additional 1993-94 funding - "Public School Finance Act of 1994" - preschool program - transportation aid - appropriation. Provides for an additional increase in 1993-94 equalization program funding for districts due to get funding increases under the new "Public School Finance Act of 1994" that would exceed the districts' spending limitations under section 20 of article X of the state constitution (Amendment #1). Establishes a formula for determining each district's additional increase. Prohibits the increase from being expended in the 1993-94 budget year and requires it to be credited to a special district reserve to be expended in the 1994-95 budget year. Funds the additional increases from state aid with an exception for those districts with property tax revenue carried forward.

Adopts the "Public School Finance Act of 1994" to determine school finance funding for the 1994-95 budget year and budget years thereafter with the following major provisions:

(1) Establishes a district's total program to cover the costs of providing a public education to the children within the district. Continues to allow a district discretion in spending such funds except for requiring specified amounts to be budgeted for certain instructional purposes and for capital reserve and insurance reserve.

(2) Determines a district's total program by giving the district the greater of the district's per pupil funding multiplied by the number of students included in the funded pupil count plus the district's at-risk funding or \$3,975 multiplied by the number of students included in the funded pupil count. Caps increases in funding to 25% over the prior year's funding. Establishes a different formula for those districts that received additional increases in 1993-94 funding under the provision noted above. Establishes a different formula for determining total program in the 1994-95 and 1995-96 budget years for any district that would receive less per pupil funding in 1994-95 under the new formula than the district received in the 1993-94 budget year, thus "holding the district harmless".

(3) Establishes a statewide base per pupil funding amount of \$3,390 for the 1994-95 budget year.

(4) Determines each individual district's per pupil funding by adjusting the \$3,390 statewide base by a cost of living factor and a size factor which reflect differences in costs among districts caused by location within the state and by number of students. Provides for the certification of a cost of living factor for each of the 176 districts by the legislative council based upon the cost of living analysis conducted pursuant to the SB 93-87 setting category study. Provides for a new analysis every 2 years. Establishes a size factor for each district pursuant to a statutory formula. Applies the cost of living factor only to that percentage of the \$3,390 statewide base that represents salaries and benefits (the personnel costs factor) with the percentage established for each district in accordance with a statutory formula.

(5) Increases a district's "base funding" by an amount to represent additional costs incurred by a district in providing an educational program to "at-risk pupils". Defines at-risk

pupils as those students eligible for the federal free lunch program. Increases the district's per pupil funding by 11% for each at-risk pupil up to the statewide average with the at-risk funding increased in accordance with a statutory formula in any district with a high concentration of at-risk pupils. Caps the per pupil at-risk funding increase to 30% over the district's "base funding".

(6) Provides for an "in-year count" of pupils by counting pupils in October within the budget year. Continues the use of a "funded pupil count" for funding purposes to help reduce the impact on funding caused by declining enrollments.

(7) Establishes the local share of school finance funding as the proceeds of a property tax levy for the district plus the amount of specific ownership tax received by a district which is attributable to all property tax levies of the district other than the levies for bonded debt and additional local property tax revenues ("overrides"). Sets the property tax levy for each district at the prior year's levy, the levy allowed by the Amendment #1 property tax revenue limitation, or the levy required to fund the district's total program minus minimum state aid and specific ownership tax, whichever is lesser. Establishes the state share of school finance funding as the difference between the district's total program and the local share. Gives all districts a minimum state aid amount per pupil to be established each year in the long bill.

(8) Continues to require certain districts to "buy out" their categorical programs with property tax revenue.

(9) Continues to allow a district to exceed its total program through the raising of additional property tax revenue if the district receives voter approval to do so ("overrides"). Increases the maximum amount that may be raised to 20% of the district's total program (as established under the formula and not the "hold harmless" provision) or \$200,000, whichever is greater. Includes additional revenues approved at elections prior to July 1, 1994, in the calculation of the maximum amount as well as the specific ownership tax attributable to override levies and to bond levies if the tax attributable to the bond levies is not being used to pay off the bonds.

Repeals the "Public School Finance Act of 1988" on July 1, 1994. Moves certain provisions from the 1988 act to the new school finance act with minimal changes.

Provides for the legislative council to conduct a new school finance study during the 1994 interim.

With respect to determining which districts receive payments from the state contingency reserve, requires the state board of education to consider the amount of the request as a percentage of the district's total program no matter the circumstance under which the request is made.

Changes the number of children that may be served under the state's preschool program to 4,500 for the 1994-95 budget year, to 6,500 for the 1995-96 budget year, and to 8,500 for the 1996-97 budget year and years thereafter.

Requires any fee collected by a school district for a specified purpose to be spent only

for said purpose and not for any other purpose.

Changes the limitation on school district bonded debt from 20% of assessed valuation to the greater of 20% of assessed valuation or 6% of actual value. Requires the assessor to certify the actual value of property in the district.

Deletes the requirement for state board of education approval of agreements for incentive payments negotiated between school districts and business facilities.

For school districts subject to court-ordered desegregation orders, establishes a minimum transportation aid reimbursement entitlement of 55% of the amount expended for pupil transportation.

Increases the limitation on the amount of tax anticipation notes that may be issued by school districts from 50% to 75% of estimated tax receipts.

Makes an appropriation of \$27,631,293 to make additional state aid school finance payments for the 1993-94 budget year. Adjusts the appropriation for state aid school finance payments for the 1994-95 budget year to decrease the appropriation for total program by \$1,500,000 and to increase the appropriation for transportation aid by a like amount. Sets aside \$2,000,000 of the 1994-95 appropriation for total program to be used to make additional state aid payments that may be required following the certification of pupil enrollments and valuations for assessments.

Note: The bill is further amended by HB 94-1365.

**APPROVED** by Governor April 27, 1994      **PORTIONS EFFECTIVE** April 27, 1994  
July 1, 1994

**H.B. 94-1003** Comprehensive health education - Colorado law-related education program - law-related education advisory board - sunset. Creates the Colorado law-related education program through the "Colorado Comprehensive Health Education Act". Establishes such program in the Colorado department of education prevention initiatives unit. Identifies that the program is designed to promote, through education, behavior which will reduce the incidence of gang or other antisocial behavior and substance abuse by students in the public schools. Encourages each school district to implement a law-related education program to address antisocial gang behavior and substance abuse resistance. Identifies topics that may be included in each such educational program and encourages schools to seek the cooperation of and use the expertise of available state and local law-related education programs.

Creates the law-related education advisory board. Directs such board to study, develop, and make recommendations to the state board of education concerning the following aspects of a law-related education program: Guidelines for implementation by school districts, topics for instruction, suggested texts and other instructional materials, training for instructors and administrators, inventory and evaluation of existing law-related education programs, allocation of grants to school districts, and methods and procedures by which the effectiveness of such programs may be measured.

Directs the state board of education to promulgate guidelines, based upon the recommendations of the law-related education advisory board, by which to provide grants to and to assist school districts in the implementation of law-related education programs. Encourages school districts to create training programs for instructors and administrators in gang awareness and substance abuse resistance education. Authorizes each school district to prepare an annual report to be filed with the state board of education concerning the progress of the school district in implementing a law-related education program and the effect of such program on the incidence of gang involvement and substance abuse by the students in that school district.

Sets the automatic termination date of the law-related education advisory board as July 1, 1999, pursuant to the provisions of the sunset law.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** May 22, 1994

**H.B. 94-1014** Bonded indebtedness prior to November 4, 1992 - effect of Amendment #1. Specifies that section 20 of article X of the state constitution (Amendment #1) does not affect or impair school district bonded indebtedness authorized at elections held before November 4, 1992, so that subsequent voter approval is not required to adjust the mill levy to pay for that bonded indebtedness.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1043** Boards of education - longevity bonus plan - selection of participants. Authorizes each school district to establish a longevity bonus program for school district employees. Requires that all school district employees with the specified number of years of service be eligible for the program. Allows the school district to select program participants so long as the selection is not based on the employee's job description or job definition.

**VETOED** by Governor June 7, 1994

**H.B. 94-1044** Magnet school for mathematics, science, and technology - magnet school planning board - feasibility plan. Repeals and reenacts the existing statutory provisions concerning the Colorado magnet school for mathematics, science, and technology. Establishes a new magnet school planning board. Specifies the planning board membership, including the executive director of the Colorado commission on higher education, the executive director of the department of education, the executive officer of the state board for community colleges and occupational education, the director of the systemic science initiative, one member appointed by the state board of education who is a secondary school teacher, and three members appointed by the state board of education from the state special education advisory committee, the Colorado advanced technology institute commission, and the telecommunications advisory commission. Specifies that appointed planning board members shall serve two-year terms and limits such members to serving no more than two consecutive terms. Specifies that all planning board members shall serve without

compensation except for actual expenses. Authorizes the planning board to receive staff assistance from the department of education. Instructs the planning board to prepare a feasibility plan for operation of the magnet school for submission to the Colorado commission for achievement in education by March 1, 1995, for consideration of any necessary legislation. Requires the planning board to submit a copy of the feasibility plan to the state board of education and to the Colorado commission on higher education by June 1, 1995.

Sets the automatic termination date of the planning board at July 1, 2000, subject to a review pursuant to the provisions of the sunset law.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1065** School attendance - interdistrict choice - prohibition of tuition. Requires school districts to allow nonresident pupils from other school districts within the state to enroll in programs or schools within the school district without paying tuition. Specifies the reasons for which a school district may deny enrollment, including a lack of teaching staff and a student's previous expulsion. Requires each school district to adopt timelines that may provide for enrollment of the student in programs or schools on or before October 1. Specifies that no school district is required to enroll a student after October 1. Allows a school district in which a nonresident child is enrolled to enter into an agreement with the child's school district of residence for payment of tuition.

Note: The bill is further amended by HB 94-1365.

**APPROVED** by Governor April 6, 1994

**EFFECTIVE** April 6, 1994

**H.B. 94-1073** Expulsion, suspension, and denial of admission - conduct of expulsion hearings and appeals - grounds for mandatory expulsion - judicial review of decisions. Authorizes the board of education of a school district to delegate the authority to conduct expulsion hearings to a designee serving as a hearing officer in addition to the executive officer of the school district. Establishes certain procedures for expulsion proceedings that are conducted by the executive officer or by a designee acting as a hearing officer. Specifies the findings and issues that are to be considered in an appeal of a decision of an executive officer regarding denial of admission or expulsion of a child. Allows the guardian or legal custodian of a child, in addition to the child's parent, to request a hearing prior to a decision to deny admission to or expel the child.

Eliminates third degree assault by an elementary school student from the offenses for which the expulsion of a child from a public school is mandatory.

Deletes the existing standards for the judicial review of a decision regarding a child who has been suspended from, expelled from, or denied admission to a public school. Requires any court reviewing a decision regarding the suspension, expulsion, or denial of admission of a child to conduct the judicial review pursuant to specified provisions of the Colorado rules of civil procedure.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1097** Extracurricular and interscholastic activities - expanded participation eligibility - limitation on participation fees. Authorizes independent, parochial, and non-public home-based school students who reside within the attendance boundaries of a public school district to participate on an equal basis in extracurricular or interscholastic activities sponsored by a public school located within such district if the school in which the student is enrolled does not sponsor the particular extracurricular or interscholastic activity and if the student otherwise meets the school's eligibility requirements for participation. Specifies that any fee charged for such participation may not exceed the fee the school charges its enrolled students.

Expands the eligibility boundaries for participation in extracurricular or interscholastic activities applicable to non-public home-based students by authorizing such students to participate on an equal basis in activities sponsored by a public school located within the student's public school district of residence rather than requiring the student to reside within the sponsoring school's attendance boundaries. Authorizes such students to participate in extracurricular or interscholastic activities offered by a private school at the private school's discretion.

Limits the participation fee a sponsoring public school may charge an eligible non-enrolled public school student to participate in an extracurricular or interscholastic activity. Specifies that such students shall be allowed to participate on an equal basis with the school's enrolled students.

Defines extracurricular and interscholastic activities.

**APPROVED** by Governor June 7, 1994

**EFFECTIVE** June 7, 1994

**H.B. 94-1148** Blind children - individual educational program - literacy modes. Requires that the process of developing an individual educational program for a blind child shall include an assessment of the benefits of teaching such child in various literacy modes. Requires that the individual educational program for such child include instruction in Braille if the assessment determines that instruction in Braille would be beneficial. Requires persons teaching Braille to be able to demonstrate competence in reading and writing Braille.

States that school districts will not be required to spend additional resources or hire additional personnel to carry out these provisions. Requires the department of education to develop guidelines for the districts regarding caseload management for instructors of blind children.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1174** Elementary students - enrollment in a public elementary school after a pupil becomes a nonresident - payment of tuition. Requires a school district to allow a pupil in

elementary school who becomes a nonresident of said school district subsequent to enrollment or between school years to remain enrolled in or to reenroll in the same elementary school if the pupil was included in the most recent October pupil enrollment count and has been continuously enrolled since the count, if the parent or guardian has made a written request, and if the principal approves the request upon finding that space is available. States that the school district of residence and the school district of attendance of a nonresident pupil attending an elementary school are not responsible for providing transportation at public expense for such pupil. States that the school district of residence and the parent or guardian of the pupil are not liable for any tuition for the school attendance of the pupil. Provides that a school district is not required to permit enrollment of a student if the student does not enroll by the date of the October pupil enrollment count.

To parallel the provisions of House Bill 94-1065, contains the following provisions: Requires the board of education of a school district to allow any child whose parent or guardian is a resident of Colorado but not of the school district to attend school in the district without any payment of tuition under certain conditions; and authorizes the board of education of any school district to permit a child whose parent or guardian is not a resident of Colorado to attend school in the district and authorizes the board of education to charge tuition for the school attendance of the child.

**APPROVED** by Governor May 4, 1994

**EFFECTIVE** May 4, 1994

**H.B. 94-1198** Special education - funding - requirements. For the 1994-95 budget year and budget years thereafter, entitles administrative units of schools to the same base amount of state appropriation for special education programs as it received during the previous year. Prorates any remaining appropriations to any unit providing special education services to more children than during the previous year based on each unit's share of the total number of additional children in the state being provided special education services. Requires the department of education, school districts, and administrative units to review the distribution of remaining appropriations every 2 years to insure an equitable distribution. Prevents an administrative unit from receiving funding unless it provides the department with required data regarding the unit's special education programs. Specifies that an administrative unit collect only the special education program data required by the federal government. Requires an administrative unit to use the appropriations for salaries and benefits of special education staff, equipment, in-service training, mileage expenses, or any other expense related to special education.

**APPROVED** by Governor May 19, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1207** Content standards and assessments - foreign language content standards. Adds foreign languages to the list of subjects for which the state standards and assessments development and implementation council shall develop model content standards as a second priority. Adds foreign languages to the list of subjects for which the state board of education and each school district shall adopt content standards as a second priority. Adds foreign languages to the list of subjects to be included in the Colorado student assessment program and to be assessed by school districts as a second priority.

**APPROVED** by Governor April 7, 1994

**EFFECTIVE** April 7, 1994

**H.B. 94-1213** Financial policies - budget format - statewide data communications and reporting system. Deletes any statutory reference to the budget handbook II published by the U.S. department of education. Specifies that the comparison of budget revisions and expenditures among school districts must be presented in a budget summary format. Deletes the requirement that the budget format reflect the amount estimated to be expended for the current fiscal year. Requires the state board of education to adopt and implement a statewide electronic data communications and reporting system. Specifies that the financial, student management, and human resources portion of the reporting system shall be available on a pilot basis by July 1, 1995, and fully implemented by July 1, 1996. Stipulates that the electronic data communications portion of the reporting system shall be available on a pilot basis by July 1, 1997, and fully implemented by July 1, 1998. Delineates guidelines for design of the reporting system. Allows a school district to adopt a supplemental budget after September 30 to include any moneys received from a source other than ad valorem taxes.

**APPROVED** by Governor April 7, 1994

**EFFECTIVE** April 7, 1994

**H.B. 94-1298** School district capital improvement zones. Authorizes the creation of capital improvement zones within the boundaries of existing school districts effective January 1, 1995, in order to contract bonded indebtedness for certain purposes. Provides criteria for the creation of such capital improvement zones, including: Rejection of contracting bonded indebtedness at the preceding school bond election in the district where such proposed capital improvement zone is located; limitation on the assessed valuation of the property in the proposed capital improvement zone; and minimum pupil enrollment and pupil residency requirements. Requires that the capital improvement zone be located in only one school district and not overlap any other capital improvement zone.

Specifies that the board of the school district may initiate the organization of a capital improvement zone by a resolution requesting the appointment of a capital improvement zone planning committee. Describes the composition and duties of the planning committee. Requires the planning committee to develop a plan of organization and describes what the plan must contain, including a description and estimated costs of the improvements and the amount of bonded indebtedness to be contracted for capital improvements within the capital improvement zone. Requires the board of education of the school district to conduct a hearing on the plan of organization. Allows the board to dismiss the plan of organization with or without cause and requires the board to dismiss the plan of organization under certain circumstances. Permits the board to suggest changes to the plan of organization.

Authorizes an election, at the discretion of the board, on the organization of the capital improvement zone and contracting bonded indebtedness. Requires a subsequent declaration of organization of the capital improvement zone upon the affirmative vote of those voting at the election.

Limits the bonded indebtedness of a capital improvement zone and makes such bonded indebtedness subject to existing limitations for school districts. Provides for

subsequent elections to contract bonded indebtedness up to a maximum amount. Makes the board of education for the school district in which the capital improvement zone is located the board of directors of the capital improvement zone.

Authorizes the board of the capital improvement zone to issue bonds that are exempt from Colorado income tax and prescribes the form and sale of such bonds. Requires such board to certify to the board of county commissioners the amount necessary to raise from the taxable property of the capital improvement zone to redeem bonds and the amount needed for such capital improvement zone's separate account within the bond redemption fund of the school district. Requires the board of county commissioners of the county in which the capital improvement zone is situated to levy a tax at a rate sufficient to pay bonds not yet due after taking into consideration any other revenue collected within the capital improvement zone. Authorizes collection and deposit of taxes by the county treasurer into a separate account within the bond redemption fund of the school district designated by the name of the capital improvement zone. Provides for registration of the bonds and public disclosure of the terms of sale.

Authorizes termination of a capital improvement zone upon completion of payment of interest upon and the redemption of all bonds issued.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**H.B. 94-1358** Teacher licensing - provisional educator license - delay of demonstration of professional competencies. Allows any applicant who completes an approved program of preparation for teachers on or after July 1, 1994, but prior to July 1, 1995, to receive a provisional teacher license without demonstrating professional competencies. Requires any such applicant to demonstrate professional competencies prior to renewing the provisional teacher license or receiving a professional teacher license.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**H.B. 94-1359** Education reform - charter schools - standards-based education - implementation - extension of deadlines. Increases from 30 days to 60 days the time in which the state board of education must review charter school applications.

Specifies that implementation of standards-based education does not require changes in class schedules and does not encourage block scheduling.

Postpones the recommendation of content standards by the state standards and assessments development and implementation council until April 1, 1995. Delays the state board of education's adoption of state model content standards and timelines until June 1, 1995. Extends the deadline for adoption of state assessments to June 1, 1996. Delays the implementation date for the statewide assessment program to September 1, 1996. Delays availability of the first report regarding the statewide assessment results until January 1, 1998.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

**H.B. 94-1364** School districts - plan of organization - bonded indebtedness. Allows a school district's plan of organization to provide for the authorization of new bonded indebtedness or the assumption of outstanding bonded indebtedness by any school district or districts in proportions and for purposes appropriate to equitably adjust and distribute the properties and cash assets of a school district whose boundaries may be affected by the creation or dissolution of another school district. Requires the election ballot on assuming existing bonded indebtedness to include a statement of the share of the outstanding bonded indebtedness of the old school district to be assumed by the new school district if only a portion of the territory of the old school district is included in the new school district. Prohibits any new bonded indebtedness from being authorized or existing bonded indebtedness from being assumed unless approved by a majority of the electors of the school district that is to issue or assume the bonded indebtedness at the same election at which they approve the plan of organization or at a subsequent election.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** May 22, 1994

**H.B. 94-1365** School finance and schools of choice - technical and conforming amendments. Amends HB 94-1001 concerning school finance to correct technical errors made in the bill.

Amends HB 94-1065 concerning schools of choice to make conforming amendments concerning the payment of tuition for children with disabilities that attend a school out of the child's district of residence under the schools of choice provisions.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** May 22, 1994

## EDUCATION - UNIVERSITIES AND COLLEGES

**S.B. 94-015** Auxiliary facilities - enterprise status. Postpones the expiration of the designation of certain auxiliary higher education facilities as enterprises pursuant to section 20 of article X of the state constitution (Amendment #1).

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** April 14, 1994

**S.B. 94-198** Graduate programs - Mesa state college - Western Colorado graduate center. Beginning July 1, 1995, instructs the trustees of the state colleges in Colorado to develop an implementation plan under which Mesa state college shall offer graduate courses. Authorizes Mesa state college to begin offering graduate courses in business on July 1, 1996, and to offer additional graduate programs in accordance with the implementation plan and to meet documented community need. Authorizes the trustees to receive and spend public or private moneys to develop graduate programs at Mesa state college. Specifies that the Colorado commission on higher education shall include the Mesa state college graduate programs in determining the funding allocation to the trustees.

Establishes the Western Colorado graduate center under the direction of the trustees of the state colleges in Colorado, to begin operation July 1, 1996. Specifies that the center shall ensure effective access to graduate programs for persons in western Colorado, but shall not provide original graduate programs. Instructs the trustees to appoint a 7-member advisory board to advise them in operating the center. Specifies the rights and duties of the center. Authorizes the trustees to receive and spend public or private moneys on behalf of the center. Specifies that the Colorado commission on higher education shall include the enrollment of students in graduate programs at the center in determining the funding allocation to the trustees.

**APPROVED** by Governor June 6, 1994

**EFFECTIVE** June 6, 1994

**S.B. 94-207** Capital construction - continuation status of certain projects - reports concerning cleanup of hazardous waste - appropriations. For the 1993-94 fiscal year, transfers \$32,540,100 from the general fund to the capital construction fund for capital projects at institutions of higher education.

Appropriates the following amounts out of the capital construction fund for the 1993-94 fiscal year:

(1) To the state board for community colleges and occupational education: \$2,000,000 for modification of certain buildings at the Lowry higher education center; \$118,250 for the design phase of an addition to the Westminster campus library and the renovation of the science laboratories, classrooms, and offices at the Front Range community college; \$120,000 for equipment and renovation of space used for the occupational therapy program at Morgan community college; \$605,000 for the design and construction of an addition to the library at Otero junior college; \$4,000,000 for the planning, design, and construction of a building for the advanced technology center at Pueblo community college;

\$3,672,205 for the replacement of classroom and office space and for relocation of the physical plant at Red Rocks community college; and \$200,000 for the addition of space at the San Luis Valley area vocational school;

(2) To the board of trustees of the Colorado school of mines, \$313,314 for the replacement of certain roofs at the Colorado school of mines, and \$1,810,000 for remediation plans and cleanup of hazardous waste located on the campus of the Colorado school of mines;

(3) To the board of trustees for the university of northern Colorado, \$323,000 for the equipment phase of the Gunter hall renovation at the university of northern Colorado;

(4) To the board of regents of the university of Colorado, \$3,750,600 for the construction and equipment of a new facility for the department of geological sciences and the earth sciences library at the university of Colorado at Boulder, and \$2,018,764 for the construction of a new physical plant services building at the university of Colorado at Colorado Springs;

(5) To the trustees of the state colleges in Colorado, \$339,000 for an optical fiber network at Western state college.

Appropriates \$4,618,000 out of the capital construction fund and \$21,000 out of cash funds to the board of directors of the Auraria higher education center for the renovation of the student union building at the Auraria higher education center for the 1993-94 fiscal year.

Appropriates \$4,870,000 out of the capital construction fund and \$2,000,000 out of cash funds to the board of agriculture for construction of the Morgan library addition at Colorado state university for the 1993-94 fiscal year.

Appropriates \$3,781,967 out of the capital construction fund and \$500,000 out of cash funds to the trustees of the state colleges in Colorado for planning and construction of an in-fill addition at Mesa state college for the 1993-94 fiscal year.

Provides that projects related to the in-fill addition at Mesa state college shall be treated as continuation projects for purposes of making funding recommendation in future years. States that such continuation projects need not be accorded a higher funding priority than health and life safety projects and controlled maintenance projects.

Directs the board of trustees of the school of mines to report to the capital development and the joint budget committees of the general assembly concerning the status of any negotiations or agreements which have been reached with the environmental protection agency regarding the cleanup of hazardous waste at the school of mines. Requires an initial report no later than July 1, 1994, and a final report no later than January 1, 1995.

**APPROVED** by Governor June 1, 1994

**EFFECTIVE** June 1, 1994

**S.B. 94-218** Minimum in-state enrollments - auxiliary facilities - enterprise status - statewide extended studies program - annual designation of policy areas receiving additional funding. Beginning with the fall term of 1995, provides that the minimum required percentage of in-state students in the freshman class at each state-supported institution of higher education is met if the average of the percentage of in-state students for the current term and the 2 previous terms equals at least the minimum of 55%. Beginning July 1, 1995, provides that the minimum required fraction of in-state students enrolled at each institution is met if the average of the fraction of in-state students for the current fiscal year and the two previous fiscal year equals at least the minimum fraction. Provides that the minimum fraction of students required to be enrolled at the Colorado school of mines also applies to western state college until July 1, 1997. Provides that the minimum requirements for the fraction of in-state students enrolled at any state-supported institution of higher education do not apply to any native American student attending Fort Lewis college.

Prohibits western state college from refusing to admit any Colorado resident qualified in accordance with applicable Colorado commission on higher education admission standards.

Prohibits the governing board of any institution of higher education from requiring any student to purchase health care insurance or health care services. Excludes any program in existence on January 1, 1994, from the prohibition.

For the purpose of the enterprise status of auxiliary facilities of institutions of higher education, includes additions, extensions, and replacements of auxiliary facilities within the definition of "auxiliary facility". Excludes fees paid to an auxiliary facility of an institution for internal services provided to the institution from the definition of "grant". Allows the designation of a group of auxiliary facilities with similar functions if the auxiliary facilities are located at one or more campuses or institutions under the jurisdiction of the governing body or board of directors.

Requires the regents of the university of Colorado on or before January 1, 1995, to establish policies and procedures to determine the ability of the university to pay principal, interest, and costs for revenue bonds issued to fund enterprise auxiliary facilities, to maintain necessary reserves for such bonds, to pay costs of operation of auxiliary facilities, and to satisfy any covenants and agreements connected with the issuances of the bonds.

Excludes designated enterprise auxiliary facilities from the requirement that approval by both houses of the general assembly and the governor be obtained prior to the issuance of bonds.

Allows revenues generated by a designated enterprise auxiliary facility associated with the university of Colorado to be pledged for the payment of bonds issued by another designated enterprise auxiliary facility that is not part of the same enterprise. Allows the regents of the university of Colorado to pledge only the net income derived or to be derived from a designated enterprise auxiliary facility and any other designated enterprise auxiliary facilities as security for repayment of moneys advanced and establishment and maintenance of reserves for the auxiliary facility.

Provides that the provisions of the "Postsecondary Enrollment Options Act" do not apply to any course offered by state-supported institutions of higher education under the statewide extended studies program.

Directs that the 5 policy areas that are to receive additional funding within the state system of higher education be designated prior to January 1 of every year.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**H.B. 94-1020** University of Colorado state treasury fund - fund investments - advisory committee. Creates a university of Colorado fund in the state treasury under the control and administration of the university board of regents including those moneys designated by the regents. Directs the regents to use the moneys in the fund to pay salaries, operating expenses, and other expenses authorized by statute. Allows the state treasurer to invest the moneys in the fund. Requires the regents to establish an advisory committee to make investment recommendations. Exempts the fund from the 15% investment management fee deducted by the state treasurer.

**APPROVED** by Governor April 6, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1050** Faculty sabbaticals - adoption of policies - contents. On or before October 1, 1994, requires governing boards of institutions of higher education to adopt policies regarding faculty sabbaticals. Prohibits governing boards from granting a sabbatical to any administrator, except for disciplinary or investigatory purposes. Limits the frequency of sabbaticals for any faculty member to once every 7 years. Requires any faculty member requesting a sabbatical to submit a sabbatical plan that includes specific goals and to submit a final sabbatical report upon completion of a sabbatical. Prohibits governing boards from granting a subsequent sabbatical to any faculty member who fails to achieve the goals specified in the sabbatical plan. Requires governing boards to approve all sabbaticals in advance, and specifies the criteria that governing boards must consider in granting sabbaticals. Specifies that final sabbatical reports are open records and cannot be included in personnel files. Requires that the sabbatical policies adopted by the governing boards ensure the accountability of all participants in the sabbatical process. Requires governing boards to distribute copies of the sabbatical policies to the education committees of the senate and house of representatives and to the Colorado commission on higher education and to produce all sabbatical records for inspection by the joint budget committee, the education committees of the senate and house of representatives, and the Colorado commission on higher education upon request.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** April 28, 1994

**H.B. 94-1054** Junior college districts and area vocational schools - state funding. Specifies that each junior college district and each area vocational school shall receive state funding in an amount established annually by the general assembly. Eliminates the formula which

provided for grants based on the level of general fund support for students at colleges in the state system of community and technical colleges.

**APPROVED** by Governor March 31, 1994

**EFFECTIVE** March 31, 1994

**H.B. 94-1110** Funding - policy areas. Identifies 5 policy areas in higher education that may receive additional state funding: Coordinating kindergarten through 12th grade education with postsecondary education; increasing productivity; ensuring a state adult population with skills and a base of knowledge that are central to the general welfare of the state; increasing enrollment; and increasing financial aid. Specifies that any funding received for the first policy area will be distributed through a grant program administered by the Colorado commission on higher education and any funding received for the other 4 policy areas will be distributed pursuant to formulas adopted by the commission. Specifies the parameters for all of the policy areas and the ways in which a governing board can demonstrate that it should receive funding in any of the 4 policy areas subject to formula distribution.

**APPROVED** by Governor March 11, 1994

**EFFECTIVE** March 11, 1994

**H.B. 94-1180** Student loan - division - enterprise status - procedures to establish. Continues the existing designation of the student loan division in the department of higher education as an enterprise until June 30, 1994, as long as the division meets the constitutional requirements. Authorizes the advisory committee on student loans to designate the student loan division as an enterprise. Requires the advisory committee on student loans to pass a resolution on or before June 30, 1994, that either designates the division as an enterprise or indicates that the advisory committee has determined not to make such designation. Provides that a designation of the student loan division as an enterprise by the advisory committee on student loans expires on June 30 of the following year unless the general assembly, acting by bill, postpones the expiration. Requires the advisory committee on student loans to submit the designation to the office of the state auditor for review within 20 days after adoption. Directs that the findings of the office of the state auditor be presented to the legislative audit committee of the general assembly at a public meeting. Directs the legislative audit committee, upon affirmative vote, to present to the general assembly the designation, comments, and any proposed legislation. Directs the advisory committee on student loans to revise its designation to conform with the action taken by the general assembly.

**APPROVED** by Governor March 18, 1994

**EFFECTIVE** March 18, 1994

**H.B. 94-1208** Student loan - program - limitation on amount guaranteed. Limits the percentage guaranteed on any student loan that is guaranteed by the Colorado student loan program from 100% to the percentage guaranteed under federal law.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1214** Colorado school of mines - board of trustees - terms. To further stagger the

terms served by members of the Colorado school of mines board of trustees, extends the terms for three of such members for one year. Requires the governor to select the members whose terms are extended.

**APPROVED** by Governor March 31, 1994

**EFFECTIVE** March 31, 1994

**H.B. 94-1306** State board for community colleges and occupational education - financial obligations - authority. Specifies that nothing in the statutory language concerning the bonding authority of institutions of higher education shall be construed to prohibit the state board for community colleges and occupational education from issuing revenue bonds or other revenue obligations payable from revenues attributable to all or any part of the auxiliary facilities within the community college and occupational education system.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** April 28, 1994

**H.B. 94-1355** Higher education planning committee - statewide enrollment plan - repeal of administrative responsibilities. Creates the higher education planning committee, consisting of 12 members of the general assembly, to develop a statewide enrollment plan for higher education. Instructs the committee to include the plan in a bill to be introduced in the next regular session of the general assembly. On or before September 1, 1994, requires the Colorado commission on higher education to submit recommendations for the statewide enrollment plan to the committee. Specifies additional areas for which the commission may recommend policies in conjunction with the statewide enrollment plan. Instructs the commission to prepare a list of programs, requirements, and state mandates that may be eliminated.

Exempts capital construction project plans for any local district college or area vocational school from review by the commission. Raises the threshold for commission review of any capital construction project to \$500,000.

Repeals the directive to the commission to implement financial incentives for program discontinuance. Repeals the requirement that the commission develop a plan to prepare faculty members for administrative positions. Repeals the use of college class rank as a criterion for admitting transfer students, leaving college grade point average as the only criterion.

Repeals the requirement that each governing board submit an annual report regarding discharge of duties. Prohibits any governing board from promulgating rules that restrict or prohibit on-campus recruiting by any governmental agency except the same time, place, or manner restrictions that apply to other entities. Changes reporting of endowments from a calendar year basis to a fiscal year basis.

Repeals the tuition assistance for veterans who served between 1964 and 1975. Repeals the teacher tuition scholarship loan program.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**H.B. 94-1362** Colorado commission on higher education - policy directives - mandatory student fees. Instructs the Colorado commission on higher education to establish policies concerning assessment of mandatory fees. Specifies that such policies shall include required 30-day notice to students and the minimum level of required student involvement in the assessment and use of fees. Specifies that fee decisions are final and incontestable 30 days after final action by the governing board or upon issuance of debt payable from the fee, whichever is earlier. Clarifies that fees pledged as security for indebtedness shall not be affected by any dispute resolution process. Allows the commission to adopt separate policies for fees used for academic and nonacademic purposes. Requires the administration of each institution of higher education and the student government at the institution to jointly establish a fee policy for the institution, subject to modification and approval by the governing board of the institution. Requires the state board for community colleges and occupational education to meet with the student advisory council to establish a fee policy for all institutions under the board's control.

**APPROVED** by Governor June 2, 1994

**EFFECTIVE** June 2, 1994

## ELECTIONS

**S.B. 94-122** Campaign reform act - permitted uses of campaign funds. Adds officeholders to those persons subject to the restrictions on the use of campaign funds. Permits the use of campaign funds to defray any reasonable and necessary expenses related to mailings and similar communications to constituents. Allows the use of unexpended campaign funds in a candidate's subsequent campaign for public office.

**APPROVED** by Governor April 15, 1994

**EFFECTIVE** April 15, 1994

**S.B. 94-171** Campaign reform act - school district elections - governmental expenditures - ballot issue information. Adds those persons seeking office in school district elections to the definition of "candidate" in the "Campaign Reform Act of 1974" and includes such an office within the definition of "public office".

Changes a provision of the Act that permits a policy-making member or employee of an agency or board of the state or a political subdivision to expend up to \$50 of public moneys in activities incidental to making himself or herself available to either respond to questions about any issue before the electorate or to express an opinion on any such issue as follows: Allows non-policy-making members and employees to respond to questions. Limits the provision to circumstances where the member or employee does not solicit the question. Removes the \$50 limitation on such responses.

Limits issues of official concern that may be addressed in factual summaries dispensed by an agency or board of the state or a political subdivision and paid for with public resources to issues that will appear on an election ballot in the jurisdiction.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-223** Initiative and referendum process - implementation of proposed constitutional amendment concerning information about statewide ballot issues. Implements the provisions of Senate Concurrent Resolution 94-5, subject to its approval by the voters at the November 1994, general election, as follows: Requires the director of research of the legislative council to publish the title and text of each initiated and referred statewide measure at least one time in every legal newspaper and in not less than eight-point standard type. Requires the director of research to prepare a ballot information booklet in accordance with the constitutional provisions and requires the legislative council to review a draft of the booklet at a public hearing at which interested persons are permitted to comment on the accuracy and fairness of the analysis of any measure addressed by the booklet. Requires the director of research to arrange for distribution of the booklet to every residence of one or more active registered electors in the state. Provides that distribution may be made by mailing the booklet to electors, by inserting the booklet in newspapers of general circulation in the state, or by such other methods as the director deems appropriate. Requires that distribution be performed by contract after a competitive bidding process.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** See note below

**NOTE:** This act shall take effect upon proclamation of the governor of the vote of the registered electors at the 1994 general election approving Senate Concurrent Resolution 94-5. This act shall not take effect if the registered electors at the 1994 general election disapprove Senate Concurrent Resolution 94-5.

**H.B. 94-1080** Initiative and referendum process - implementation of proposed constitutional amendment imposing a single-subject requirement. Establishes the legislative intent of the general assembly in referring to the voters at the 1994 general election Senate Concurrent Resolution 93-4, which would require that initiated measures and referred constitutional amendments be confined to a single subject, which shall be clearly expressed in the title. Declares that the intent of the general assembly is to prevent or inhibit the same inappropriate or misleading practices sought to be prevented or inhibited by the constitutional provision that requires bills to be confined to a single subject, specifically: (1) The practice of including in one measure unrelated subjects that could not pass on their individual merits (logrolling) and (2) the practice of concealing within a measure items not expected on the basis of the title or the major subject matter of the measure. Further declares the intent of the general assembly that judicial decisions construing the constitutional single-subject requirement for bills and the practices followed by the general assembly in implementing the constitutional single-subject requirement for bills should be followed by the initiative title setting board in implementing the single-subject requirement for initiated measures.

Provides that the act will take effect only upon voter approval of Senate Concurrent Resolution 93-4.

**APPROVED** by Governor March 15, 1994

**EFFECTIVE** See note below

**NOTE:** This act shall take effect upon proclamation of the governor of the vote of the registered electors at the 1994 general election approving Senate Concurrent Resolution 93-4. This act shall not take effect if the registered electors at the 1994 general election disapprove Senate Concurrent Resolution 93-4.

**H.B. 94-1091** Campaign reform act - reports of candidates and political committees - electronic filing and review - candidate disclosure statements - filing requirements. Requires the secretary of state to establish, no later than January 1, 1996, computer services necessary to maintain a telecommunications network that allows electronic access to persons who wish to review campaign reports. Requires the secretary of state to establish a telecommunications network by January 1, 1996, for the electronic filing of campaign reports by a candidate, campaign treasurer, or person prior to a general election and authorizes electronic filing to comply with the Act.

Exempts a candidate from filing a financial disclosure statement within 10 days after filing a candidate affidavit if the affidavit is filed within 90 after the filing of a financial disclosure statement.

**APPROVED** by Governor May 19, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1247** Campaign reform act - independent expenditures - disclaimer in advertisements - reporting. Defines an "independent expenditure" under the "Campaign Reform Act of 1974" as an expenditure by a person or campaign treasurer advocating the election or defeat of a candidate or seeking to influence the passage or defeat of any issue which is made without the cooperation or authorization of or consultation with the candidate, an agent of the candidate, or the political committee supporting the candidate or issue, or which is not made in concert with, or at the request or suggestion of those persons.

Requires any person making an independent expenditure of \$500 or more within 16 days of an election to file a report within 24 hours of making the expenditure and to provide a copy of the report to the affected candidate or political committee concurrent with that filing. Provides that an advertisement by any person or campaign treasurer making an independent expenditure shall disclose the identity of that person and specifies how that disclosure is made in television, radio, and written materials.

Requires the district attorney or attorney general to investigate and prosecute violations of the independent expenditure provisions and makes such a violation a misdemeanor.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1286** Election laws - revisions, corrections, and clarifications. Makes various revisions, corrections, and clarifications to the "Uniform Election Code of 1992" (the "Code") and other laws relating to elections.

Makes various amendments to conform to the provisions of section 20 of article X of the state constitution ("Amendment #1") that authorize elections in November of odd-numbered years.

Establishes that the procedure described in the Code for the adjudication of controversies arising from an alleged breach or neglect of duty is the exclusive method for adjudicating such controversies. Requires a petitioner alleging a breach or neglect of duty by an election official to deposit with the court witness fees in the amount set by general law for other judicial proceedings, rather than the \$2 per day currently set by the Code.

Requires that registration records include the mailing address of an elector whenever the mailing address is different from the residence address. Requires the county clerk and recorder, at least 40 days prior to the date of the precinct caucus, to furnish each major political party in the county with a list of the registered electors in the county who are affiliated with that political party. Requires the county clerk and recorder to furnish, within 135 days rather than within 120 days after any general election, to the county chairpersons of the two major political parties a list of electors whose names were removed from the registration book after any general election.

Amends the requirement that a person must have been affiliated with a political party for at least 12 months in order to be eligible for designation by assembly as a candidate for

nomination at a primary election, by statutorily authorizing the political party to provide otherwise in party rules.

Limits the number of nomination petitions that an elector may sign for candidates for the office of school director to the number of candidates for whom that elector may vote. Requires that nomination petitions for the office of special school district director be signed by 5 eligible electors, unless otherwise required by the district's enabling legislation. Allows the amendment of a nomination petition for a nonpartisan candidate for the office of special district director.

For any vacancy in an office to be filled at a general or congressional vacancy election, requires that the required publication notice appear in at least one newspaper of general circulation in the state or in the congressional district of the vacancy. In the case of a nonpartisan election, requires the designated election official of the political subdivision to certify the order of the ballot and ballot content more than 55 days before the election, rather than at least 50 days before the election.

Requires that the address and hours of any walk-in location and of the location for application and return of absentee ballots be included in the published notice of the election. Requires that such notice be posted at least 10 days prior to and until 2 days after the election and that the notice be retained by the designated election official for 2 years or until an election contest is decided, whichever is later.

Establishes that an election for which a notice was mailed may not be invalidated because an elector failed to receive the mailed information or notification of an election, if the designated election official acted in good faith in mailing the notice. For organizational elections, requires the notice to include the estimated operation and debt service mill levies, fiscal year spending for the first year, and the election date, which may not be less than 10 days after publication.

Except for initiative and recall elections, allows a governing body by resolution to cancel an election held solely for its ballot issues and ballot questions. Prohibits an election from being canceled in part. Requires the governing body within 30 days to pay all costs accrued and attributable to the canceled election and to provide notice by publication of the cancellation. For elections requiring ownership of property in a political subdivision, requires the designated election official to order, no later than 40 days prior to the election, the list of property owners from the county assessor. Authorizes an election official, with the approval of the secretary of state, to use variations from the statutorily prescribed ballot form.

Requires that a booklet with only the candidate's name and the text of a ballot issue or ballot question be provided to an elector when the information is not printed on the ballot card. Lengthens from 5 minutes to 10 minutes the time that a voter may remain in a voting booth when other voters are waiting to occupy voting booths.

For purposes of the existing provision that requires a reasonable sharing of the actual cost of a coordinated election among the county and the political subdivisions, provides that political subdivisions are not responsible for sharing any portion of the usual costs of maintaining the office of the county clerk and recorder. Requires the county clerk and

recorder, at least 120 days prior to a regular special district election or regular election of any other political subdivision, to prepare a map of the county showing the location of the polling places and precinct boundaries utilized in the last November election, and requires the county clerk and recorder to maintain a list of owners or contact persons who might grant permission to political subdivisions to use the locations identified on the map for polling places.

Establishes requirements for the filing of written comments concerning ballot issues pursuant to section 20 of article X of the state constitution. Requires that comments must be from persons eligible to vote in the political subdivision submitting the ballot issue. Requires that, in order to be summarized in the ballot issue notice, such comments address a specific ballot issue, include a signature and address, and be filed with the appropriate designated election official by the end of the business day on the Friday before the 30th day before the election.

Requires that a governing body that submits a referred measure be responsible for providing the required fiscal information in the ballot issue notice. For statewide measures referred by the general assembly, designates the executive committee of legislative council as responsible for providing the fiscal information.

Provides that the designated election official is responsible for summarizing the filed comments for a ballot issue notice for referred measures and for the opposing comments for initiated measures, and that the petition representatives for initiated measures are responsible for summarizing the comments in favor of the measure. At least 25 days before an election, requires the election official or a political subdivision conducting an election in November to prepare and transmit to the county clerk and recorder the full text of any required ballot issue notice. For November elections, requires that the county clerk and recorder place such notice in the proper order in the ballot issue notice packet containing a certification that the notice is complete, and that the county clerk and recorder mail the packet to the electors residing in the county. Requires the designated election official for political subdivisions to mail the notice to registered electors not residing in the county.

Requires that ballot issue notices relating to municipal ballot issues be prepared and distributed in a manner consistent with the laws governing the preparation and distribution of ballot issue notices for other political subdivisions. Requires that any contest arising out of a municipal ballot issue or municipal ballot question concerning the order on the ballot or the form or content of any ballot title shall be conducted in the same manner as contests involving ballot issues and ballot questions of other political subdivisions.

Repeals the July 1, 1994, sunset date for the "Mail Ballot Election Act". Establishes a procedure for challenging ballots cast by mail. Requires the election official to immediately deliver all challenges to the district attorney for investigation.

Requires that, in any election conducted by the county clerk and recorder, the application form for an absentee ballot shall include a space where the applicant may give his or her driver's license number, and an eligible elector who appears in the office of the county clerk and recorder to cast an early voters' ballot shall be requested to write on the signature card the elector's driver's license number or the number printed on the voter information card mailed to the elector. Requires that electors be informed that providing

such information is optional. Repeals such provisions effective January 1, 1999.

Prohibits members of the board of canvassers from having a direct interest in the election unless all of the eligible electors have a direct interest in the election. Requires that each member of the board of canvassers take an oath and receive a minimum fee of \$15 for each day the member is engaged in opening election returns and making abstracts of votes.

Within 10 days after an election, permits the opponents of a passed ballot issue or ballot question or the supporters of a losing ballot issue or ballot question to submit a request for a recount, at the requestor's expense, if such ballot issue or ballot question passed by more than the margin of votes required for a mandatory recount. Requires the canvassers to meet and issue a revised certified statement of results and a revised abstract of votes at the conclusion of the recount and to deliver them to the election official.

Requires that the results of a special district election be certified to the division of local government within 45 days after the election.

Permits an election involving a ballot issue or ballot question to be contested on the grounds that illegal votes were received or legal votes rejected or that an election judge or board of canvasser made a counting error or has committed misconduct that changed the election result.

Requires that a contest involving the order on the ballot or the form or content of any ballot title be summarily adjudicated prior to the election by the district court for the political subdivision within which the contest arises. Requires that the contestor file a bond with the court conditioned to pay all costs if necessary. Upon completion of the required procedural requirements involved in such contests, requires the court to immediately set the matter for trial and to adjudicate it within 10 days of the date of filing of the answer or the expiration of the time to answer. Following entry of the order by the court, requires that the ballot title be certified to the county clerk and recorder and be voted upon as so certified. Requires that any appeal from an order of the district court be taken directly to the supreme court, which shall decide the appeal as expeditiously as practicable.

For election contests for district attorneys and for county and nonpartisan officers, requires that a contestor against whom a judgment is entered is liable for all fees incurred in the contest, including reasonable costs and attorneys fees.

Requires that a candidate to succeed an officer sought to be recalled shall meet the qualifications of a party candidate or independent candidate as provided by law. In the case of a nonpartisan office or the office of county commissioners, establishes minimum signature requirements for petitions for candidates to succeed an officer sought to be recalled.

Clarifies that the prohibition against electioneering on the day of any election in the vicinity of a polling place applies to campaigning for or against a ballot issue or ballot question or soliciting signatures for a candidate petition, a recall petition, or an initiative petition.

Unless otherwise provided by statute, charter, ordinance, or resolution, requires that

a petition to submit a local ballot issue be signed by 8% of the registered electors of the local government.

Requires that school elections be conducted by the county clerk and recorder if the county clerk and recorder is conducting a coordinated election. Requires persons desiring to be a candidate for the office of school director to file a written notice of intention more than 66 days, rather than 60 days, before the election date.

Moves the date of the regular biennial school election for the Denver school district from the third Tuesday in May of each odd-numbered year to the first Tuesday after the first Monday in May, in the case of the 1995 election, and to the first Tuesday in November, in the case of elections held in 1997 and thereafter. Changes the boundaries of the school district's director districts.

Allows a governing body of a county or a city or town to provide that all eligible registered electors of the county, city, or town may vote on questions concerning the issuance of bonds payable solely from special assessments and concerning local improvement districts created by the governing body of the county, city, or town, or that only registered electors who are owners of property within or residents of the district will be eligible to vote.

At any election for the incorporation of a new municipality or for the establishment of a downtown development authority, allows the ballot to include any local government matters arising under section 20 of article X of the state constitution.

**APPROVED** by Governor May 19, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1294** Voter registration - implementation of federal "motor voter" law - appropriation. Implements the federal "National Voter Registration Act of 1993" (the federal "motor voter" law). Imposes on the secretary of state the duty to coordinate state responsibilities under the federal law. Designates offices of the following governmental agencies as voter registration agencies: All offices that provide public assistance (including assistance under the food stamp program, the "Colorado Medical Assistance Act", the special supplemental food program for women, infants, and children, and aid to families with dependent children); all offices that provide state-funded programs primarily engaged in providing services to persons with disabilities; all recruitment offices of the armed forces of the United States; and any other federal, state, local government, or nongovernment office that chooses to provide voter registration service or applications. Requires voter registration agencies to provide voter registration services, including distribution of mail voter registration application forms, assistance to applicants in completing agency voter registration application forms, and acceptance of completed agency voter registration application forms for transmittal to the appropriate county clerk and recorder.

Requires the secretary of state to maintain for at least 2 years and make available for inspection and copying all records concerning the implementation of programs conducted for the purpose of ensuring the accuracy and currency of the lists of eligible voters. Permits any person to file a written complaint with the secretary of state no later than 60 days after an election for certain violations of this act. After a determination that a violation has occurred,

requires the secretary of state to notify the attorney general, who may institute a civil action, and, if within 120 days after a complaint is filed, no such action is instituted, allows the complainant to have a private right of action based on the alleged violation.

Makes other changes to the election laws to provide consistency between state election laws and the federal law, including the following: Eliminates the requirement that each county clerk and recorder maintain at least one branch registration site in the county. Eliminates the ability of an elector to register or change voter registration information for other members of his or her family.

Changes the deadline for registration from 25 days before an election to 30 days before an election. Allows an elector to register to vote in an election after the close of the registration books for that election if the elector personally files an emergency registration affidavit with the county clerk and recorder declaring either that the elector was registered to vote in a different county prior to the close of the registration books and had no knowledge that he or she was required to register again upon a change of residence to a different county, or that the elector registered to vote within the prescribed period by federal postcard application or at a voter registration agency designated pursuant to the federal "National Voter Registration Act of 1993".

For the implementation of the act, appropriates \$278,363 and 2.0 FTE to the department of state and \$88,807 and 4.0 FTE to the department of human services.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** January 1, 1995

**H.B. 94-1341** Campaign reform act - reporting of gifts received by public officials - computer information system. Amends the public official financial disclosure law contained in the "Colorado Sunshine Act of 1972" to require incumbents in specified state and local elected offices and candidates elected to those offices to report annually on specified gifts, honoraria, and other benefits received in connection with their public service. Requires that such reports include: Money, including a loan, pledge, or advance of money, with a value of \$25 or more; a gift of any item of real or personal property, other than money, with a value greater than \$50; a loan of any item of real or personal property, other than money, if the value of the loan is \$50 or more; payment for a speech, appearance, or publication; tickets to sporting, recreational, educational, or cultural events with a value of \$50 or more for any single event, or a series of tickets to sporting events of a specific team scheduled during a season with a total value of \$100 or more, or a series of tickets to cultural events of a specific performing company or organization with a total value of \$100 or more; and payment of or reimbursement from private funds for travel and lodging for a convention or other meeting. Excludes from the reporting requirements: Contributions reported under the "Campaign Reform Act of 1974"; any item of perishable or nonpermanent value, including but not limited to meals, unless the item is required to be reported under the provision requiring the reporting of tickets; a nonpecuniary award publicly presented by an organization in recognition of public service; the payment of or reimbursement from public funds for travel and lodging for a convention or other meeting; and the payment of salary from employment unrelated to service in elective office.

Requires that every person who provides an incumbent or elected candidate with any item required to be reported by the incumbent or elected candidate must furnish the recipient with a written statement of the dollar value of the item at the time the item is provided.

Imposes a penalty on incumbents and elected candidates who fail to file complete and accurate reports and on persons who fail to provide the required statements of value for items provided to incumbents or elected candidates.

Eliminates the provisions of the "Campaign Reform Act of 1974" that require an incumbent or elected candidate to report annually any "contribution or contribution in kind from any other person, the purpose of which is to compensate him for his public services or to help him defray his expenses incident thereto but which are not covered by official compensation".

Requires the secretary of state to report to the general assembly by January 1, 1995, on the feasibility of a computer information system that would allow computer users to cross-reference and review, using the name of a candidate, incumbent, lobbyist, or any other person, any report filed pursuant to the Campaign Reform Act, the public official disclosure law, or the lobbyist regulation law.

**APPROVED** by Governor June 1, 1994

**EFFECTIVE** January 1, 1995

## FINANCIAL INSTITUTIONS

**S.B. 94-022** Securities - regulation - continuation under sunset law - appropriation. Sets the effective period at one year after the effective date for a registration statement filed on behalf of an investment company which is registered under the federal "Investment Company Act of 1940". Requires such investment companies to pay a registration renewal fee in an amount set by the securities commissioner.

Empowers the securities commissioner to issue consent orders and sets forth what types of provisions may be included in any such order. Empowers the securities commissioner to issue summary orders suspending or revoking a license, denying a license, or postponing or suspending the effectiveness of a registration statement or an exemption from securities registration based upon a finding of sufficient evidence, as presented in a petition, that certain enumerated acts have occurred. Specifies the process by which such an order may be issued. Outlines the remedies available to any person to whom an order has been issued. Specifies when such summary orders become final orders.

Allows the securities commissioner to apply to the district court for relief if a person to whom the securities commissioner has issued an order willfully violates or willfully refuses to comply with such order. States that if the securities commissioner establishes by a preponderance of the evidence that such violation or noncompliance was willful, the court may impose legal and equitable sanctions which are the equivalent of the sanctions imposed for contempt of court.

Creates the securities board within the department of regulatory agencies to review orders issued by the securities commissioner to persons to show cause why their licenses should not be suspended for conduct which violates the act. Sets forth the requirements for a hearing conducted by the securities board.

Changes the court which conducts any appellate review of an administrative decision by the securities division from the district court of the city and county of Denver to the court of appeals.

Defines confidential documents received by the securities division as criminal justice records for purposes of treatment of such records under the public records law. Specifies that the securities division shall be treated as a criminal justice agency for purposes of the public records law.

Allows the securities commissioner to respond to interpretive questions concerning the "Colorado Commodity Code".

Deletes the prohibition on districts to refinance bonds without prior written approval from the securities commissioner pursuant to the "Colorado Municipal Bond Supervision Act". Modifies the exemptions for bonds of districts where the initial total obligation is for up to \$2,000,000 to exclude such bonds from general oversight by the securities commission while not exempting such bonds from certain specific oversight provisions. Empowers the securities commissioner to issue rules, forms, and orders as necessary for such bonds.

Extends the automatic termination date of the function of regulating securities through the division of securities and the securities board to July 1, 2004, pursuant to the provisions of the sunset law.

Appropriates \$8,093 from the division of securities cash fund to the department of regulatory agencies for allocation to the division of securities, of which \$3,432 shall be appropriated to the department of law for the provision of legal services.

**APPROVED** by Governor June 1, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-036** Debt management - regulation - continuation under sunset law. Clarifies that the banking board has the power to promulgate rules for the execution of the provisions governing debt management. Requires any person claiming an exemption from the licensure requirement for debt management companies or debt adjusters to bear the burden of proving the exemption. Specifies that an application for licensure or license renewal is valid for all offices of a licensee, including branch offices. Requires that debtor funds collected by a licensee be held in trust for the debtor in the event of licensee bankruptcy. Changes the length of term of a written contract between a debtor and a licensee from a maximum of 24 months to a maximum of 60 months. Removes the 5-day notice requirement that the state bank commissioner must give to a licensee before examination and specifies that an examination may be conducted when necessary. Specifies that all moneys collected by the banking board or the state bank commissioner pursuant to the regulation of debt management be deposited in the division of banking cash fund.

Includes limited liability companies in the group of entities which may be licensed as debt management companies.

Makes any violation of the laws regulating debt management companies and debt adjusters a deceptive trade practice. Clarifies that the time period in which an action, whether criminal or civil, may be brought under the provisions regulating debt management companies and debt adjusters be pursuant to the applicable statutes of limitations.

Extends the automatic termination date of the licensing functions of the banking board and the state bank commissioner to July 1, 2000, subject to review pursuant to the provisions of the sunset law.

**APPROVED** by Governor April 20, 1994

**EFFECTIVE** April 20, 1994

**S.B. 94-120** Annuity contracts - sale. Authorizes banks and bank holding companies to sell fixed and variable annuity contracts. Prohibits banks, bank holding companies, and their employees from extending any service or varying the consideration for any service on the condition that the customer obtain a fixed or variable annuity contract from their institution. Requires bank and bank holding companies that sell fixed or variable annuities to receive a written acknowledgment from the purchaser that the annuity involves investment risk and is not insured by the FDIC. States that such acknowledgment be clear and conspicuous and be provided before or contemporaneously with the purchase of the annuity. Includes an

acknowledgment form which, if substantially complied with, meets these requirements.

**APPROVED** by Governor May 25, 1994

**PORTIONS EFFECTIVE** July 1, 1994  
January 1, 1995  
July 1, 1995

**H.B. 94-1007** Banking - division of banking - continuation under sunset law. Requires that at least one and not more than 2 members of the banking board be from any one congressional district, that no more than 4 members be from the same major political party, and that at all times one member of the banking board reside west of the continental divide. Eliminates the current distinction between banker members and nonbanker members.

Requires the state bank commissioner to publish annually a report containing such information as the commissioner deems necessary to summarize the operations of the division of banking during such year. Deletes the existing list of details to be covered in the report. Clarifies provisions of law governing the furnishing of public documents of the division of banking to persons upon request, the certification of such records, and the admissibility of such records in evidence.

Adds to the grounds on which the banking board may assess civil penalties a prohibition on engaging in or participating in any unsafe or unsound practice in connection with a bank, an industrial bank, or a trust company. Authorizes the banking board to establish by rule the qualifications and experience required of persons to be directors or officers of state banks. Relaxes directors' residency requirements, allowing a simple majority rather than 2/3rds of the board to be Colorado residents if the bank is organized solely to do business with other financial institutions, is owned primarily by the financial institutions with which it does business, and does not do business with the general public.

Authorizes the banking board to set by rule and regulation the capital requirements for out-of-state bank holding companies to acquire Colorado bank holding companies or Colorado banks. Amends provisions governing the involuntary liquidation of trust companies to reflect that action may be taken by the banking board if serious losses to "customers", rather than the prior "depositors", of the company have occurred or will occur.

Extends the automatic termination date of the division of banking in the department of regulatory agencies to July 1, 2004, pursuant to the provisions of the sunset law.

**APPROVED** by Governor March 15, 1994

**EFFECTIVE** March 15, 1994

**H.B. 94-1017** Financial services - continuation of division under sunset law - repeal of the small business development credit corporation - additional authorization for the commissioner - financial services board - immediate revocation of credit union charters - eligible public depositories. Requires the state commissioner of financial services to investigate whether incorporators and organizers of credit unions are qualified, including whether they have been convicted of criminal activity. Authorizes the commissioner to

determine if investigations by other agencies may be treated as substantially equivalent to those conducted by the commissioner. Authorizes the commissioner to establish reporting dates for certain reports required of credit unions and savings and loan associations.

States that a person directly affected by a final order of the commissioner or the financial services board may obtain judicial review by filing an action with the Colorado court of appeals.

Authorizes the commissioner to suspend or remove any director, officer, or employee of a credit union or savings and loan association if he or she believes such person received financial gain by violating the law, if such violation demonstrated dishonesty or the willful disregard for the soundness of the institution. States that a suspension or removal order may be issued if the commissioner finds that a person has entered a plea of guilty or nolo contendere, has been convicted of a felony, or was disciplined or fined for a violation of state law. Requires that suspension and removal orders include a description of the grounds therefor, and that copies of such orders be sent to the institution and its board of directors.

Clarifies that the maximum civil penalty that may be assessed against a credit union shall be based on the number of days it has violated a cease and desist order or an order of suspension or removal.

Clarifies when credit unions that issue interest refunds on loans shall pay such refunds.

Authorizes the financial services board, without notice or a hearing, to revoke the charter of a credit union and immediately appoint a liquidating agent, whenever it determines that an emergency exists. Requires that notice of the board's determination be posted on the premises of the affected credit union. States that the credit union may file an application to have the board's determination rescinded if its application is filed within 10 days of the emergency determination. Specifies that such an application shall not operate to stay the board's action. Requires the board to grant an application if it finds that its action was unauthorized, and upon so finding to restore the credit union to its board of directors.

Eliminates the requirement that a savings and loan association obtain the prior approval of the commissioner before servicing loans not held or originated by it.

Eliminates the requirements that the commissioner and the board have a seal of office. Removes the requirement that a savings and loan association must have its principal office in this state to be treated as an "eligible public depository", and provides instead that it must only have an office in this state. Eliminates the requirement that depositories file their report with the commissioner within 20 days after each valuation date, and requires instead that the report be filed on a date specified by the commissioner.

Extends the automatic termination date of the division of financial services to July 1, 2004, pursuant to the provisions of the sunset law. Repeals the small business development credit corporation provisions effective July 1, 1994, instead of July 1, 1995.

**APPROVED** by Governor March 15, 1994

**EFFECTIVE** July 1, 1994



## GENERAL ASSEMBLY

**S.B. 94-019** Capital development committee - continuation. Extends the statutory repeal of the capital development committee from July 1, 1994, to July 1, 2004. Postpones the effective date of a provision assigning certain budget functions of the capital development committee to the joint budget committee from 1994 to 2004.

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** April 14, 1994

**S.B. 94-025** Continuation of advisory bodies scheduled for repeal. Continues the following advisory bodies scheduled for repeal on July 1, 1994: The correctional education program advisory board; the breeders, owners, and stallion awards and supplemental purses advisory committee; and the motion picture and television advisory committee.

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** April 14, 1994

**S.B. 94-037** Energy council - reestablishment - payment of membership fees. Reestablishes the "southwest regional energy council" as the "energy council". Declares the energy council to be a joint governmental agency of Colorado and other states that cooperate through such organization. Authorizes the general assembly to pay membership fees therein from appropriations made to the legislative department.

**APPROVED** by Governor April 15, 1994

**EFFECTIVE** April 15, 1994

**H.B. 94-1032** Fiscal notes - creation or increase of fees - information required. Requires the general assembly to provide by rule, as recommended by the executive committee of legislative council, for legislative service agency review of the fiscal impact of legislative measures which include the creation or increase of any fee collected by a state agency. Provides for that review to include certain fiscal information on the effect of the measure on individuals, families, and businesses paying the fee.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1095** Convening date - procedure for designation. Allows the general assembly, acting by joint resolution, to designate the date of convening the next regular session of the general assembly. Authorizes the executive committee of the legislative council to designate the date of convening if the general assembly does not. Provides that any date so designated shall be on or after January 1 but prior to the second Wednesday of January of each year.

**APPROVED** by Governor April 7, 1994

**EFFECTIVE** April 7, 1994

**H.B. 94-1150** Service of process on the general assembly. Provides that service of process on the general assembly is accomplished by serving the chief clerk of the house of

representatives and the secretary of the senate. Requires the chief clerk and the secretary to notify the speaker, the president, and the minority leaders as soon as possible.

**APPROVED** by Governor March 9, 1994

**EFFECTIVE** March 9, 1994

### **GOVERNMENT - COUNTY**

**S.B. 94-016** Impact assistance grants - certification by counties for other political subdivisions - payment of share of grants to other political subdivisions - reduction of state's share of equalization program funding - appropriation. In any county in which the division of wildlife, the division of parks and outdoor recreation, or both own property, requires the board of county commissioners to annually certify the negative financial impact of division ownership of property within the county on the county and on other political subdivisions lying within the county. Directs the division of wildlife and the division of parks and outdoor recreation to include an estimate of the amount to be certified in their annual budget requests.

Requires each board of county commissioners receiving an impact assistance grant to pay each school district, special district, or other political subdivision that portion of the grant attributable to the amount certified by the board of county commissioners on behalf of such district or political subdivision. Directs county treasurers to deduct their administrative costs from the total amount of the grant received prior to making such payments. States that this provision shall not alter the constitutional requirement that payments in lieu of taxes on property acquired pursuant to the great outdoors Colorado program shall be made from the great outdoors Colorado trust fund.

Requires the division of wildlife and division of parks and outdoor recreation to report the amount certified for each school district to the state board of education. Requires each school district which receives an impact assistance grant to certify the amount thereof to the state board of education. Provides for the adjustment of school finance state aid payments based on the amount of any impact assistance grants certified by a school district.

Declares the intent of the general assembly that any plans for acquisition of property by the division of wildlife or the division of parks and outdoor recreation include provisions for the payment of impact assistance grants.

Appropriates \$28,102 out of the wildlife cash fund to the department of natural resources, for allocation to the division of wildlife, for implementation of this act. Reduces the appropriation from the general fund to the department of education for school finance funding by \$82,477 for implementation of this act.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** June 3, 1994

**S.B. 94-086** Waste services - notice to offer services or require fees - request and review of proposals. Requires any private person seeking to offer waste services to give a one-year public notice of the intent to offer the services if the board of county commissioners or the

governing body of any other local governmental entity is providing the services. Requires any board or governing body seeking to offer waste services to give a one-year public notice of the intent to offer the services if private persons are providing the services. Prohibits a governmental body from requiring any resident, which includes owners or tenants of an industrial or commercial establishment or multifamily residence, to use or pay for waste services provided by the government within a county or other local subdivision in preference to those provided by a private person.

Permits the governing body of a city to require a resident to use or pay for waste services if the governing body gives written notice to any private person providing waste services within the jurisdiction and a 6-month public notice of such requirement. Allows anyone, within 30 days after the notice, to request an opportunity to submit a proposal to provide residential waste services where the required use or payment is to occur. If anyone makes such a request, requires the governing body to conduct a request for proposal process. If the process results in the selection of the jurisdiction to provide residential waste services, provides for a selection review process.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** April 19, 1994

**H.B. 94-1077** Solid wastes disposal sites and facilities - department of health -transfer of rule-making authority to state board of health. Transfers certain authority to promulgate regulations pertaining to solid wastes disposal sites and facilities from the department of health to the state board of health. Provides that all rules issued by the department of health prior to the transfer of authority shall remain in full force and effect after the date of such transfer. Replaces the date by which financial assurance is required so that it is consistent with the date established by federal regulation.

**APPROVED** by Governor March 9, 1994

**EFFECTIVE** March 9, 1994

**H.B. 94-1137** Ordinance authority - restaurant license and inspection fees - sheriff's fees for bonds- mosquito control assessments - registration of door-to-door salespersons - alarm system regulation and licensing - animal control and licensing. Provides that food service establishments shall be charged only one license and inspection fee during an annual license period. Exempts the city and county of Denver from the provisions concerning fees and authorizes Denver to adopt its own food service establishment inspectional fee. Sets forth notice requirements in the event a licensee is in violation of food service establishment laws and establishes procedures for follow-up inspections. Establishes notice requirements and penalties for failure to comply after the first, second, and third follow-up inspections. Limits the number of penalties that may be assessed against a licensee to 3 per calendar year. Provides that the third civil penalty assessed against a licensee in a calendar year shall require the initiation of proceedings to suspend or revoke the license of the licensee. Prohibits the assessment of penalties against a licensee while an action to suspend or revoke the licensee's license is in progress. Subjects all determinations by the state department of health or a local board of health to judicial review. Defines "local board of health".

Increases from \$2.50 to \$10.00 the amount that sheriffs may charge for taking,

approving, and returning bond in any case.

Permits counties to assess a lien, for the cost of services provided, against the property of persons living in a mosquito control area who do not pay the share of costs attributable to them within a reasonable time after receiving a notice of such costs. Authorizes counties to determine what is a "reasonable time" by ordinance.

Empowers counties to require registration of persons who engage in door-to-door sales. Exempts nonprofit organizations and schools.

Authorizes counties to adopt ordinances or resolutions concerning the regulation and licensing of alarms systems which transmit information to law enforcement or public safety officials.

Permits counties to provide for the control and licensing of all pet animals and to define "vicious animal". Requires counties to comply with the recommendations of the state department of health concerning rabies vaccinations of pet animals. Defines "pet animal".

Authorizes personnel engaged in the enforcement of county ordinances to issue citations or summons and complaints enforcing county ordinances without regard to statutory peace officer certification requirements.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** May 22, 1994

**H.B. 94-1240** Planning districts - district planning commissions - zoning. Delays the formation of a planning district within an unincorporated area of a county that is not zoned until after public hearings are held on the appointment of a district planning commission and on the development of proposed district zoning regulations. Specifies the content of the petition to appoint a commission. Establishes petition processing procedures and authorizes rules and a fee concerning the petition process.

Requires the board of county commissioners to hold a hearing on the appointment of a commission. Establishes deadlines and procedures for the hearing process and protests against the appointment. Authorizes an increase in the number of commission members. Authorizes the board of county commissioners to determine the terms of commission members, not to exceed 3 years. Requires the county planning commission to review, not approve, the district zoning plans proposed by the commission.

Authorizes administration of the district zoning regulations either in the same manner as other land use regulations or as provided in the district zoning regulations. Adds that the district area may be decreased, as well as increased, by either a petition submitted by property owners or by a motion of the board of county commissioners. Modifies the dissolution hearing procedures.

Provides that the statutory changes are applicable to current members of district planning commissions.

**APPROVED** by Governor April 7, 1994

**EFFECTIVE** April 7, 1994

**H.B. 94-1311** County commissioners - increase in membership - elections. Requires that referred and initiated measures to increase the membership of a board of county commissioners designate not fewer than two of the four prescribed methods for electing a larger board. Provides that, if the increase in membership is approved, the method of election receiving the largest number of votes cast shall be utilized at the next general election. Eliminates special elections on referred and initiated measures to increase the membership of a board.

By March 1 of an election year in which the board of county commissioners is being increased to five members, with three members resident in districts and two members elected at large, requires the county commissioners to designate the at-large position from which a commissioner is to be elected initially to serve a two-year term.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** May 22, 1994

## GOVERNMENT - LOCAL

**S.B. 94-208** Colorado travel and tourism authority - creation - purposes - governance - powers and duties. Creates the Colorado travel and tourism authority as a body corporate and a political subdivision of the state. Declares the intent of the general assembly that the authority operate as an enterprise for purposes of section 20 of article X of the state constitution (Amendment #1). Sets forth procedures for the establishment of a board of directors and an executive committee for the authority. States the qualifications for board members, the grounds and procedures for removal, and the grounds for declaring a board member's seat vacant. Establishes the general powers and duties of the authority, the board of directors, and the executive committee.

Authorizes the authority to request a travel and tourism promotion fee in the form of a contribution from businesses affected by travel and tourism in Colorado for the activities of the authority. Sets the maximum rate and a maximum amount that may be requested by the authority in any year. Allows for collection of the contribution by an agent of the authority and for the negotiation of collection fees. Requires a referendum among affected businesses to approve any order of the authority to increase the rate or maximum amount of the contribution, to impose a refundable, required contribution, or to terminate collection of a required contribution. Exempts horse racetracks, dog racetracks, and hunting outfitters from the terms of any approved order issued by the authority. Exempts businesses operated by government agencies or by certain nonprofit organizations from any required contribution. Lists 5 business categories found by the general assembly to be affected by travel and tourism in Colorado.

Authorizes the travel and tourism authority to issue revenue bonds, with the approval of the general assembly and the governor, and sets forth provisions governing such bonds. States that bonds or notes issued by the authority shall not constitute or become a debt or indebtedness of the state or a personal liability of officers and employees of the authority. Empowers the authority to invest its funds in the same manner as the state treasurer. Requires the authority to report annually to the governor and the general assembly concerning its activities and operations. Provides that rights and licenses held by the Colorado tourism board shall be made available to the authority.

**APPROVED** by Governor June 2, 1994

**EFFECTIVE** June 2, 1994

**H.B. 94-1265** Pueblo depot activity development authority - creation. Enacts the "Pueblo Depot Activity Development Authority Act" which creates the Pueblo depot activity development authority. Establishes the area comprising the authority and a procedure for the inclusion or exclusion of property in the area comprising the authority.

Authorizes the authority to promote the reuse and development of the Pueblo depot activity for the benefit of the community and the state. Establishes a board of directors for the authority and sets out the powers and duties of the board. Requires the authority to provide a written program and financial report to the Pueblo county commissioners and the Pueblo city council.

Allows the authority to issue bonds and to pledge the property and revenue of the authority for payment of the bonds. Establishes a lien against any pledged property or revenues. Authorizes the authority to invest any revenue it receives. Allows certain fiduciaries to legally invest in the bonds issued by the authority. Exempts the bonds issued by the authority from state taxes and from the securities laws of the state.

Bars actions to question the validity or enjoin the performance of any act taken by the authority if the actions are commenced after 30 days following the act or effective date of the act upon which the action is based.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** April 28, 1994

**H.B. 94-1296** Standard sales and use tax reporting form. Requires the executive director of the department of revenue, together with the director of the office of regulatory reform in the department of regulatory agencies, to consult with each local government to develop a common local sales and use tax form. Requires that the common form allow all local sales and use taxes to be reported on the form, be accepted by all local governments, and be made available at all state and local sales and use tax reporting locations. Defines "local government".

Allows the standard sales and use tax form to be used by a person collecting the sales or use tax of any local government which collects its own tax.

Requires the executive director of the department of revenue and the director of the office of regulatory reform in the department of regulatory agencies to consult with local governments to develop a uniform local government sales and use tax license application form. Requires the application form to be made available at all state and local sales and use tax reporting locations.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

## GOVERNMENT - MUNICIPAL

**S.B. 94-011** Fire and police - pension plans - statewide defined benefit plan - withdrawal. Extends the minimum period of time between the filing date of an employer's resolution to withdraw from the statewide defined benefit plan and the effective date of such withdrawal from 6 to 9 months. Requires that an employer obtain member approval of a decision to withdraw no later than June 1 of the year preceding the effective date of the withdrawal.

If an actuary determines that the withdrawal will not have an adverse financial impact on the soundness of the new hire benefits account, directs the board of the fire and police pension association to transfer the withdrawing employer's share of the employer contribution reserve in the new hire benefits account and all member contributions to a short-term investment account. Requires that the actuarial reports be updated at least 60 days prior to the effective date of the withdrawal and that appropriate adjustments be made to the amount transferred to the short-term investment account. Permits the employer or employee members to terminate the withdrawal within 30 days of receipt of the updated actuarial report and establishes procedures for such termination. Upon termination of a withdrawal, requires that moneys transferred to the short-term investment account be returned to the new hire benefits account. Authorizes the board of the fire and police pension association to prescribe rules and regulations concerning withdrawal from the statewide defined benefit plan and the termination of such withdrawal.

Extends by 10 days the date by which an employer must make any required additional payments to the new hire benefits account. Permits vested members to elect that their contributions remain with the statewide defined benefit plan and, if the withdrawal becomes effective, to become inactive statewide benefit plan members.

Makes the act applicable to withdrawals initiated on or after July 1, 1994.

**APPROVED** by Governor March 31, 1994

**EFFECTIVE** March 31, 1994

**H.B. 94-1212** Fire and police - pension funds - increases in local mill levy, appropriation, or contribution to pay larger pensions - state contribution. Provides that the state contribution to a fire and police pension fund for which the mill levy, appropriation, or contribution has been increased in order to pay pensions in excess of \$300 per month shall be based upon the greater of: The mill levy, appropriation, or contribution required to pay pensions of \$300 per month or the mill levy, appropriation, or contribution prior to the increase. Repeals language which allowed a reduction of existing state contribution amounts.

**APPROVED** by Governor April 8, 1994

**EFFECTIVE** April 8, 1994

**H.B. 94-1241** Fire and police - pension plans - group health and life insurance plans - increased participation. Authorizes the following individuals, in addition to retired members, to participate in the group health and life insurance plans administered by the fire and police pension association, if they are receiving a benefit from another plan administered by the association: A retired volunteer fireman; a surviving spouse; a dependent child; and a

recipient of a benefit from the fire and police members' deferred compensation fund.

**APPROVED** by Governor April 7, 1994

**EFFECTIVE** April 7, 1994

**H.B. 94-1249** Fire and police - exempt alternative pension programs - investments. Allows investment of not more than 65% of policemen's and firemen's exempt alternative pension program assets in corporate stocks, other certain corporate securities, and investment trust shares. Permits the fiduciary of an exempt alternative program to allow a participant to exercise control of the investment of the participant's account subject to certain requirements.

Makes the fiduciary responsible for investment of program assets except to the extent control of investments by participants is allowed. Relieves the state and local governments from responsibility for financial losses of participants under exempt alternative programs but does not relieve local governments from responsibility as fiduciaries.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** April 28, 1994

## GOVERNMENT - SPECIAL DISTRICTS

**S.B. 94-053** Fire protection districts - exclusion and inclusion of property - procedures - election. Allows the board of directors of a fire protection district to adopt a resolution excluding from the district real property that is to be included in another fire protection district or county fire improvement district by following specified procedures. Requires an election of the electors of the area sought to be excluded if the area is to be included in a district with a higher mill levy.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-175** Moffat tunnel commission - distributions of moneys for projects. Authorizes the Moffat tunnel commission to make annual distributions of moneys from the Moffat tunnel fund to nonprofit organizations for projects that promote the public good, including projects concerning historical landmarks or objects, economic development, education, or the environment, and for projects that relate to the purposes of the Moffat tunnel improvement district or to the projects implemented by the commission.

Allows the commission to implement projects within the district that involve capital improvements and that promote history, transportation, and communication in the district.

Prescribes limitations on the use and distributions of moneys for these projects. Establishes conditions for making the distributions, including requirements concerning an application form, deadlines, an appearance before the commission to state the purpose of the proposed project, the location of the project and applicant, expenditure of moneys within the district, approval by the town, city, or county, and budget content.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** April 19, 1994

**S.B. 94-184** Regional service authorities - creation in one county. Changes the requirement that a regional service authority include the territory of at least 2 counties, allowing an authority to be comprised of a single county. Specifies membership criteria for the organizational commission of the proposed regional service authority if only a single county is within its boundaries.

**APPROVED** by Governor April 7, 1994

**EFFECTIVE** April 7, 1994

**H.B. 94-1040** Regional transportation district - mass transportation - construction - financing. Eliminates the statutory designation of specific corridors in the Denver metropolitan area in which a fixed guideway mass transit system (the system) is to be developed; the schedule for completing the system; the requirement for revised construction schedules to be submitted to the general assembly if sufficient funds are not available to meet construction deadlines; and the requirement that the regional transportation district (RTD) report to the general assembly by January 1, 1988, regarding the system. Permits the use of private funds as a financing source for the system.

Requires the state auditor to conduct an audit of the RTD and prepare a report upon the majority vote of the members of the legislative audit committee.

Eliminates RTD's authority to levy an additional sales tax after approval by the electorate to implement the system; to establish special tax districts or tax increment districts; to assess an employment privilege and a business privilege tax; and to impose a mass transit fee on commercial property.

Removes references to the former transit construction authority. Provides priority in county and district courts for civil actions related to the mass transportation system rather than solely to the fixed guideway system.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

**H.B. 94-1222** Scientific and cultural facilities districts - authority to levy sales and use taxes. For purposes of complying with section 20 of article X of the state constitution (Amendment #1) and upon proper submittal of an initiative petition to or adoption of a resolution by the board of directors of the Denver metropolitan scientific and cultural facilities district (SCFD), authorizes the board to submit to the registered electors of the district the question of: (1) Whether there shall be an extension of the levy and collection of the aggregate 0.1% sales and use taxes currently collected by the district but at modified rates for a period of time not to exceed 10 years; (2) if prior voter approval of the extension of such modified sales and use taxes was obtained, whether there shall be an extension of the levy and collection of the aggregate 0.1% modified sales and use taxes for a period of time not to exceed 10 years; and (3) whether there shall be an extension of the levy and collection of the aggregate 0.1% sales and use taxes currently collected by the district for a period of time not to exceed 10 years. Sets forth certain requirements for such petition or resolution. Provides procedures regarding the verification of signatures on a petition. Specifies that certain provisions of article 40 of title 1, Colorado Revised Statutes, shall apply to a petition while other provisions shall not apply. Specifies at what election the question shall be submitted to the registered electors of the district and the language of the ballot question and title to be submitted. Allows for the modification of the ballot question and title to the extent necessary to conform to the requirements of a final court decision regarding the legal requirements for ballot questions and titles.

Specifies that: (1) The authority of the SCFD to levy and collect sales and use taxes shall expire July 1, 1996, unless such authority is extended by the registered electors of the district; and (2) the extension of the authority of the district to levy and collect sales and use taxes granted by the registered electors of the district shall expire on a date specified in the question submitted to the registered electors unless such authority is subsequently extended by the registered electors of the district. Clarifies that sales and use taxes are levied and collected by the district.

Limits the period of time for which scientific and cultural facilities districts in counties not included in whole or in part in the SCFD can be initially formed. Provides for initiative petitions for the formation of such scientific and cultural facilities districts to be

filed with the board of county commissioners instead of with the district court. Imposes the additional requirement that petitions or resolutions include the date on which the authority of the proposed district to levy and collect sales taxes would expire.

For purposes of complying with Amendment #1 and upon proper submittal of an initiative petition or adoption of a resolution by the board of directors of a scientific and cultural facilities district other than the SCFD, provides for the submittal to the registered electors of the district the question of whether the district shall be authorized to continue the levy and collection of sales taxes for a period of time not to exceed 10 years. Sets forth certain requirements for such petition or resolution. Provides procedures regarding the verification of signatures on a petition.

**APPROVED** by Governor March 31, 1994

**EFFECTIVE** March 31, 1994

**H.B. 94-1223** Denver metropolitan scientific and cultural facilities district - sales tax imposed - administration of tax - use. With respect to the Denver metropolitan scientific and cultural facilities district: Modifies the definition of "scientific facility" to include nonprofit institutional organizations and local government agencies having as their primary purpose the advancement and preservation of cultural history and to exclude organizations engaged solely in physical preservation of historic buildings, structures, or sites. Defines "cultural history".

With respect to the Denver metropolitan scientific and cultural facilities district, on and after January 1, 1996: (1) Abolishes the authority of the board to distribute up to 1% of revenues from each of the sales taxes levied and collected by the district among all qualifying scientific and cultural facilities and increases the amount of revenues from 9% to 10% from each sales tax which the board can distribute to scientific and cultural facilities which qualify to receive each sales tax levied and collected; (2) Provides for the amount of the income criteria for scientific and cultural facilities to qualify to receive moneys from the .025% sales tax to be adjusted annually based upon changes in the consumer price index; (3) For scientific and cultural facilities to qualify to receive moneys from the .025% sales tax, requires that such facilities must have been in existence and operating for at least 2 years before receiving a distribution; (4) Prohibits any scientific and cultural facility eligible to receive moneys from the .025% sales tax from receiving more than 33% of all moneys distributed from said sales tax in any given year and requires the refund of any moneys in excess of the allowable amount; and (5) Prohibits any scientific and cultural facility which receives money from the .010% sales tax to use the money for the acquisition, physical preservation, or restoration of any historic building, structure, or site.

**APPROVED** by Governor March 31, 1994 **PORTIONS EFFECTIVE** March 31, 1994  
January 1, 1996

**H.B. 94-1233** Regional transportation district - eligibility to vote in elections. Revises the definition of "eligible elector" in regional transportation district elections to mean a registered elector who resides in the regional transportation district.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1268** Sanitation, water and sanitation, or water districts - limit of authority over premises outside districts. Prohibits sanitation, water and sanitation, and water districts from compelling owners of premises located outside the boundaries of any district to connect to the sewer, water and sewer, or water lines of such district.

**APPROVED** by Governor April 7, 1994

**EFFECTIVE** April 7, 1994

**H.B. 94-1344** Regional transportation district - Denver metropolitan scientific and cultural facilities district - Denver metropolitan major league baseball stadium district - inclusion of additional areas. Includes certain highway rights-of-way in Douglas county within the boundaries of the regional transportation district (RTD).

Authorizes elections, initiated either by a petition of eligible electors, a resolution of the governing body of a municipality, or the Douglas county commissioners, in the 1994, 1996, or 1998 general elections for the inclusion of certain areas of Douglas county or portions thereof within the boundaries of the RTD, the Denver metropolitan scientific and cultural facilities district (SCFD), and the Denver metropolitan major league baseball stadium district (MLBSD). Specifies that the areas include areas of Castle Rock and portions of Highlands Ranch and other unincorporated areas.

Requires elections in the 1994 general election for the inclusion within the boundaries of the RTD, SCFD, and MLBSD of areas that were annexed before May 25, 1994, by municipalities that were in the RTD at the time of annexation. Imposes election restrictions and requirements.

Provides for the automatic inclusion in the RTD of areas annexed on or after May 25, 1994 by a municipality that is in the RTD at the time of annexation and the automatic inclusion of these areas in the SCFD and MLBSD upon annexation if the municipality is in the SCFD and MLBSD at the time of annexation.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

## GOVERNMENT - STATE

**S.B. 94-006** Capital construction fund - transfer of moneys. Reduces from \$8,548,000 to \$4,036,000 the amount of moneys transferred pursuant to S.B. 93S-009 from the general fund to the capital construction fund for the youthful offender system.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** May 22, 1994

**S.B. 94-009** Controlled maintenance trust fund - transfers to fund - procedures for fixing the amount of transfers - factors affecting excess general fund revenues. Directs the capital development committee of the general assembly, in making a recommendation to the joint budget committee of the general assembly concerning the amount of a transfer to the controlled maintenance trust fund, to consider the extent to which excess general fund revenues are the result of expenditures of other general fund dollars. In January 1995, and each January thereafter, directs the capital development committee to consider the effect of statutory rebates and transfers in determining the amount of excess general fund revenues. Requires the general assembly to determine the amount to be transferred and to direct the state treasurer and controller to make such transfer to the controlled maintenance trust fund. Requires the general assembly to make its determination by bill for fiscal year 1993-94 and by joint resolution, introduced on the same time schedule as the state revenue estimate, for subsequent fiscal years.

Transfers \$32,650,000 out of the general fund to the controlled maintenance trust fund.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**S.B. 94-010** Revenue estimate. Changes the date for adoption by the general assembly of the resolution certifying the next fiscal year's revenue estimate from January 20 to February 1.

**APPROVED** by Governor January 18, 1994

**EFFECTIVE** January 18, 1994

**S.B. 94-038** Lottery headquarters - location. Permanently locates the state lottery division headquarters in Pueblo in facilities provided at the expense of the lottery division.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** April 19, 1994

**S.B. 94-050** Public employees' retirement association - benefit provisions - employment after retirement. Expands the applicability of the employment limitations that certain employed service and disability retirees are subject to in order to receive salaries without a reduction in public employment retirement association benefits to include positions not subject to membership in the association. Extends the option for voluntary suspension of retirement

benefits to all positions subject to membership in the association in which a retiree is employed in order for the retiree to make contributions to the association and receive a salary without reduction in benefits.

Makes the prohibition on the availability of survivor benefits applicable to retirees who return to work in any position unless the retiree voluntarily suspends the benefits and returns to membership in the association.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** June 3, 1994

**S.B. 94-085** Denver convention center - construction. Changes statutory provisions concerning the contract between the city and county of Denver and the state of Colorado regarding state assistance for the construction of the Denver convention center to show that the state's obligations under the contract have been completed. Repeals obsolete statutory provisions regarding the contract.

**APPROVED** by Governor March 31, 1994

**EFFECTIVE** March 31, 1994

**S.B. 94-102** State property - authorization for transfer or disposal of Wheat Ridge regional center main campus. Authorizes the executive director of the department of institutions to transfer property commonly known as the Wheat Ridge regional center main campus in Jefferson County from the department to the state board of land commissioners. Requires the board to assume the department's obligations under the existing lease between the department and the north Jeffco metropolitan recreation and park district. Authorizes the board to sell, exchange, lease, or otherwise dispose of the property. Directs the board to select the method of disposal which provides the maximum amount of return to the state. Specifies that the property may not be sold, exchanged, or leased for less than its appraised value. Provides that the standards of conduct governing state contracts are applicable to any such transaction.

Creates the Wheat Ridge regional center main campus special revenue account. Specifies that all proceeds from any transaction authorized by the act must be placed in such account. Specifies that the moneys in the account must be used to conduct an environmental audit of remaining lands and structures and to study the feasibility of rehabilitation or demolition of remaining properties. Specifies that any remaining moneys are to be deposited in the general fund. Authorizes the board to curtail or eliminate certain duties pertaining to remaining land and structures if proceeds from the sale of the property are insufficient to cover the cost of performing such duties.

Requires that, subsequent to the disposal of the property, the department and board submit a joint written report to the joint budget committee and the capital development committee detailing the results of the environmental audit and study of remaining land. In the event the report recommends state agency use of the remaining land, prohibits such use without prior review and comment by the committees.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** April 28, 1994

**S.B. 94-130** Public records - sexual harassment policy of the general assembly - exemption from open records law. Adds records of sexual harassment complaints and investigations maintained pursuant to any sexual harassment policy of the general assembly to those records that are exempt from the right of inspection under the open records law, subject to certain exceptions. Allows a person in interest to make such a record available for public inspection in order to support the contention that an allegation of sexual harassment is false.

**APPROVED** by Governor April 20, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-150** State employees - workweek and overtime - workers performing essential services. In administering overtime rules, requires the state personnel director to adopt in such rules a standard for including a holiday or authorized leave as hours worked in calculating overtime for employees required to perform essential services, such as highway workers, correctional officers, institutional employees, and state patrol personnel.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-157** Federal mandates - implementation in state programs - funding for programs - requests for information. Enacts the "Federal Mandates Act". Requires any state officer, official, or employee to implement federal statutes in good faith and to exercise a critical view toward the provisions of any federal regulation, guideline, or policy in order to identify those provisions that are inconsistent with Colorado policy or do not advance Colorado policy in a cost-effective manner. Requires state agencies to follow certain criteria in the development of state programs that respond to mandates in federal statutes.

Prohibits any state appropriations for a state program authorized or mandated by a federal statute unless the program is necessary to protect the public health, safety, and welfare, is necessary to implement the federal statute, provides a cost-effective implementation of the federal statute, or benefits the state by providing a cost-effective means to meet a higher public health, safety, and welfare standard established under state law. Requires each state agency making a budget request for a program authorized or mandated by federal statute to include citations to the federal constitutional provisions and the state constitutional or statutory provisions that authorize the state program. Directs the joint budget committee to review the budget request and make recommendations regarding any additional state authority required to implement the state program. Directs the general assembly to determine whether a state program is necessary and whether federal constitutional and state constitutional or statutory authority exist. Provides that state appropriations may not be based solely on requirements found in federal regulations, guidelines, or policies.

Directs the office of state planning and budgeting and the joint budget committee to require each state agency to provide information regarding any monetary savings for the state and any reduction in regulatory burden that could be or have been achieved through the development of state policies that meet the intent of a federal statute but do not necessarily follow all applicable federal regulations, guidelines, or policies. Requires state agencies to

provide advice to the office of state planning and budgeting and the joint budget committee regarding statutory changes that are necessary to provide the authority to implement state policies in such a way as to create additional savings or greater reductions in regulatory burdens. Requires the office of state planning and budgeting to include recommendations in its annual budget request to the joint budget committee based upon the information received from state agencies.

Excludes from the provisions of the act regarding appropriations and budgeting any portion of a program that is funded with non-tax or non-fee revenues that state authorities are required to administer in a trusteeship or custodial capacity and that are not subject to appropriation by the general assembly.

Directs the staff of the legislative council and the office of legislative legal services to prepare jointly one or more requests for information regarding federal mandates on or before August 30, 1994. Requires that initial responses to the requests for information be received by October 15, 1994. Authorizes the staff of the legislative council and the office of legislative legal services to prepare further requests for information to follow up on initial responses. Requires that the staff of the legislative council and the office of legislative legal services examine the information received and jointly present a report to the executive committee of the legislative council on or before December 1, 1994. Requires that the report include recommendations to the executive committee to enter into certain contracts or to initiate a request for proposals process and include estimates of the costs of the recommended federal mandates efforts.

**APPROVED** by Governor June 1, 1994

**EFFECTIVE** June 1, 1994

**S.B. 94-159** Rules of executive department agencies - reinterpretation of existing rules - incorporation of materials by reference - distribution of incorporated materials. Requires the staff of the office of legislative legal services to review any existing rule of an agency upon the request of any member of the general assembly if the rule has been reinterpreted in a manner that is substantially different than previous interpretations or if there has been a statutory change affecting the interpretation or legality of the rule.

Requires any state agency proposing to incorporate any material by reference in a rule to identify the material in the rule-making notice. Authorizes any state agency to incorporate a federal rule, code, or standard by reference in a state rule if the federal rule, code, or standard has been incorporated by reference in the federal register or the code of federal regulations. Limits the incorporation of materials produced by nationally recognized associations or organizations in state rules to materials of scientific or technical entities. Defines "nationally recognized scientific or technical association or organization".

States that a federal rule, code, or standard does not have the force of Colorado law unless the rule, code, or standard is adopted in a state rule and is set out in full or incorporated by reference in the state rule.

Requires any state agency proposing to incorporate any noncopyrighted material by reference in a state rule to allow public inspection of the material and to provide copies of

the material at cost beginning no later than the date of the notice of proposed rule-making. Requires any state agency proposing to incorporate any copyrighted material by reference in a state rule to provide information about the publisher and the citation to the material upon request.

If an agency within the department of public health and environment proposes to incorporate any material by reference in a rule and the rule was promulgated pursuant to one of the specified statutory articles regarding air quality control, water quality control, or hazardous waste, requires the agency to provide a sufficient number of copies of the material to the state publications depository and distribution center to allow distribution of the material to each state publications depository library. In any other situation in which a state agency proposes to incorporate material by reference in a rule, requires the agency to provide a single copy of the material to the state publications depository and distribution center.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-222** State employees - personnel system - reporting dates for salary survey and job evaluation studies - performance-based pay pilot program. Requires that the results of a job evaluation study performed by the state personnel director be submitted to the joint budget committee by December 1 of each year for the ensuing fiscal year instead of January 15. Requires that the final salary and fringe benefit recommendation of the state personnel director be submitted to the governor and the joint budget committee on December 1 of each year for the ensuing fiscal year instead of to the governor by January 7 and transmitted to the joint budget committee by January 15. Deletes obsolete language regarding certain salary survey recommendations.

Extends the provision that sunsets the method for determination of annual salary increases to July 1, 1997. Creates a voluntary performance-based pay pilot program consisting of team-based performance incentives and individual performance incentives. Requires the department of personnel to develop guidelines for implementing the program and to administer the program. Places ongoing reporting requirements on the department of personnel in relation to the pilot program until the sunset of the program on July 1, 1997.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1005** Local human services restructuring process - creation of local planning committees - local human services delivery plan. States that the departments of public health and environment, health care policy and financing, human services (joint departments), the restructuring steering committee, and the governing body of each county in the state cooperate and coordinate in conducting a local assessment in an effort to identify and restructure the local delivery of human services and prepare a local human services delivery plan. Requires the governing body of every county in the state to consult with other counties to identify and designate a local planning area in which the local human services assessment and planning process will be conducted on or before August 1, 1994. Creates a local planning committee for each designated local planning area. Requires the joint departments and the restructuring steering committee to create an orientation program for use by the local

planning committees on or before July 1, 1994, including an information packet concerning the current status of and issues to be addressed in the restructuring process, general guidelines for local assessment and planning, and a method of responding to questions concerning the information provided.

Authorizes each local planning committee to review the orientation program and conduct an assessment of the delivery of human services within the local planning area. Requires each local planning committee to prepare and deliver a written local human services delivery plan to the governing body of every county or portion of a county included in the local planning area on or before February 1, 1996. States that the plan must establish a single entry process, establish a local conflict resolution process, create an ongoing process for continuing to coordinate the delivery of human services, and identify whether there is a need for local restructuring, and, if a need exists, establish a plan for restructuring human services delivery systems within the local planning area.

Authorizes the governing body of every county or portion of a county included in the local planning area to review and respond to the local human services delivery plan. Allows the governing bodies to approve or modify that portion of the plan that pertains to services receiving county financial participation and to endorse or provide comments and recommendations to the legislative restructuring oversight committee regarding the remainder of the plan. Requires the local planning committee to incorporate the results of the review by the local governing bodies into the local human services delivery plan and to submit the plan to the joint departments, the restructuring steering committee, and the legislative restructuring oversight committee.

Requires the joint departments and the restructuring steering committee to review the local human services delivery plans, develop a statewide plan to support implementation of the local plans, and seek any waivers necessary for implementation of the approved statewide plan. Requires the legislative restructuring oversight committee to review the proposed statewide plan and refer the plan with recommendations to the general assembly for approval.

Requires the joint departments and the restructuring steering committee to provide quarterly reports concerning the progress of local planning committees to the legislative restructuring oversight committee and to submit a report to the committee concerning further restructuring of the delivery of human services following the completion of the local human services delivery plans.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

**H.B. 94-1009** Lottery proceeds - distributions to conservation trust fund - timing - interest. For the period from the fourth quarter of fiscal year 1993-94 through the fourth quarter of fiscal year 1997-98, changes the timing of distributions of lottery proceeds from the lottery fund to the conservation trust fund from a monthly to a quarterly basis. Directs the state treasurer to transfer net lottery proceeds allocable to the conservation trust fund to a conservation trust subaccount of the lottery fund on a monthly basis. Requires the treasurer to invest the moneys in the conservation trust subaccount and distribute any earnings or

interest along with the principal to the conservation trust fund.

**APPROVED** by Governor March 31, 1994

**EFFECTIVE** March 31, 1994

**H.B. 94-1018** Accounting records - closing the books. Requires the controller to make determinations of expenditures or encumbrances of state funds each year no later than 35 days after the close of the fiscal year rather than 45 days. Eliminates the exception for determinations established for the 1984-85 fiscal year. Requires state financial statements to be prepared in accordance with generally accepted accounting principles. Requires that the official books of the state be closed and that all adjusted revenue, expenditures, and expense accounts be closed into the state accounting system no later than 35 days after the end of the fiscal year.

Requires the state controller to prepare a plan for implementation of the requirement that the books be closed no later than 35 days after the end of the fiscal year and to submit the plan to the legislative audit committee by December 1, 1994.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** July 1, 1995

**H.B. 94-1041** General government computer center - division of telecommunications. In the department of administration, continues the division of general government computer center and its powers, duties, and functions and continues the functions, duties, services, and appeal process of the division of telecommunications.

**APPROVED** by Governor March 11, 1994

**EFFECTIVE** March 11, 1994

**H.B. 94-1109** Public entities - legal investment of public funds. Allows public entities to invest public funds in any registered money market fund with investments consisting of any fund having assets of \$1,000,000,000 or more or the highest current credit rating from a nationally recognized credit rating organization. Permits public entities to invest public funds in any United States dollar denominated corporate or bank debt issued by a corporation or bank organized and operated in the United States and having a net worth of more than \$250,000,000 as long as the notes evidencing the debt mature within 3 years and the notes meet certain nationally recognized credit rating levels. Prohibits a public entity from investing more than 30% of its investment portfolio in this type of security or, if the notes are issued by a single corporation or bank, more than 5% of its investment portfolio.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1113** State employees group benefits - recodification. Relocates the law governing state employee benefits from part 2 of article 8 of title 10 to part 6 of article 50 of title 24, with amendments, and renames the law the "State Employees Group Benefits Act". Adds and deletes several definitions under the Act and makes conforming amendments to the Act in connection with those additions and deletions. Provides that "group benefit plans" means

any group benefit coverages including, but not limited to, medical, dental, life, and disability benefits. Allows COBRA participants access to the grievance procedure. Requires the director to adopt procedures, rather than rules and regulations, to carry out the Act.

Provides what specifications the director must include in any group benefit plans and eliminates specifications for life insurance, short-term disability, and supplemental plans. Changes the notice requirement to carriers of the director's intent to contract and the specifications and related data the director must prepare for carriers interested in preparing proposals for group benefit plans. Eliminates contract bids and provides for solicitation and acceptance of proposals for group benefit plans. Deletes requirements for the duration of contracts.

Authorizes the director to establish a variety of group benefit plans and eliminates the required selection of certain carriers and plans. Excludes certain information from disclosure to employees in connection with contracts with carriers. Changes the information carriers are required to provide the director. Eliminates certain provisions pertaining to the terms of contracts, change of carriers, and notice of proposed rate changes.

Eliminates the requirement that health insurance plans contain a provision for optional continued or converted coverage for terminated employees. Changes the printing requirements for the warning statement included in employee medical benefit materials.

Requires that group benefit plans be self-funded programs, if feasible. Changes the provisions on employee eligibility by providing for employee enrollment according to the director's procedures and by eliminating specific provisions on coordinating benefits and enrollment procedures. Eliminates the requirement that a portion of the state contribution be used to purchase life insurance. Shifts certain duties of the division of accounts and control and the division of purchasing to the department of administration.

Changes the name of the group insurance reserve fund to the group benefit plans reserve fund. Adds payment to carriers of claims costs and other administrative fees and costs associated with group benefit plans as items of expenditure from such fund.

**APPROVED** by Governor May 19, 1994

**EFFECTIVE** May 19, 1994

**H.B. 94-1135** State employees - personnel system - references to "hearing officer". Changes the terminology from "hearing officer" to "administrative law judge" in the "State Personnel System Act".

**APPROVED** by Governor March 15, 1994

**EFFECTIVE** March 15, 1994

**H.B. 94-1159** Peace officers standards and training board - definitions - certification requirements of peace officers - enforcement - appropriation. Changes the definition of "peace officer" for purposes of the peace officers standards and training (P.O.S.T.) board certification requirements to mean "peace officer, level I". Establishes training and certification requirements for "reserve peace officers". Eliminates the requirement for the

position of secretary of the P.O.S.T. board.

Grants the P.O.S.T. board the authority to charge fees to support the certification functions of the board. Limits fees to \$20 per manual published in connection with P.O.S.T. board functions and \$50 per examination per applicant for administration of the standardized peace officer examination. Creates the P.O.S.T. board cash fund to which the fees collected shall be credited.

Requires that on or after January 1, 1995, persons serving as peace officers and reserve peace officers must be certified by the P.O.S.T. board and must have undergone a physical and psychological evaluation. Requires applicants to determine eligibility for certification prior to enrolling in any peace officer training program. Includes the successful completion of a high school education among the basic certification requirements for reserve peace officers.

Allows the P.O.S.T. board to direct the attorney general to seek injunctive relief to enforce the board's requirements.

Allows railroad employees defined as peace officers to have access to Colorado bureau of investigation fugitive and stolen property records.

Appropriates \$8,924 and 0.2 FTE, out of moneys in the P.O.S.T. board cash fund, to the department of law for allocation to the P.O.S.T. board for the implementation of the act.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**H.B. 94-1164** Colorado state fish - greenback cutthroat trout. Declares the greenback cutthroat trout to be the state fish.

**APPROVED** by Governor March 15, 1994

**EFFECTIVE** March 15, 1994

**H.B. 94-1191** Economic development - work force training plan - economic development strategic plan - economic development programs - performance criteria - participation by local governments in federal programs - transportation planning - appropriation. Creates the Colorado work force training coordinating council in the office of the governor composed of representatives from state departments and agencies that administer work force training programs and certain other gubernatorial appointees. Requires the council to develop a work force training plan and specifies the contents of the plan. Directs the council to present the work force training plan to the governor and the general assembly no later than July 1, 1995, and to submit a progress report on the development of the plan to the economic development advisory board no later than April 1, 1995.

States that no more than 5 of the appointed members of the economic development advisory board shall be from the same political party and that staff assistance for the board be provided by the offices of state planning and budgeting and the legislative council.

Requires the Colorado economic development advisory board to develop an economic development strategic plan and specifies the minimum required contents of the strategic plan. Directs the economic development advisory board to consult with private and public individuals and organizations with knowledge of and interest in economic development and planning in the development of the strategic plan. Requires that the strategic plan recognize and accommodate needs and opportunities of the various regions of Colorado. Directs staff for economic development programs to cooperate with the economic development advisory board in the development of the strategic plan. Requires that the economic development strategic plan be submitted to the governor and the general assembly no later than July 1, 1995. Directs the economic development advisory board to recommend common, measurable, result-oriented performance criteria for economic development programs as part of the strategic plan. Sets forth factors to be considered in developing and evaluating the performance criteria.

Authorizes local governments to participate in federal programs to develop new business, expand existing business, or promote economic development within the local government's jurisdiction. Allows local governments to enter into contracts for the administration of such programs and to expend moneys for participation in such programs.

Repeals language relating to the development of a state economic development strategic plan by the governor's office. Repeals language relating to the duty of the Colorado office of business development to implement and update a targeted industries study. Directs the transportation commission to review any transportation projects related to economic development that are included in the economic development strategic plan and consider them for inclusion in the commission's statewide transportation plan.

Appropriates \$50,000 out of the Colorado economic development fund to the office of the governor for allocation to the Colorado work force training coordinating council for development of the work force training plan. Appropriates \$50,000 out of the Colorado economic development fund to the office of the governor for allocation to the Colorado economic development advisory board for development of the economic development strategic plan.

**APPROVED** by Governor June 1, 1994

**EFFECTIVE** June 1, 1994

**H.B. 94-1194** Victims and witnesses assistance and law enforcement funds - allocation - restrictions on uses - reports. Increases the allocation of moneys in local victims and witnesses assistance and law enforcement (VALE) funds for agencies and organizations providing victims' services from at least 50% to at least 80% of the moneys in such funds after deductions for administrative costs. Establishes restrictions on the use of local VALE funds for the purchase of equipment and training programs. Prohibits state agencies from applying for or receiving local VALE funds, with the exception of the court administrator for each judicial district. Requires agencies requesting local VALE funds to acknowledge an understanding of the rights afforded to crime victims. Requires the state judicial department to report annually to the joint budget committee of the general assembly on all grants of moneys received from the fund.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** May 22, 1994

**H.B. 94-1234** Public records - applicants for executive positions - confidentiality requirements. Prohibits the public inspection and copying of records submitted by an applicant or candidate for an executive position who is not a finalist if such person provides a written request that the records be kept confidential when submitting the records. Allows public inspection and copying of a finalist's records except letters of reference or medical, psychological, or sociological data concerning the finalist. Provides that prohibitions against public inspection and copying apply to selection processes for all executive positions, including selection processes conducted or assisted by private persons or firms.

Defines "executive position" to mean any nonelective employment position with a governmental entity except positions in the state personnel system, a classified system, or a civil service system. Defines "finalist" to mean an applicant for an executive position chosen for an interview or an applicant still in consideration for a position 21 days before an appointment is made, whichever occurs first. States that the term "finalist" shall include all applicants if there are 6 or fewer applicants for an executive position.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** April 28, 1994

**H.B. 94-1248** Public libraries - establishment - participation - elections - implementation of Amendment #1. Requires the question of any tax levy not previously established by resolution or ordinance nor previously approved by the electors for the establishment of or participation in a municipal, county, or joint library or library district to be submitted to a vote of the electors residing in the proposed library service area in accordance with section 20 of article X of the state constitution (Amendment #1).

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1272** Capital construction - requirement that new projects be part of department program plans. Declares that it is the policy of the state not to acquire sites or authorize or initiate any program or activity requiring capital construction for a state department unless the program or activity is a part of the facilities program plan for the department.

Authorizes executive directors to prescribe standards for space utilization in department facilities except standards for office space shall continue to be prescribed by the department of administration. Requires executive directors to review facilities master planning and facilities program planning for capital construction projects within their department. Prohibits a department from beginning any capital construction unless the project is in accordance with an approved facilities master plan, facilities program plan, and physical plan. Directs executive directors to ensure conformity of department operational master plans, facilities master plans, facilities program plans, and physical plans. Subjects plans for any capital construction project to the approval of the executive director and declares the policy of the general assembly to appropriate funds only for projects which have received such approval. Authorizes the executive director to exempt projects which will

require less than \$250,000 of state moneys from the master planning and program planning requirements.

Requires the executive director of each state department to request that subordinate directors annually submit a 5-year projection of capital development projects and to determine whether a proposed project is consistent with department master planning and standards of space utilization. Directs the executive director for each department to annually establish a 5-year capital improvements plan and to annually submit recommended funding priorities for capital construction projects to the office of state planning and budgeting, the governor, and the general assembly. Makes acquisitions or utilizations of real property which will require the expenditure of state or federal funds subject to the approval of the executive director, regardless of the nature of the transaction. Prior to approving a capital development project which will be operated and maintained solely from fees, gifts, bequests, grants, or revolving funds, requires executive directors to request and consider the recommendations of the capital development committee and the joint budget committee concerning the project.

Deletes the duties of the department of administration with respect to the development of methods of control to ensure conformity of departmental master planning and program planning and its duties with respect to the provision of technical assistance to and evaluations for departments during the initial planning stages of a capital construction project.

**APPROVED** by Governor April 6, 1994

**EFFECTIVE** April 6, 1994

**H.B. 94-1284** Sovereign immunity - waiver - applicability to persons incarcerated. Reinstates sovereign immunity for claims for injury resulting from the operation of a correctional facility or jail or a dangerous condition of a jail, which claims are made by claimants who have been convicted of a crime and incarcerated pursuant to such conviction. Requires a showing of injury due to negligence in order for the waiver of sovereign immunity to apply to claimants who are incarcerated but not yet convicted of the crime.

Applies to causes of action arising on or after July 1, 1994.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1304** Administrative law judges - standards of conduct. Subjects administrative law judges to the standards of conduct set forth in the code of judicial conduct for administrative law judges of the state central panels and requires the performance review plan for each administrative law judge to include the code. Directs any complaint alleging a violation of the code by an administrative law judge to the executive director of the department of administration. Requires the executive director to investigate the complaint and determine whether the administrative law judge violated any canon of the code. Subjects an administrative law judge to the disciplinary procedures set forth in rules adopted by the state personnel board.

Creates a process whereby any party who is dissatisfied with the decision of the executive director may lodge an appeal with the board of ethics for the executive branch of state government in the office of the governor. Mandates that a decision by the executive director or the board of ethics that an administrative law judge acted in violation of the code of judicial conduct for administrative law judges be made a part of that administrative law judge's personnel file.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1309** Financial statements - legislative declaration - annual financial report for ascertaining compliance with Amendment #1. Specifies that state financial statements shall be prepared, insofar as possible, in conformity with generally accepted accounting principles. Requires the controller to prepare an annual financial report of the state for purposes of ascertaining compliance with section 20 of article X of the state constitution (Amendment #1). Requires such annual financial report to be prepared in accordance with generally accepted accounting principles unless an irreconcilable conflict exists between generally accepted accounting principles and Amendment #1 in which case the constitutional provision shall control. Requires the state auditor to audit such financial report.

**APPROVED** by Governor May 4, 1994

**EFFECTIVE** May 4, 1994

**H.B. 94-1345** Public employees' retirement association - Colorado state fair authority - temporary employees - alternative retirement plan. Excludes temporary employees of the Colorado state fair authority who are employed 30 days or less in a calendar year from eligibility for membership in the public employees' retirement association. Requires the board of commissioners of the authority to establish a retirement plan for those temporary employees and requires participation in such plan by those temporary employees. Describes the requirements for designating an organization or organizations from which contracts for such plan shall be purchased.

Specifies, subject to certain exceptions, that no benefits accrued or payable under such a retirement plan shall be assignable or subject to creditors. Adds payments from such a plan to the definition of earnings for purposes of writs of garnishment. Makes such payments subject to the provisions on assignments of payments for payment of support or maintenance and to the definition of wages for purposes of child support enforcement procedures.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1351** Joint legislative sunrise and sunset review committee - advisory committees and agencies - extension of life term - sunrise proposals - requirements. Increases from 6 years to 10 years the maximum life term that may be given to an advisory committee, agency, or board before it must be reviewed by the joint legislative sunrise and sunset review committee. States that a newly created division, board, agency, or function shall have a life not to exceed 10 years instead of 6 years. Provides that the general assembly, acting by bill, may extend the life of a division, board, agency, or function by no more than 15 years instead

of 10 years. Reschedules the review dates for certain agency functions from July 1, 1995, to July 1, 1996.

Provides that the joint legislative sunrise and sunset review committee shall review a proposal to regulate a professional or occupational group only if the requesting party submits a statement of support by December 15 of any year, in addition to the other required information. Requires that the statement of support be signed by at least 10 members of the profession or occupation for which regulation is being sought or at least 10 individuals who are not members of such profession or occupation.

States that whenever the committee approves of the regulation of a profession or occupation, the supporters of such regulation may submit appropriate legislation during each of the 2 regular sessions of the general assembly that immediately succeed the date of such approval without again having to submit such proposal to the committee for review.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

**H.B. 94-1360** Youth crime prevention and intervention program - appropriation. Creates the youth crime prevention and intervention program to award grants to community-based programs that provide intervention services for youths to reduce incidents of youth crime. Specifies that the program is administered and monitored by the department of local affairs. Establishes the youth crime prevention and intervention program board, and specifies the membership of the board. Instructs the board to: Review program applications; establish application guidelines and timelines; select the entities, subject to the governor's approval, that will receive grants through the program; develop criteria for awarding grants; and develop criteria for measuring the effectiveness of programs that receive grants. Encourages the Colorado youth conservation and service corps council to apply for funding through the program. Requires any entity that receives a grant through the program to submit a semiannual report to the department of local affairs regarding the effectiveness of the funded program. Instructs the department of local affairs to submit an annual report to the general assembly regarding the effectiveness of the youth crime prevention and intervention program.

Appropriates \$3,600,000 to the department of local affairs for allocation to the youth crime prevention and intervention program for the implementation of the act.

**APPROVED** by Governor May 23, 1994

**EFFECTIVE** May 23, 1994

**H.B. 94-1366** Fiscal policies - automatic allocation of certain moneys currently subject to annual appropriation. Provides for the reestablishment of the previous procedure of automatic allocation of moneys which are currently subject to annual appropriation for the following purposes: (1) State funding of death and disability benefits for the fire and police pension association; (2) Distribution of a portion of state cigarette tax to municipalities and counties; and (3) Grants for property tax assistance and heat and fuel assistance for the elderly and disabled. Specifies that such moneys be included for informational purposes in the general appropriation bill or in supplemental appropriation bills.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**H.B. 94-1367** Transfers between appropriations - overexpenditures of appropriations. Extends the expiration date to September 1, 1999, for existing statutory provisions which authorize the following limited transfers between appropriations: (1) Transfers between departments of government to implement appropriations conditioned on the distribution or transfer of the appropriated funds; (2) Transfers of unlimited amounts of general fund appropriations between the departments of human services and health care policy and financing when required by changes from the appropriated levels in the amount of medicaid cash funds earned through programs or services provided or administered by the department of health care policy and financing; and (3) Transfers of moneys between appropriations made to a principal department for like purposes by the head of such department and similar intradepartmental transfers within the judicial department and the office of the governor.

Commencing with the 1993-94 general appropriation act, authorizes the transfer of cash-spending authority within an item of appropriation so long as the total cash fund spending authority within the item of appropriation is not increased. Establishes a September 1, 1999, expiration date for this transfer authority.

Increases from one million to 2 million dollars the total amount of moneys transferred between appropriations made to principal departments and to the office of the governor. Excludes transfers to utilities items from this limit.

Extends the expiration date to September 1, 1999, for the existing statutory provision regarding the responsibilities of the office of state planning and budgeting to review for the governor all such transfers of appropriations. Extends the expiration date to July 1, 1999, for existing statutory provisions which allow state agencies to overexpend items of appropriation under limited circumstances for the purposes of closing the state's books for a fiscal year. Limits the transfer and overexpenditure authority to fiscal years 1993-94 through 1998-99.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

## HEALTH

**S.B. 94-030** Hazardous waste disposal sites - performance audits. States that designated hazardous waste disposal sites shall be subject to a performance audit at least once every 5 years instead of at least once every 3 years. Eliminates the requirement that the department of health conduct such audits with the advice and counsel of the state auditor's office. States that the purpose of such performance audits is to review the systems that provide assurance a site is protecting human health and the environment.

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** April 14, 1994

**S.B. 94-045** Public health-related provisions - repeal or extension of termination dates. Repeals the automatic termination date for: A provision that allows non-rural nursing care facilities to use licensed practical nurses, rather than registered nurses, to provide nursing care under limited circumstances; the requirement that students provide evidence of immunization prior to attendance at post-secondary educational institutions; the exemption of certain research personnel from the human immunodeficiency virus (HIV) reporting requirements; and the provision of alcohol and substance abuse treatment services to pregnant women under the medical assistance program. Extends the automatic termination date for continuing education requirements for water and wastewater treatment plant operators to July 1, 1999.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** April 19, 1994

**S.B. 94-094** Water quality control - threat of endangerment of state waters - restraining orders and injunctions - jurisdiction. Allows the division of administration of the department of health to seek a temporary restraining order or preliminary or permanent injunction to prevent a threat of a violation of the water quality laws or regulations which poses an imminent and substantial danger to the beneficial uses of state waters. Provides the violator an opportunity for a hearing before final action by the division. Clarifies that suits shall be brought in the district or county in which the violation or threatened violation occurs.

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** April 14, 1994

**S.B. 94-099** Denver health and hospital authority - creation. Creates the Denver health and hospital authority, a body corporate and a political subdivision of the state, for the purpose of: Providing health care for all citizens of Denver; providing emergency medical services to all citizens of Denver and the Rocky Mountain region; performing public health functions; educating the public on health matters; and performing research. Provides for governance of the authority by a 9-member board. Specifies that actions of the board shall require the affirmative vote of the majority of the total membership of the board. Directs the board to annually elect a chairperson from among its membership.

Authorizes the transfer of assets and liabilities of the Denver department of health and hospitals from the city and county of Denver to the authority. Specifies that such transfer

shall be conditioned upon the city and the authority entering into a binding agreement for such transfer. Specifies elements to be included in such agreement. Establishes the powers and duties of the authority. Clarifies the relationship between the city and the authority. Specifies that the authority is a public body subject to open meetings and open records laws and has the power, subject to certain limits, to issue bonds and notes. Authorizes city employees to remain within the city personnel system or become employees of the authority. Authorizes the authority to establish and administer its own personnel program. Retains authority of the general assembly to make laws governing the authority.

Authorizes any teaching hospital owned by a county or a city and county to provide professional services to outpatient facilities which are located outside of the geographical confines of the hospital. Permits, rather than requires, charges for such services to be collected by the hospital and placed in a medical practice fund.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** April 19, 1994

**S.B. 94-103** Emergency medical-trauma services - task force to study statewide services. Recognizes that a report on the establishment and development of a statewide trauma system has been submitted to the general assembly, but expresses the need for the further development of a statewide system. Requires a five-member task force to provide further advice on the establishment, implementation, and financing of the system to the emergency medical services division of the department of public health and environment. States that the task force members will serve without compensation. Directs the speaker of the house of representatives and the president of the senate to appoint the members of the task force, and requires the appointments to include at least one member of the house of representatives and one member of the senate.

Repeals the task force, effective July 1, 1995.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-109** Medical assistance act - nursing facility standards - remedies for violation - nursing home penalty cash fund - created - repeal. Authorizes the department of health to adopt rules and regulations creating remedies, including the imposition of civil money penalties, to be imposed against any nursing facility that violates federal medicaid regulations. Requires the department of health to adopt criteria for determining the amount of such penalties and establishes a penalty range from \$100 to \$10,000 to be imposed, based on the nature of the violation. Requires penalties to include interest at the statutory rate.

When such a violation constitutes an immediate and serious threat to residents, requires the imposition of a civil money penalty for each day a nursing facility is found to be in violation. Except for violations that constitute an immediate and serious threat to residents, prohibits penalties from being assessed prior to receipt of written notice by a nursing facility. Requires such notice to be provided within 5 days following the last day of the inspection or survey during which the deficiencies which constitute the violation were found. Establishes elements to be included in such notices, including instructions concerning

written plans of correction to be submitted by the nursing facility for approval in accordance with criteria established by the department of health. Specifies that any penalty imposed shall continue to be assessed until the department of health verifies that the deficiencies are corrected or until the nursing facility notifies the department that corrections have been made, whichever is earlier. Provides for the suspension of penalties under approved plans of correction. Requires such penalties to be reinstated at an increased amount and retroactively assessed if the nursing facility has not corrected the violation.

Authorizes the department of health to recommend the imposition of civil money penalties to the department of social services. Authorizes the department of social services to assess, enforce, and collect such penalties for credit to the nursing home penalty cash fund and creates such fund. Vests joint authority for administering the fund in the department of health and the department of social services; except that final authority over the administration of the fund is vested in the department of social services. Requires the department of social services to promulgate rules and regulations regarding the administration of the fund. Establishes circumstances under which moneys in the fund may be distributed.

Repeals all remedies effective July 1, 1997.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

**S.B. 94-139** Environmental self-evaluation - environmental audit reports - admissibility in evidence - privilege against providing testimony - voluntary disclosure of violations - presumption against imposition of penalties. Provides that any environmental audit report prepared as the a result of a voluntary self-evaluation to determine compliance with environmental laws is privileged and is not admissible as evidence in any legal action or administrative proceeding and is not subject to discovery. Creates a privilege against compelling the testimony of persons who were involved with the performance of a voluntary self-evaluation or the preparation of an environmental audit report.

Establishes an exception to the inadmissibility or prohibition against discovery of an environmental audit report or to the privilege against providing testimony if there is a waiver of the privilege or if a court or administrative law judge, after an in camera review, determines that: there was noncompliance with environmental laws and efforts to achieve compliance were not initiated promptly; compelling circumstances exist; the privilege is being asserted for a fraudulent purpose or to avoid disclosure in an ongoing or imminent proceeding or in a proceeding for which written notification was provided; or there is a clear, present, and immediate danger to the public health or the environment in areas outside of the facility. Excepts from the privilege: documents or information that is legally required to be developed, maintained, or reported; documents or information required to be available or furnished to a regulatory agency; information obtained by observation, sampling, or monitoring; information obtained through an independent source; documents existing prior to the environmental self-evaluation; documents prepared subsequent to the voluntary self-evaluation; and information developed or maintained in the course of regularly conducted business activity or regular practice.

Authorizes a court or administrative law judge to allow limited access to an environmental audit report for the purposes of an in camera review. Provides that any person improperly divulging or disseminating the information in an environmental audit report is liable for damages caused by the divulgence or dissemination. Provides that any public entity, public employee, or public official improperly divulging or disseminating the information in an environmental audit report is guilty of a class 1 misdemeanor, may be found in contempt of court, and may be assessed a fine not to exceed \$10,000. Places the burden of proving a prima facie case for the self-evaluation privilege on the person or entity asserting the privilege. Places the burden of proving the nonexistence of the privilege on the party seeking disclosure of an environmental audit report.

Establishes a rebuttable presumption against the imposition of any administrative or civil penalties or any criminal penalties for negligent acts if a person or entity makes a voluntary disclosure of an environmental violation to a division or an agency within the department of health. Allows the presumption to be rebutted by a showing that the disclosure was not voluntary. Requires that the disclosure be made promptly and arise out of a voluntary self-evaluation, that the noncompliance be corrected within 2 years, unless the time period is extended, and that the person or entity cooperate with the appropriate division or agency. Excludes a person or entity from the elimination of penalties if the person or entity has committed a pattern of continuous or repeated violations within the 3-year period prior to disclosure.

Applies only to voluntary self-evaluations that are performed and voluntary disclosures that are made on or before June 30, 1999.

**APPROVED** by Governor June 1, 1994

**EFFECTIVE** June 1, 1994

**S.B. 94-151** Environmental laws - enforcement - agency statements of general applicability and future effect - requirement to publish. Requires that any agency policy or guidance, including any amendments or revisions, relating to enforcement or administration of state environmental laws governing air quality control, water quality control, hazardous waste, or solid waste be reduced to writing and published. Requires that 3 copies are to be filed with the state librarian for the state publications depository and distribution center and that copies be made available to the public upon request. Requires each affected state agency to maintain a current index of all such policies, guidance, and interpretive rules and to make such index available to the public at cost.

Specifies that no such policy or guidance shall have the force and effect of a rule unless it has been promulgated in accordance with the "State Administrative Procedure Act" and any other statute applicable to the affected agency. Authorizes any such policy or guidance to be brought to the attention of the relevant division director and thereafter to the relevant commission for review to determine whether such policy or guidance is consistent with applicable statutes and regulations and is appropriate for the relevant commission to undertake rule-making with respect to the subject matter of the policy or guidance.

Provides that any obligation to submit payment of any monetary penalty arising from an enforcement action concerning a matter under review by the relevant commission shall

be stayed until completion of the review. States that such review does not constitute an adjudication of any facts of a specific enforcement action and that the failure to request a review shall not be considered in any permit appeal or enforcement action.

Specifies that this law can be implemented by the affected agencies within existing appropriations.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-180** Air quality - visibility impairment reasonable attribution studies - requirements - cost. Establishes requirements for visibility impairment reasonable attribution studies conducted for purposes of the Colorado prevention of significant deterioration program for air quality. Requires any remedy selection to include relevant economic impact data. States that the cost of such a study shall not be required to be paid by the department of health.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**S.B. 94-186** Naturally occurring radioactive materials - disposal - regulatory authority. Deletes the current January 1, 1994, deadline for the state board of health to adopt regulations concerning the disposal of naturally occurring radioactive materials, instead granting the board permissive authority to adopt regulations at any time after the federal Environmental Protection Agency promulgates regulations on that subject.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** April 19, 1994

**S.B. 94-188** Alcohol and drug abuse counselors - certification - criminal justice programs - appropriation. Authorizes the division of alcohol and drug abuse currently located in the department of health and scheduled to be relocated to the new department of human services to certify alcohol and drug abuse counselors working in programs sponsored by agencies dealing with the parole and probation systems and adult and juvenile community corrections systems.

Appropriates \$3,500 from the alcohol counselor certification fund to the department of human services for allocation to the alcohol and drug abuse division for the implementation of the act.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** May 22, 1994

**S.B. 94-211** Poison control services - transfer of appropriation. Shifts the responsibility for providing statewide poison control information services from the department of health to the department of health care policy and financing. Maintains the existing poison control center structure until July 1, 1995. Thereafter, requires the provision of such services to be by means of a statewide toll-free telephone network contracted for and overseen by a board.

Creates the statewide poison control oversight board in the department of health care policy and financing, the members of which are appointed by the governor and confirmed by the senate. States that the board is to be comprised of the following members: A member who is involved in the provision of hospital emergency care services, a member with expertise in public health, a designee of the chancellor of the university of Colorado health sciences center, the executive director of the department of health care policy and financing or such director's designee, and three members from the public at large, one of whom has personally utilized the services of the poison control center or has a family member who has utilized such services. Specifies that each congressional district in the state shall be represented by at least one board member. Allows for the reimbursement of the board members' actual and necessary expenses incurred in the performance of their official duties.

Lists the following powers and duties of the poison control oversight board: To solicit, receive, and review bids for the provision of poison control services and the dissemination of poison control information by means of a toll-free telephone network; to contract with private, nonprofit or public entities for the provision of such statewide poison control services; to contract to provide poison control services to the citizens of other states; and to contract for performance or financial audits at the board's discretion. Specifies that the board shall exercise its powers and duties as if the same were transferred by a type 2 transfer. Requires the board to submit an annual report to the members of the joint budget committee and to the members of the general assembly. Requires physicians to release medical information to poison control service providers to assist in the diagnosis or treatment of a patient in a medical emergency.

Transfers \$1,148,034 from the appropriation made in the general appropriation act to the department of health, division of emergency medical services, to the department of health care policy and financing for the implementation of the act.

**APPROVED** by Governor May 31, 1994

**PORTIONS EFFECTIVE** July 1, 1994  
July 1, 1995

**S.B. 94-217** Air quality - control program fees - coordinated efficiency task force - visibility protection - evaluations of federal activities in Class I areas - visibility and air quality related values policy task force - creation - appropriations. Increases the fee paid by permitted stationary sources of air pollution for fiscal years 1994-95 and thereafter to \$14.98 per ton of regulated pollutant reported and specifies that such fee may be increased by the executive director of the department of public health and environment for fiscal year 1996-97 by an amount equal to the annual authorized increase in direct personnel salary costs for the regulation of stationary sources as incorporated and enacted in the annual general appropriation act for fiscal year 1996-97. Authorizes the collection of a late payment fee of 1% per month to be assessed in certain circumstances. Requires creation of a coordinated efficiency task force to study methods to control costs of regulation of stationary sources of air pollution.

Requires the air quality control commission and the air pollution control division in the division of administration of the department of public health and environment to make determinations related to federal efforts to control activities affecting visibility and publicly

report on such determinations. Creates a visibility protection legislative review committee.

Appropriates \$823,086 from the stationary sources control fund to the department of public health and environment for allocation to the air quality control division for the implementation of the act. Of such sum, appropriates \$45,680 to the department of law for the implementation of the act. Of such sum, appropriates \$53,208 out of indirect cost recoveries to the department of public health and environment for allocation to the division of administration and support for implementing periodic review of administrative practices and procedures to improve efficiency and effectiveness of programs of the department, with emphasis on regulatory programs seeking fee increases. States that the general assembly has determined that the provisions of this act can be implemented by the legislative department within existing appropriations.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

**H.B. 94-1078** Newborns who test positive for metabolic disorders - follow-up and referral services - increase in newborn screening fee - appropriation. Creates an alternative source of funding for follow-up care to newborns who test positive for metabolic disorders. Expresses the general assembly's intent to continue the provision of follow-up and referral services after federal funding for the services was discontinued. Requires the department of health, prior to July 1, 1994, or the department of public health and environment, on and after July 1, 1994, to increase the newborn screening fee a maximum of \$5 in order to cover the costs associated with the provision of follow-up and referral services to families with a newborn child who tests positive for a metabolic disorder.

Appropriates \$233,000 to the department of public health and environment for the implementation of the act.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** April 28, 1994

**H.B. 94-1136** Smoking - control in legislative buildings. Prohibits smoking in all legislative buildings. Notwithstanding the prohibition, authorizes the legislative council to designate areas in legislative buildings where smoking is permitted and directs the legislative council to establish a smoking policy for office space. Requires signs to be posted designating nonsmoking and smoking areas. Requires the legislative council to consider proposals to redesignate any designated smoking area.

Clarifies that the senate and the house of representatives each has the exclusive authority to adopt rules or joint rules, or both, governing the control or limitation of smoking in their respective chambers, antechambers, committee rooms, and office space assigned to and occupied by legislators.

**APPROVED** by Governor June 2, 1994

**EFFECTIVE** June 2, 1994?

**H.B. 94-1264** Air quality - operating permits - procedure for determining net emissions

increase - permitting requirement for prevention of significant deterioration program - nonattainment area new source review - authorization of synthetic minor sources - public reporting of alleged violations of air pollution laws. Requires the air quality control commission to establish a process consistent with federal requirements for determining whether a net significant emissions increase occurs at a source of air pollution for purposes of applying the permitting requirements of the prevention of significant deterioration program or the nonattainment area new source review program.

In the "Colorado Air Pollution Prevention and Control Act", broadens the definition of "synthetic minor source" of air pollution. Specifies that the air quality control commission shall authorize synthetic minor sources of air pollution by the issuance of construction permits or other regulations and that such provisions shall be implemented expeditiously to assure that sources are able to qualify as synthetic minor sources in a timely manner to avoid the costs of the operating permit program.

Establishes a procedure for members of the public to report any suspected violation of the air pollution laws to the air pollution control division. Authorizes the division to investigate such an alleged violation and directs the division to report the result of any such investigation to the person alleging the violation. Allows any such person who is dissatisfied with the division's response to petition the commission for a review, including an informal hearing.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

**H.B. 94-1299** Hazardous waste - voluntary cleanup and redevelopment for real property - appropriation. Enacts the "Voluntary Cleanup and Redevelopment Act". Permits property owners to submit applications for approval of voluntary cleanup plans or petitions for approval of no action determinations to the department of public health and environment. Specifies standards under which the department of public health and environment shall review such applications and petitions. Provides time limits for conducting such reviews and requirements for approval.

Provides that the program shall not apply to real property listed or proposed for listing on the national priorities list of "superfund" sites established under the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980"; property subject to an order or agreement with the water quality control division; a facility which has a permit or interim status for the treatment, storage, or disposal of hazardous waste; or properties subject to corrective action under orders or agreements pursuant to Colorado statutes on hazardous substances or underground storage tanks or the federal "Resource Conservation and Recovery Act of 1976".

Prohibits any person, financial institution, or other entity financing a commercial real estate transaction from requiring a purchaser to participate in the voluntary program created by this act and provides that no regulatory agency of Colorado state government may require evidence of participation in the program to be a component of standard real estate loan documentation.

Provides for funding the program by assessing filing fees to cover the costs of reviews of applications for voluntary cleanup plans and petitions for no action determination. Such a filing fee shall not exceed \$2000.

Specifies that voluntary cleanup plans and no action determinations are not enforceable against property owners, but permits the department of public health and environment to enforce other environmental laws against property owners if violations of those laws have occurred. Requires the department to reduce or eliminate the penalties assessed for violations based on voluntary disclosures in applications for voluntary cleanup plans and petitions for no action determination.

Repeals the provisions of this act July 1, 1999.

Appropriates \$72,723 and 1.2 FTE from the hazardous substance response fund to the department of health for the implementation of this act.

**APPROVED** by Governor June 2, 1994

**EFFECTIVE** July 1, 1994

## INSTITUTIONS

**S.B. 94-071** Display of flags - state courtrooms, classrooms, and committee rooms of the general assembly - donations of flags. Mandates the display of the United States flag in state courtrooms, and mandates the display of both the United States and State of Colorado flags in committee hearing rooms of the general assembly. On and after September 1, 1996, mandates the display of the United States flag in academic classrooms of state schools. Establishes requisite measurements of such flags. Prohibits any challenge to a court's authority or jurisdiction on the basis of an alleged failure to display the United States flag. Authorizes the chief administrative officers of school and court facilities to accept donations of flags for display in academic classrooms and courtrooms.

**APPROVED** by Governor May 4, 1994

**EFFECTIVE** July 1, 1994

## INSURANCE

**S.B. 94-058** Genetic testing - limitations on the disclosure of information. Recognizes the information derived from genetic testing as confidential and privileged. Prohibits the release, without written consent of the tested person, of genetic testing information that identifies the tested person for any purpose other than diagnosis, treatment, therapy, or criminal investigation. Prohibits any entity that receives genetic information from seeking or using it for nontherapeutic purposes or for underwriting purposes related to the provision of health, group disability, or long-term care insurance. Allows research facilities to use genetic testing information so long as the identity of the tested person is not disclosed to any third party; except that the identity may be disclosed to the tested person's physician with written permission. Excepts from the genetic testing limitations the use of genetic testing information to determine parentage, to determine the cause of damage in a medical malpractice suit, or to identify offenders involved in sexual assaults. Specifies that the genetic testing limitations do not limit the department of health care policy's authority in investigating certain diseases and conditions. Allows the use of genetic testing information in providing life insurance or individual disability insurance. Defines any violation of the act as an "unfair practice", subject to the penalties pertaining to such practices. Specifies the remedies that an individual may recover for an entity's violation of the act.

**APPROVED** by Governor June 2, 1994

**EFFECTIVE** June 2, 1994

**S.B. 94-078** Life and health insurance protection - coverage -annuity contracts. Requires that the "Life and Health Insurance Protection Association Act" cover any annuity contract that was issued or assumed by an insurer which was ordered into liquidation between July 1, 1991, and August 31, 1991.

**APPROVED** by Governor April 13, 1994

**EFFECTIVE** April 13, 1994

**S.B. 94-098** Prescription drug benefits - choice of pharmacist by insured under certain plans - prohibition on requiring specific vendor for prescription drugs. Prohibits sickness and accident insurers, nonprofit hospital, medical-surgical, and health service corporations, and health maintenance organizations which offer coverage for prescription drugs from imposing penalties or differentiated copayments upon an insured for buying prescription drugs from a source of the insured's choosing. Specifies that an insurer may still make reasonable professional and administrative requirements of a prescription drug vendor and may adopt a maximum drug reimbursement cost schedule or a uniform drug cost discount formulary. Specifically exempts current or retired employees of the state who are receiving prescription drug benefits pursuant to certain statutes and health maintenance organizations which provide prescription drug benefits pursuant to an in-house pharmacy from coverage by the statute.

Applies to individual sickness and accident insurance policies and health care service or indemnity contracts issued on or after January 1, 1995, and to group accident and sickness policies and group health care service or indemnity contracts issued, renewed, reinstated, or rate-adjusted on or after January 1, 1995.

**VETOED** by Governor April 15, 1994

**H.B. 94-1071** Fraudulent claims - reporting - qualified immunity. Allows any person, not limited to an insurer, to notify authorities in the event of any suspected arson or fraudulent insurance claim. Immunizes persons from liability for doing so, subject to a requirement of good faith. Allows an insurer to cancel an automobile policy based on an insured's knowingly and willfully making a false material statement in connection with a claim.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1094** Health insurance - catastrophic coverage - requirements - payment of premiums. Establishes the "Colorado Catastrophic Health Insurance Coverage Act", which states that an employer which does not offer health insurance may offer catastrophic health insurance coverage to its employees. Requires that such coverage be in the employee's name, have a minimum deductible of \$2,500, and include dependent coverage provisions, a clearly written contract of coverage, and a portability provision. Requires further that the coverage shall be priced pursuant to a modified form of community rating and that the contract shall cover any electing employee who was covered continuously for at least one year under another policy, if such employee would otherwise be eligible except for underwriting considerations relating to health.

States that any employee who elects such insurance shall pay the full cost of the coverage, but that his or her employer may elect to pay all or a portion of the cost of such insurance. States that the cost of such insurance shall be paid through pre-tax payroll deductions and that an employee sign a written election form prior to the date the employer withholds the first contribution. Requires employers to remit the collected payments to the insurer and to report to the department of revenue the amount withheld, pursuant to rules promulgated by that department.

Provides that amounts withheld from an employee's wages for the purpose of paying catastrophic health insurance premiums are not included in such employee's taxable income for state tax purposes.

**APPROVED** by Governor April 20, 1994

**EFFECTIVE** January 1, 1995

**H.B. 94-1162** "No-fault" motor vehicle insurance - exclusion of named party - refusal to write, cancellation, or failure to renew. Changes the language that prohibits an insurer from refusing to write or renew a policy solely because of an accident or accidents which were not the fault of the named insured or a household member to a prohibition, which is extended to include applicants for insurance and permissive users, on using such accident or accidents as a factor whether used in conjunction with other factors or alone. Prohibits the use of the driving record of one or more but fewer than all of the residents of a household as a basis for refusal to write a policy.

Mandates that an insurer offer to exclude any member of a household from a

complying policy by name if the claim experience or driving record of that person would normally justify a refusal to write a policy in such person's name. Specifies that when a policy which specifically excludes a named person is renewed that the renewal notice for such policy name the person to be excluded.

Changes the requirement that complying policies be approved by the commissioner to a requirement that complying policies be filed with the commissioner before implementation by an insurer.

Applies to complying no-fault insurance policies written or renewed on or after July 1, 1994.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1169** Captive insurance companies - certificates of authority - application and license fees - investments - premium tax provisions - penalties. Simplifies the classification of captive insurance companies by dividing them into "pure" captives, insuring only their parent companies and affiliates, and "group" captives, insuring an association of entities with similar or related risks that collectively own the company. Allows captives to issue employee benefits coverages.

Requires a captive insurance company issuing employee benefits coverages to provide the minimum mandated coverages generally applicable to insurance companies. Removes the requirement that an association captive insurance company or industrial insured captive insurance company applying for authority demonstrate that coverage of all risks of its members would develop at least \$1,000,000 of gross annual premiums.

Prohibits a captive insurance company from adopting the name of any existing company, regardless of its business, or from adopting any name which may be misleading to the public regardless of any intent to mislead.

Permits the commissioner and the attorney general to refuse to accept an applicant's organizational documents filed for purposes of obtaining a certificate of authority. Requires filing of amendments to such documents with the commissioner and the secretary of state. Replaces existing requirements for a deposit or letter of credit and financial examination with the requirement for filing of a detailed plan of operation and a feasibility study, subject to the commissioner's approval. Imposes an application and an annual license fee of \$500. Limits exposure to loss on any one risk or hazard to 10% or less of capital or surplus unless the risk is reinsured or other safeguards are provided.

Simplifies provisions governing organization and control of operations. Removes current authority of the commissioner of insurance to waive prohibitions on service as a director of a person convicted of a felony.

Provides for automatic renewal of certificates of authority upon payment of all fees and filing of all required reports. Shortens the period within which the division of insurance

must act on applications for certificates from 60 to 30 business days after receipt of a complete filing.

Allows filing of annual reports at the end of each fiscal year rather than as of March 1 each year. Delegates to the insurance commissioner the authority to prescribe the form and contents of annual reports.

Expands the commissioner's authority to revoke or suspend certificates, allowing such action in cases where an insurer departs from its approved plan of operation, fails to pay taxes, penalties, or fees, or violates any other statutory or regulatory provision. Deletes obsolete language regarding hearing procedures. Allows the commissioner to appoint a supervisor for the company or commence a delinquency action or a liquidation or rehabilitation action where appropriate. Provides for appeal of the commissioner's decisions to the Colorado court of appeals.

Replaces the current three-tiered system of capital and surplus requirements with a uniform requirement of at least \$500,000 total capital. Authorizes the insurance commissioner to increase the requirement for a particular company upon a written finding that such increase is necessary. Repeals the current 20% limit on expenses incurred in the sale of new capital stock.

Simplifies provisions for examinations and investigations of captive insurers and of applicants for operating authority.

Simplifies provisions governing investments of captive insurers. Allows group captive insurers to make investments that would be permissible for other types of insurers. Allows a pure captive insurer to make any investments that are consistent with the company's plan of operation and do not threaten the company's solvency. Eliminates the requirement of a fidelity bond where sufficient other safeguards are demonstrated.

Simplifies provisions relating to reinsurance, allowing a captive insurance company to cede risks in the manner provided for other insurers and take credit for reserves on risks thus ceded. Authorizes the commissioner to give advance written approval for cession of risks to a reinsurer that does not meet the generally applicable standards.

Eliminates current requirements for filing of rating data and approval of claims-made policy forms. Authorizes the commissioner to require a pure captive insurance company to file rating or funding data if it provides or plans to provide employee benefits.

With regard to guaranty fund coverage, which is not required of captive insurance companies, provides that policy forms or other evidence of coverage must disclose that guaranty fund coverage is not available.

Amends premium tax provisions to allow credit for premiums returned to policyholders and to simplify the calculation of premium taxes. Allows the commissioner to require quarterly payments of premium taxes.

Authorizes new penalties for failure to make reports or pay taxes, including interest

on unpaid amounts, subject to hearings and judicial review.

**APPROVED** by Governor April 6, 1994

**EFFECTIVE** April 6, 1994

**H.B. 94-1185** State employees and officials group insurance - essential provider coverage. Effective January 1, 1995, requires the state personnel director to include in the state employees' and officials' group health benefit plan coverage for all health care services of essential providers located in the state of Colorado. Defines the term "essential provider" to mean any health care facility which has a teaching and research mission and a community service mission, and any associated or affiliated institutions or health care facilities. Requires that the rates for such services may not exceed the highest rates currently in effect for state employees and officials at other Colorado health care facilities. Exempts health benefit plans offered through health maintenance organizations from the requirement.

**APPROVED** by Governor April 7, 1994

**EFFECTIVE** April 7, 1994

**H.B. 94-1209** "No-fault" motor vehicle insurance - rehabilitation limitations. Limits the required no-fault coverage for rehabilitation expenses in a complying policy to expenses incurred up to \$50,000 within 10 years after the accident. Declares that the original intention of the "Colorado Auto Accident Reparations Act" for no-fault coverage was to incorporate limitations on both the dollar amount and period of time for rehabilitation benefits.

Applies to all complying policies issued under the provisions of the "Colorado Auto Accident Reparations Act", on and after July 1, 1994.

**APPROVED** by Governor May 4, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1210** Health care coverage reform - guaranteed issue of basic and standard health benefit plans - reinsurance program - automatic termination of requirement - premium rate restrictions - limitation on use of preexisting condition clauses - coverage conversion and continuation provisions - fair marketing standards - regulation of excess loss coverage for self-insured plans - appropriation. Beginning January 1, 1995, requires small employer health insurance carriers, as a condition of transacting business in this state, to offer small employers the choice of a basic health benefit plan or a standard health benefit plan (guaranteed issue). Makes certain exceptions to such requirement, including situations involving the financial solvency of the insurer. Specifies that a small employer is eligible if it employed 2 or more eligible employees and no more than 50 employees on at least 50% of its working days during the preceding calendar quarter and that after January 1, 1996, such eligibility will extend to businesses with at least one employee and no more than 50 employees. Requires the insurance commissioner to promulgate rules, effective January 1, 1995, to implement the guaranteed issue of basic and standard health benefit plans. Requires the health benefit plan advisory committee to submit its recommendations for the components of the basic and standard health benefit plans and the Colorado cost containment and guaranteed access commission to submit its comments thereon to the insurance commissioner by July 1, 1994. Requires the commissioner to review and approve such plans

by August 15, 1994. Authorizes the health benefit plan advisory committee to submit recommendations to the commissioner for changes in such plans annually beginning July 1, 1995. Requires the commissioner to act on such annual recommendations within 60 days after submittal.

Provides that the small employer health care coverage availability (reinsurance) program and the "Colorado Health Care Coverage Act" apply to any health benefit plan that provides coverage to the employees of an employer in this state with certain exceptions. Specifies that such program does not apply to certain multiple employer health trusts or multiple employer welfare arrangements. Extends the automatic repeal dates for the small employer health care coverage availability program and the health benefit plan advisory committee from July 1, 1996, to July 1, 2001. Requires each small employer carrier to notify the commissioner by August 1, 1994, whether such carrier intends to operate as a risk assuming carrier or a reinsuring carrier under the program. Requires that after approval of the plan of operation of such program by the commissioner, the program shall be operational no later than September 30, 1994. Specifies that small employer carriers will not be required to offer guaranteed issue of the basic and standard health benefit plan until the small employer health care coverage availability program is operational. Requires the board of directors of the program to establish premium rates for reinsurance under the program in a fair and equitable manner designed to spread the excess cost of high risk cases as broadly as possible. Changes the number of directors from 8 to 9 and makes the commissioner an ex officio nonvoting director of the program.

Sets requirements for premium rates for health benefit plans issued to small employers. Requires rates to be based on a single, same index rate applicable to all small employers, adjusted for case characteristics and coverage, subject to a rate adjustment factor to be utilized during a phase-in period until January 1, 1997, if risk adjustment rules are developed by the commissioner in consultation with the department of health care policy and financing. If such risk adjustment rules are not developed, the rate adjustment factor for the 1997 calendar year shall continue to be utilized for determining premium rates for small employer policies.

Requires the commissioner, in cooperation with the executive director of the department of health care policy and financing, to report annually to the executive committee of the legislative council of the general assembly on the implementation of the guaranteed issue provisions of this act. Specifies the matters to be contained in such reports. Requires the legislative council during the 2001 regular session of the general assembly to conduct a review of the guaranteed issue provisions of this law and to recommend any legislation deemed necessary based on the annual reports required under this law and any other available information. Specifies that the guaranteed issue provisions of this law shall terminate July 1, 2001, unless the general assembly acts by bill to extend such requirements beyond July 1, 2001.

Amends Colorado provisions related to the conversion and continuation of health care coverage policies to extend the period of time for which such continuation is available and expands such provisions to cover situations in which an employee dies or has a change of marital status, in which case the surviving dependents or spouse may elect to continue coverage. Requires small employer carriers to offer individuals the choice of a basic or

standard health benefit plan upon termination of a group policy by the carrier or employer for reasons other than replacement with another group policy or fraud and abuse in procuring and utilizing coverage. Deletes obsolete provisions of these laws.

Enacts fair marketing standards for small employer carriers and specifies that violation of such standards, as well as any requirements for the guaranteed issue of basic and standard health benefit plans, is an unfair method of competition and unfair or deceptive act or practice under the insurance laws.

Limits the applicability of preexisting condition limitations in comprehensive individual and employer-group major medical coverage offered by entities subject to regulation by the commissioner of insurance.

Enacts requirements for excess loss insurance used in conjunction with self-insured employer benefit plans under the federal "Employee Retirement Income Security Act".

Makes provisions of the "Colorado Catastrophic Health Insurance Coverage Act" consistent with the provisions of this act.

Appropriates \$40,795 and 0.8 FTE from the division of insurance cash fund to the division of insurance for the implementation of this act.

**APPROVED** by Governor June 2, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1266** Workers' compensation - assessment of premium surcharges - effect of impermissibly high deductibles. Directs the commissioner of insurance to adopt regulations on or before January 1, 1995, to ensure that payments to the subsequent injury fund and the major medical insurance fund from insurance premium surcharges be calculated so as to correct for the effect of any deductible which exceed the legal maximum imposed by statute.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** May 22, 1994

**H.B. 94-1275** Nonprofit hospital, medical-surgical, and health service corporations - requirements - conversion to a mutual insurance company. Requires nonprofit hospital, medical-surgical, and health service corporations to file information using the convention blank form of the national association of insurance commissioners. Increases minimum surplus requirements for such entities from \$50,000 to \$100,000 and maximum guarantee fund deposit requirements from \$150,000 to \$1,500,000. Authorizes the commissioner of insurance by rule to establish standards consistent with the risk-based capital models developed or adopted by the national association of insurance commissioners that would require a corporation to maintain a greater minimum level of surplus. Repeals the statutory provision for the licensing of enrollment representatives of such corporations. Makes examination requirements consistent with those for insurers. Changes the frequency of examinations of corporations from every 3 years to periodic examinations.

Authorizes nonprofit hospital, medical-surgical, and health service corporations to

convert to mutual insurance companies. Requires such entities to file a plan with the insurance commissioner for approval prior to making such conversion. Sets standards for approval of such plans by the insurance commissioner. Requires the corporation to publish notice of the proposed plan of conversion. Specifies that after conversion to a mutual insurance company, a nonprofit hospital, medical-surgical, and health service corporation shall be subject to all of the laws and rules and regulations applicable to mutual insurance companies.

**APPROVED** by Governor April 7, 1994

**EFFECTIVE** April 7, 1994

**H.B. 94-1347** Licensing - exemption for representatives of fraternal benefit societies. Restores and modifies an exemption from licensing for part-time representatives of fraternal benefit societies that was omitted from the 1993 enactment of the "Colorado Single Insurance Producer Licensing Act". Makes the exemption only applicable to an agent, representative, or member of such a society who in the preceding calendar year solicited or procured insurance contracts not exceeding \$50,000 or solicited or procured other types of insurance on behalf of not more than 25 individuals and who received no commissions or compensation and does not reasonably expect to be soliciting or procuring insurance on behalf of more than 25 individuals in the current year.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** April 19, 1994

## LABOR AND INDUSTRY

**S.B. 94-055** Workers' compensation - premiums - experience ratings - effect of motor vehicle accident not caused by employer or employee. Requires the commissioner of insurance to establish by rule, and insurers to apply, standards for determining a loss limitation to be applied in calculating the experience modifications affecting the future workers' compensation premium rates of employers whose employees are injured or killed in motor vehicle accidents not caused, wholly or in part, by the employer or the employee and where use of a motor vehicle is not an integral part of the employer's business. Requires similar standards to be adopted governing when use of a motor vehicle is an integral part of the employer's business, when an accident has not been caused, wholly or in part, by the employer or employee, and how losses are distributed among workers' compensation classifications.

Sets criteria for application of the loss limitation. Requires that any loss in excess of the limitation be distributed among all policyholders as determined by the commissioner of insurance. Allows the commissioner to treat policyholders differently depending on whether the use of a motor vehicle is an integral part of their business.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** October 1, 1994

**S.B. 94-075** Unemployment compensation - conformance to federal law - agricultural labor - aliens - notification to employees by temporary agencies - Colorado general assembly employees - military duty performed by employee - successor employer's transfer of experience credit. Conforms certain state laws regulating unemployment benefits to federal law by making the following changes:

Extends to January 1, 1995, the exception to the definition of employment for agricultural work done by aliens pursuant to the federal "Immigration and Nationality Act".

Excludes services performed as an employee of a foreign government or as an alien in this country under certain provisions of the federal "Immigration and Nationality Act" from the definition of employment.

Requires a temporary help contracting firm to give written notice to an employee that the employee is required to contact the firm after completing a work assignment. Specifies that an employee of a temporary help contracting firm who does not contact the firm after completing an assignment is deemed to have voluntarily left the place of employment for reasons which do not allow an award of benefits.

Repeals a provision which defined certain employees of the Colorado general assembly as seasonal employees.

Specifies that certain extended unemployment benefit provisions will not apply to weeks of unemployment beginning on and after March 7, 1993, and before January 1, 1995, and that other benefit provisions shall apply during that period.

Repeals a provision which specified that an employer who ceased doing business because such employer was called to active military duty would not have such employer's record affected for purposes of unemployment tax rates.

Modifies the method by which a successor employer may have a partial transfer of experience from a predecessor by transferring a proportional rather than actual share of such predecessor's tax, benefit, and payroll experience.

**APPROVED** by Governor April 14, 1994      **PORTIONS EFFECTIVE** April 14, 1994  
July 1, 1994

**S.B. 94-116** Unemployment compensation - reduction in back pay award - remittance by employers to fund. Removes a provision which exempted an employer from having to remit any moneys to the unemployment compensation fund in circumstances where a back pay award based on a discriminatory or unfair employment practice is reduced due to the employee having received unemployment benefits during the period covered by the back pay award.

**APPROVED** by Governor April 14, 1994      **EFFECTIVE** July 1, 1994

**S.B. 94-190** Workers' compensation - benefits - definition of "wages". Excludes from the definition of wages, for purposes of computing benefits and employers' insurance premiums, any per diem payment not considered wages for federal income tax purposes. Where employees are paid by the mile, provides for calculation of the "average weekly wage" on the basis of the average miles driven per day during the 60-day period preceding the date of injury or, if the employee has been employed for less than 60 days, on the basis of the average miles driven per day during such shorter period.

**APPROVED** by Governor May 22, 1994      **EFFECTIVE** May 22, 1994

**S.B. 94-193** Workers' compensation - dispute resolution procedures. Makes provisions of the "Workers' Compensation Act of Colorado" consistent to reflect that the administrative law judges in the department of administration and the director of the division of workers' compensation have concurrent original jurisdiction to hear and determine and make findings and awards in all workers' compensation cases and specifies that no rule of the director may limit the concurrent jurisdiction of the administrative law judges as specifically provided by law.

Deletes provisions authorizing the director to refer workers' compensation cases to district or county court judges or special administrative law judges other than those employed by the division of administrative hearings.

Makes mediation of disputes in workers' compensation cases a voluntary process, instead of mandatory, for certain disputes. Clarifies the authority of the director with respect to settlement conference procedures and allows the promulgation of rules consistent with

other provisions of law concerning settlements in workers' compensation cases. Removes the restriction that parties may only submit a matter to binding arbitration after a mediation conference. Authorizes the director to conduct prehearing conferences with prehearing administrative law judges appointed by the director and to promulgate rules as may be necessary to implement prehearing conferences.

Limits the authority of the director, with the written approval of the executive director of the department of labor and employment in the form of an order, to appoint any competent person as an agent to investigate workers' compensation cases by deleting the authority to also appoint referees with specified duties to act in the capacity of an administrative law judge.

Authorizes the director of the division of administrative hearings to establish a time schedule for administrative hearings in workers' compensation cases in accordance with the time frames delineated by law.

Requires the director of the division of workers' compensation and each administrative law judge to report to the division each time a penalty is imposed under the "Workers' Compensation Act of Colorado". Specifies the contents of such reports. Requires the director to report to the general assembly on January 1 of each year on the information obtained from such reports. Requires in any application for hearing for a penalty that the applicant state with specificity the grounds on which the penalty is being asserted. Allows an alleged violator 20 days after the date of mailing of such an application to cure the violation. If the violation is cured within such period, and the party seeking such penalty fails to prove by clear and convincing evidence that the alleged violator knew or reasonably should have known of the violation, no penalty shall be assessed. Requires requests for penalties to be filed with the director or administrative law judge within one year after the date the requesting party knew or reasonably should have known the facts giving rise to the penalty.

Specifies that all orders entered by the director or an administrative law judge in a workers' compensation case shall be made available for inspection for a fee reflecting actual costs and that the name of the claimant and other identifying information concerning the claimant shall be excised from such orders.

**APPROVED** by Governor June 1, 1994

**EFFECTIVE** June 1, 1994

**S.B. 94-197** Ski area volunteers - exclusion from definition of term "employee". Changes the exclusion of volunteers from the definition of "employee" for purposes of the "Colorado Workers' Compensation Act" to apply only to ski area operators rather than all passenger tramway operators and to apply to all volunteers rather than just ski patrol persons, ski instructors, or race crew members. Specifies that noncash remuneration to a volunteer or the volunteer's designee shall not change a person's status as a volunteer. Provides that retaining a person as a ski area volunteer does not create an implied or express contract of hire between the ski area and the volunteer.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-199** Workers' compensation - definition of permanent total disability - freeze on medical fee schedule - private pension benefit offset - modification of permanent partial disability schedule of injuries - elimination of cost of living adjustment for permanent total disability benefits - lifetime permanent total disability payments - information on workers' compensation system - utilization review of health care providers. On and after July 1, 1994, changes the definition of permanent total disability to create a rebuttable presumption of such status under certain conditions. Specifies that such rebuttable presumption arises only as the result of a medical determination, based upon objective findings made by an independent medical examiner accredited to make impairment determinations under the workers' compensation system.

Freezes the medical fee schedule for workers' compensation until July 1, 1995.

On and after July 1, 1994, places limitations on the offset against permanent total disability benefits for private pension benefits. Provides that all contributions made by an employer to a private pension plan pursuant to a collective bargaining agreement shall be considered to have been made by the employee for purposes of calculating any offset against such benefits. Limits such offset to cases where an employer does not participate in the federal old-age, survivors, and disability insurance program.

On and after July 1, 1994, modifies the schedule of injuries for permanent partial disability benefits. Eliminates the cost of living adjustment for permanent total disability benefits. Authorizes lifetime permanent total disability benefit payments.

Authorizes the gathering of information on the workers' compensation system.

On and after July 1, 1994, provides for the utilization review of health care services under the workers' compensation system.

**APPROVED** by Governor June 3, 1994

**PORTIONS EFFECTIVE** June 3, 1994  
July 1, 1994

**H.B. 94-1051** Workers' compensation - benefits - prosthetic devices - replacement. Allows an injured employee to obtain more than one replacement of an external prosthetic device, including dentures, when an anatomical change caused by the injury requires such replacement. Allows replacement of implants, subject to a finding by the authorized treating physician that the replacement is necessary.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1086** Workers' compensation - employees of division - qualifications for employment. Eliminates current statutory requirements that all employees of the division of workers' compensation, other than "experts", be bona fide Colorado residents for at least 2

years prior to employment and that they be full-time employees of the division.

**APPROVED** by Governor March 18, 1994

**EFFECTIVE** March 18, 1994

**H.B. 94-1145** Unemployment compensation - benefits - grounds for disqualification - drug or alcohol use. Disqualifies a former employee from eligibility for unemployment compensation benefits if it is established through drug or alcohol testing that, during working hours, the former employee had in his or her system a not medically prescribed controlled substance or a blood alcohol level at or above 0.04% or at or above an applicable lower level as set forth by federal statute or regulation. Requires that the test be performed by a medical facility or laboratory licensed or certified to conduct such tests and that testing be done pursuant to a statutory or regulatory requirement or a previously established, written policy.

**APPROVED** by Governor June 2, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1195** Workers' compensation - utilization review proceedings - when final - hearings. Prohibits a party other than the insurer, self-insured employer, or claimant from requesting a hearing with respect to a change of physician or whether treatment was medically necessary and appropriate, until utilization review proceedings have become final. Provides that once such proceedings have become final, the issues disposed of shall be binding on the parties and a subsequent hearing shall be precluded unless a preponderance of the evidence is shown.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** June 3, 1994

**H.B. 94-1230** Workers' compensation - orders - access. Requires the division of workers' compensation to make an order of the director of the division or an administrative law judge available for inspection or copying for a fee reflecting actual costs. Specifies that the name and other identifying information concerning the claimant and employer shall be excised.

**APPROVED** by Governor June 1, 1994

**EFFECTIVE** June 1, 1994

**H.B. 94-1271** Workers' compensation - employer compliance - fraud prevention - appropriations. Directs the division of workers' compensation to develop a procedure, by January 1, 1995, for verifying whether or not all Colorado employers comply with workers' compensation insurance requirements including, but not limited to, cross-referencing employer records of the division of employment and training and the division of workers' compensation. Authorizes the division, with assistance from the attorney general, to use all available means under the workers' compensation laws to ensure that noncomplying employers comply with such laws. Requires authorized insurance carriers, including the Colorado compensation insurance authority, upon request, to furnish the division with all information required to carry out the purposes of this act. A report shall be filed by the division to the General Assembly by January 31, 1995. States that the criminal penalty is in addition to all other applicable criminal penalties provide in the "Colorado Criminal Code".

Appropriates \$41,168 to the department of labor and employment for allocation to the division of workers' compensation and \$4,000 to the department of administration for the implementation of this act.

**APPROVED** by Governor May 19, 1994

**EFFECTIVE** May 19, 1994

**H.B. 94-1353** Petroleum storage tanks - financial responsibility - federal property. Makes the underground storage tank fund financially responsible for damage caused by underground and aboveground petroleum storage tanks located on property pursuant to an agreement with the United States or an agency thereof other than the department of defense or the department of energy.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** May 22, 1994

## MILITARY AND VETERANS

**S.B. 94-195** Property acquired for military purposes - transfer to state agency. Permits the adjutant general to dispose of real estate for less than its appraised value when the disposition is to an agency of state government. Allows the adjutant general to make such disposition without an appraisal. In the event an offer has been made to purchase the real estate for more than its appraised value, requires the adjutant general to consider the terms of the offer and any cost savings to the state which would result from a transfer of such real estate to a state agency prior to making any disposition.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**H.B. 94-1011** Adjutant general - authority to dispose of real property - appraisals - report to capital development committee - investment of proceeds. Changes the number of appraisers required for appraisal of military real property before its disposition from 3 to one. Directs the department of military affairs to submit a list of 3 qualified appraisers to the governor to select an appraiser. If the governor does not select an appraiser within 30 days of receiving the list, authorizes the department to select an appraiser from the list. Requires that a qualified appraiser be registered, licensed, or certificated and be selected according to standards prescribed for negotiation of consultants' contracts.

Directs the state treasurer to invest proceeds from the disposition of real property in accordance with standards prescribed for short-term investments. Requires that interest earned on such investments be retained and disbursed with the principal amount.

Requires the adjutant general to submit a report to the capital development committee of the general assembly concerning the proposed disposition of any real property which is no longer suitable for military purposes. Specifies the contents of the report and requires the committee to review the report and make recommendations to the adjutant general within 30 days of receipt. Requires that the adjutant general consider such recommendations before disposing of any real property.

**APPROVED** by Governor March 2, 1994

**EFFECTIVE** March 2, 1994

## MOTOR VEHICLES AND TRAFFIC REGULATION

**S.B. 94-001** Traffic laws - recodification - highway legislation review committee - extension of deadlines - special license plates - pedestrians - right-of-way - snowplows and snow removal equipment - railroad crossings - duty of care - high occupancy vehicle lanes - wheelchairs - school buses - use of signals when using lift device - truck registration - use of manufacturer's statement or certificate of origin to establish weight - denial of right to inspect department of revenue photographs - toll evasion - passenger tires. Reorganizes, amends, and modifies or repeals obsolete language in laws governing vehicles and traffic.

Relocates the "Colorado Antifreeze Law" and provisions governing brake fluid; extends the deadline for the final report of the highway legislation review committee on its recommendations for legislation concerning the traffic law from January 1, 1994, to January 1, 1996, and changes the repeal date for the committee's study of revisions to the traffic law from July 1, 1994, to July 1, 1996; relocates provisions governing motorcycle operator safety training; and amends provisions governing citations for toll evasion.

Authorizes the department of transportation to designate high occupancy vehicle lanes for the exclusive or preferential use of vehicles carrying a specified number of persons. Authorizes local authorities to designate such lanes along streets and highways under their jurisdiction. Stipulates that the number of occupants required for vehicles using such lanes and the time of day when usage is restricted shall be designated by official traffic control devices. Specifies that any person who violates provisions governing the use of high occupancy vehicle lanes commits a class A traffic infraction. Establishes penalties for such violations. Clarifies that motorcycles may be operated on high occupancy vehicle lanes in accordance with applicable federal regulations unless prohibited by official traffic control devices.

Exempts school buses from the requirement of using red signal lights when stopped to receive or discharge passengers who require the assistance of a lift device when no such passenger is required to cross the roadway. Requires such buses to stop as far to the right of the roadway as possible to reduce obstruction to traffic. Specifies that certain school bus specifications are applicable to passenger vehicles having a seating capacity of more than 15 rather than 9.

Clarifies that vehicles are required to yield the right-of-way to pedestrians who are lawfully within adjacent crosswalks at the time a circular green signal is displayed. Modifies the duty of care required when approaching, overtaking, or passing snowplows or snow removal equipment to conform with the duty of care required when approaching, overtaking, or passing authorized service vehicles. Modifies the duties of drivers approaching railroad crossings.

Defines "wheelchair" and specifically exempts such devices from the definition of "motor vehicle". Specifies that persons in wheelchairs are pedestrians for purposes of motor vehicle and traffic regulation. Deletes the definition of "all terrain vehicle" and substitutes a definition of "off-highway vehicle". Excludes wheelchairs, off-highway vehicles, and snowmobiles from the definition of "vehicle". Clarifies that the issuance of special license plates to persons with disabilities does not preclude the issuance of removable windshield

placards to such persons.

Increases from 10 to 20 days the time period specified on a citation for toll evasion which prescribes the amount of time within which to pay a prescribed penalty and avoid a court appearance. Requires notice of toll evasion evidenced by automatic vehicle identification photography to be mailed by first class mail rather than by certified mail, return receipt requested, and requires a 2nd notice to be mailed if the prescribed penalty has not been paid within 20 days. Requires such 2nd notice to be mailed by certified mail, return receipt requested.

Repeals provisions prohibiting the regrooving of passenger tires, operating a passenger vehicle with regrooved tires, or selling or exchanging such tires. Repeals provisions prohibiting destroying, altering, or defacing any tire marking which indicates whether such tire was intended for highway or nonhighway use. Repeals provisions which provide that any violation of the statutory provisions regarding the regulation of vehicles and traffic which is not otherwise declared to be an offense is an unclassified misdemeanor.

Authorizes the department of revenue to deny inspection of photographs in the department's custody on grounds that disclosure would be contrary to public interest. Authorizes the use of a manufacturer's statement or certificate of origin as a means of establishing the weight of certain trucks for registration purposes.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** January 1, 1995

**S.B. 94-007** Highways - right-of-way - removal of obstructions. Extends the authority of law enforcement officers to include removing any vehicle, cargo, or debris obstructing a highway right-of-way. Authorizes employees of state and local governmental agencies responsible for highway safety and maintenance to remove any motor vehicle, vehicle, cargo, or debris obstructing a highway right-of-way; except that agency employees must obtain approval from a law enforcement agency to remove a motor vehicle. States that the removal process should cause as little damage as possible to the vehicle, cargo, or debris.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** April 19, 1994

**S.B. 94-012** Identification cards - unlawful production. Prohibits the production of any identification card, unless authorized by law, in such a manner that it could be mistaken for a valid identification card. Further prohibits the display or possession of such illegally produced card.

**APPROVED** by Governor March 31, 1994

**EFFECTIVE** March 31, 1994

**S.B. 94-013** Driver's license renewal. Eliminates the 90-day time limit to renew a driver's license before it expires.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-017** Traffic offenses and infractions - penalty and surcharge schedule. Revises the penalty and surcharge schedule applicable to traffic offenses.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** January 1, 1995

**S.B. 94-220** Specific ownership tax - registration fees - highway legislation review committee responsibility - appropriation. Decreases the specific ownership tax for vehicles 10 years old and older transporting property over the public highways in interstate commerce to make it the same as such tax for similar vehicles operated solely in Colorado.

Modifies the registration fees for trucks and truck tractors with an empty weight in excess of 16,000 pounds to make the fees the same whether the vehicles are operated in interstate commerce or operated solely in Colorado and to charge lower fees for such vehicles that are operated 30,000 miles or less annually.

Deletes provisions for and relating to the proportional adjustment of certain registration fees to approximately equal estimated revenues that were raised or would have been raised by certain taxes and fees.

Requires the highway legislation review committee to review the registration fees imposed by the act, determine the impact on payers of the fees and on revenue collections, and recommend necessary legislation, if any, before January 1, 1995.

Appropriates \$16,351 from the highway users tax fund to the department of revenue for implementation of the act.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

**H.B. 94-1008** Traffic laws - revisions - highway legislation review committee - duties - report. Requires the highway legislation review committee to review the driver's license point system to determine whether it is appropriate to retain such system. Further requires the committee to make recommendations regarding either appropriate changes or alternatives to the system.

Expands the issues to be addressed by the committee to include the following: Simplification of the fine, fee, cost, and surcharge schedules; the creation of a uniform document to be used for traffic citations; and the development of a simplified record-keeping system.

Extends the deadline for the presentation of the committee's final report on its recommendations for legislation concerning revisions to the traffic law from January 1, 1994, to January 1, 1996.

**APPROVED** by Governor April 7, 1994

**EFFECTIVE** April 7, 1994

**H.B. 94-1012** Nondivisible oversize and overweight vehicles - cooperative agreements - regional permit system. Authorizes the executive director of the department of transportation to enter into agreements with other states concerning the regional operation or movement of nondivisible oversize or overweight vehicles. Allows for the establishment of a regional permit system, through the agreements, that includes operation or movement of such vehicles from one regional state to another under a single-trip permit.

Delegates to other states the authority to issue permits for nondivisible oversize or overweight vehicles operating on Colorado state highways and to accept such delegation of authority from other states for such vehicles operating on the highways of those states when certain requirements are met. Authorizes the department of transportation to collect and remit fees, taxes, and penalties on behalf of other states that are parties to cooperative agreements.

Enables the Colorado state patrol, ports of entry, and local law enforcement authorities to enforce such permits on Colorado state highways and to enforce in Colorado the applicable requirements of the permitting state or states.

Authorizes the executive director of the department of transportation to appoint employees and officials of other states to act as agents of the department for the limited purpose of enforcing the laws of Colorado under the terms of such agreements. Allows the director to promulgate regulations necessary to implement such agreements. Requires that regional cooperative agreements contain provisions exempting employees and officials of other states, who act under the terms of such agreements, from compensation and benefits from the state of Colorado.

Allows such agreements to provide for uniformity with respect to enforcement procedures, safety inspection standards, operational standards, permit and application form procedures, driver qualifications, and other vehicle size- or weight-related matters. Provides that all existing statutes and rules and regulations prescribing size and weight vehicle requirements or relating to permits for such vehicles continue to be in effect until amended or repealed and that any cooperative agreement comply with those statutes and rules and regulations. Requires the transportation commission to ratify any cooperative agreement and to cooperate or contract with other states, regional or national associations, or not-for-profit organizations in transportation studies or issues of new transportation technology, including intelligent vehicle highway systems, only with the proper authorization by each party and approval from its legislative body.

Changes the definition of symbols in the formula used to determine the maximum gross weight of a vehicle allowed to be moved or operated on a highway or bridge, specifically, defining the symbol "L" to equal the distance in feet between the extreme of any group of 2 or more axles and the symbol "N" to equal the number of axles in the group of axles under consideration.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1028** Driver's license fees - portion retained by county clerk and recorder. Increases the portion of the driver's license fee that is retained by a county clerk and recorder who issues a driver's license, provisional driver's license, minor driver's license, commercial driver's license, or provisional driver's license authorizing operation of commercial vehicles from \$3 to \$6.

**APPROVED** by Governor April 6, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1165** Certificates of title - duration of liens of mortgage on vehicles -extension - appropriation. Extends the limitation on the duration of liens of mortgage on vehicles from 5 years to 8 years. Specifies that liens of mortgage on truck tractors and motor homes extend for the full term of the mortgage. Deletes requirements that a county clerk and recorder and the executive director of the department of revenue affix a signature and seal on documents regarding any extension of a lien of mortgage on a vehicle.

Appropriates \$6,782 to the department of revenue out of private donations made for the purpose of implementing the act.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** January 1, 1995

**H.B. 94-1346** Drivers' licenses and identification cards - storage of information - photographs. Limits the information that may be magnetically, electronically, or otherwise stored on a driver's license or identification card. Except for social security numbers, authorizes the department to store any information that is statutorily authorized to appear on the face of such license or card.

Changes the requirement that every minor driver's license, provisional driver's license, and identification card issued to an individual under 21 years of age show a photograph of the holder's profile to a requirement that it show the holder's full face.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

## NATURAL RESOURCES

**S.B. 94-008** Local government mineral impact fund - state agency spending authority. Prohibits a state agency from spending moneys received from the local government mineral impact fund without a separate appropriation. Makes certain exceptions for local government emergencies.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** April 19, 1994

**S.B. 94-031** Conservation magazine - distribution of associated informational products - competition with a private business. Allows the division of wildlife to distribute informational products associated with the conservation magazine distributed by the division. Specifies that the funds for development of the associated products shall come from the Colorado outdoors magazine revolving fund. Requires any person who sells the magazine and associated products to do so pursuant to a contract with the division. Deletes language from the law which specifically provided how much a distributor may be paid. Increases the amount which is required to be in the Colorado outdoors magazine revolving fund before the excess reverts to the wildlife cash fund. If a private business is producing a product which the division is not producing, specifies that the division shall not compete with such private business for so long as the product remains available from the private business.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** May 22, 1994

**S.B. 94-039** Lode or placer mining claim - federal claim rental fee - affidavit of payment. Provides that a person on whose behalf an annual claim rental fee is paid pursuant to federal requirement may make and record an affidavit of such payment with the clerk and recorder of the county wherein the claim is situate. Provides that the affidavit of payment shall be prima facie evidence of such payment for the purpose of maintaining the claim.

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** April 14, 1994

**S.B. 94-066** Wildlife - hunting and fishing licenses - issuance of low-cost youth licenses. Allows Colorado residents and nonresidents under 16 years of age to obtain a combination youth small game hunting, furbearer, and fishing license for \$1.00, or a youth big game license entitling the holder to hunt deer, elk, or antelope for \$10 for a Colorado resident, or \$75 for a nonresident, per species. States that these prices include the search and rescue fund surcharge applicable to licenses generally. Requires applicants to show proof of completion of a hunter education course and, except when hunting small game or furbearers under the regular small game or furbearer license, to hunt only when accompanied by, and in voice and reasonable visual contact with, a person 18 years of age or older who holds a hunter education certificate or who was born before 1949.

Changes the minimum age for hunting big game from 14 to 12 and the maximum age for fishing without a license from 15 to 16. Allows holders of a combination youth small game hunting, furbearer, and fishing license to take 1/2 of the generally applicable bag limit

of small game or furbearers and 1/2 of the generally applicable possession limit of fish.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** May 22, 1994

**S.B. 94-137** Wildlife - hunting - possession of raptors - licenses - violations -penalties - disposition of fines - residency requirements - interstate compacts -zoological parks - duck stamp program. Adds "hunting", as distinguished from "taking", of wildlife to the activities regulated by the division of wildlife. Defines "hunting" to mean pursuing, attracting, stalking, or attempting to kill or capture an animal for the purpose of taking it. Amends and clarifies the definition of a "resident" for licensing purposes. Includes within the definition of an illegal "transfer" of a hunting license the receipt of such license. Treats the provision of unregistered outfitting services for monetary gain as an illegal sale of wildlife.

Directs the wildlife commission to pursue the establishment of reciprocal agreements with other states and Canada regarding the taking, use, and transportation of raptors. Provides for the issuance of nonresident raptor licenses for fees commensurate with the fees charged by other states and Canadian provinces. Requires the commission to report annually to the general assembly on the status of the peregrine falcon population in Colorado until such time as the species is removed from the lists of threatened and endangered species.

Allows license agents to post a performance bond in an amount less than the full value of licenses consigned if adequate to ensure remittance of all amounts due. Allows the commission to reduce license fees when coordinated state and federal regulation of a licensed activity results in administrative cost savings and to adopt rules authorizing refunds of moneys received in payment for licenses.

Creates a new license classification for zoological parks, setting forth minimum criteria such as the maintenance of regular hours, double fencing requirements, and disease testing procedures for animals brought into a park.

Allows consideration of more than 5 alternative designs for the migratory waterfowl stamp. Eliminates the requirement that designs be preselected and submitted by publishers, but retains the requirement that at least one of the designs considered for final selection be the work of a Colorado artist.

Directs that, where a citation is issued by a peace officer not employed by the division of wildlife, one-half of the amount collected in fines for the violation be returned to the local governmental unit or agency whose officer issued the citation.

Implements the interstate "Wildlife Violator Compact" and amends enforcement provisions. Allows service of notice of hearings and license suspensions via certified mail. Authorizes the wildlife commission to delegate its license suspension authority to a hearing examiner, subject to appeal of the hearing examiner's decision. Amends provisions setting forth penalties for illegal taking of wildlife.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**S.B. 94-177** Oil and gas conservation commission - composition - powers and duties - protection of public health and the environment - enforcement - penalties - appropriation. States that the purpose of the act is to address the regulatory and enforcement authority of the Colorado oil and gas conservation commission and that nothing in the act shall be construed to affect the existing land use authority of local governmental entities.

Increases the number of members on the commission from 6 to 7 and changes the training and experience qualifications for members. Requires that one member reside west of the continental divide.

Gives the commission the authority to regulate oil and gas operations so as to prevent and mitigate significant adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations. Authorizes the commission to promulgate rules on the conduct of oil and gas operations to ensure proper reclamation of land and soil affected by oil and gas operations and to ensure protection of the topsoil.

Directs the commission to require every operator to provide assurance that it is financially capable of fulfilling any obligation imposed by rule to protect the health, safety, and welfare of the public in the conduct of oil and gas operations or to ensure proper reclamation of land and soil and protect topsoil during such operations. Specifies various methods of demonstrating such financial assurance.

Requires the commission to provide a means for the giving of reasonable advance notice of the commencement of oil and gas operations to the appropriate local governmental and surface owners whose lands will be affected. Permits the commission to assign its inspection and monitoring functions but not its enforcement authority through intergovernmental agreement or by private contract; except that no such assignment shall allow for the imposition of any new tax or fee by the assignee or give the assignee a contingent fee based on the number of alleged violations referred to the commission.

Increases the time period for notification of a commission hearing to issue rules or orders from 10 to 20 days.

Establishes a \$1,000-per-day maximum penalty for violations of the "Oil and Gas Conservation Act", a rule or order of the commission, or of any permit, subject to a \$10,000 aggregate limit in the case of violations which do not result in significant waste of oil and gas resources, damage to correlative rights, or adverse impact on public health, safety, or welfare. Directs the commission to promulgate rules which establish a penalty schedule appropriate to the nature of the violation and provide for consideration of aggravating or mitigating circumstances. Sets forth procedures for collection of penalties.

Authorizes the commission to issue a cease and desist order if an operator fails to take corrective action or where an emergency situation results from a violation, and to issue other orders where necessary to mitigate significant adverse environmental impacts.

Increases the amount of the unobligated portion of the oil and gas environmental response fund from \$500,000 to \$1,000,000. Eliminates the requirement for producers or

purchasers to provide information regarding the percentage interest of each owner of interest in oil and gas. Allows expenditures from the fund for investigation, prevention, monitoring, and mitigation of conditions that cause or threaten to cause adverse environmental impacts.

Relocates provisions relating to the mitigation of adverse environmental impacts. Requires the commission to provide reasonable notice, except in emergency situations, before entering lands or waters in connection with an investigation of such impacts. Allows the commission to confiscate and sell, subject to any prior liens, equipment abandoned by an operator or other responsible party at a site where oil and gas operations have caused significant adverse environmental impacts. Defines "responsible party". Allows the commission to sue responsible parties for costs of mitigation. Makes responsible parties liable only for a proportionate share of such costs and not jointly and severally liable for the full amount.

Appropriates \$255,847 and 4.0 FTE from the oil and gas environmental response fund to the department of natural resources, for allocation to the oil and gas conservation commission, for the implementation of the act.

Appropriates \$10,360 and 0.2 FTE to the department of law for the provision of legal services to the oil and gas conservation commission for the purposes of the act.

**APPROVED** by Governor June 2, 1994

**EFFECTIVE** June 2, 1994

**S.B. 94-213** Division of wildlife - acquisition of land - Routt county. Authorizes the division of wildlife to acquire certain described land in Routt county.

Appropriates of \$400,000 out of the wildlife cash fund for the acquisition. Makes the appropriation subject to reduction by any amount received from federal sources.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**S.B. 94-219** State land leases - agriculture - bond not required. Provides that a person leasing state lands solely for agricultural purposes is not required to post a bond against loss of rent, waste of such lands, or occupation of lands after cancellation or expiration of the lease.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**H.B. 94-1015** River outfitters - regulation - continuation under sunset law - appropriation. Continues the regulatory authority of the board of parks and outdoor recreation and the division of parks and outdoor recreation in the department of natural resources over river outfitters, subject to the provisions of the sunset law.

Expands the scope of coverage of activities regulated by the river outfitter laws. Sets forth requirements concerning the advertisement of regulated trips. Specifically excludes any

person from regulation who is conducting a trip exclusively for friends or family. Authorizes the board of parks and outdoor recreation to adopt certain regulations. Recreates an advisory board to make recommendations to the board concerning regulations.

Grants the director of the division of parks and outdoor recreation the power to grant variances to river outfitters from regulations adopted by the board under certain conditions.

Removes the requirement that guides, trip leaders, and guide instructors receive first-aid cards exclusively from the American Red Cross.

Prohibits persons from operating or controlling a vessel during a regulated trip if such person is under the influence of drugs, alcohol, or a combination of drugs and alcohol.

Empowers the division of parks and outdoor recreation to issue a cease and desist order to any party who is violating the law. Provides remedies to persons who are the object of a cease and desist order. Allows the board to place a licensee on probation or to issue a letter of admonition to a licensee or applicant under certain specified circumstances. Sets forth certain violations for which a license may be denied, suspended, or revoked. Allows a licensee who has been the subject of a disciplinary action to appeal to the court of appeals.

Repeals all regulations adopted by the board of parks and outdoor recreation related to the regulation of river outfitters and requires that such regulations be reviewed and repromulgated as necessary. Creates the river outfitters cash fund into which fees collected pursuant to these regulations are deposited and out of which appropriations are made.

Extends the automatic termination date of the licensing function of river outfitters through the division of parks and outdoor recreation to July 1, 2004, pursuant to the sunset law. Provides for the termination of the advisory board subject to review pursuant to the sunset law.

Appropriates \$5,625 from the river outfitters cash fund to the department of natural resources for allocation to the division of parks and outdoor recreation for the implementation of this act. From such amount, appropriates \$3,473 to the department of administration and \$1,158 to the department of law for the implementation of the act.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1188** Search and rescue activities - hiking certificate - fee - search and rescue fund - uncompensated searches - appropriations. Requires the division of wildlife to offer a hiking certificate to hikers, backpackers, mountain and trail bikers, and cross country skiers. States that each hiking certificate shall cost \$1.00 and be valid for one year. Authorizes the division to issue a multi-year certificate for a period not to exceed 5 years, which may be offered at a reduced rate. Requires the division to transmit \$0.25 of each one-dollar fee to the state treasurer for crediting to the search and rescue fund. Provides that an amount to be determined shall be credited to the wildlife cash fund and the balance of the certificate fee shall be credited to the nongame and endangered wildlife cash fund.

Eliminates the requirement that any balance in the search and rescue fund at year end that exceeds \$300,000 must be transferred to the wildlife cash fund for fisheries and wildlife enhancement activities.

Requires the division to include uncompensated searches for families of persons holding hiking certificates when dividing the balance remaining in the search and rescue fund among the counties for uncompensated searches.

Prohibits the division from using search and rescue fund moneys to compensate counties for motor vehicles that are designed primarily for travel on the public highways. Clarifies that reimbursable costs include those expended for private and nonprivate helicopter service.

Appropriates \$32,956 from the division of wildlife cash fund to the department of natural resources, for allocation to the division of wildlife, for the implementation of the act.

Appropriates \$200,000 from the search and rescue fund to the department of natural resources, for allocation to the division of wildlife, for the implementation of the act.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** January 1, 1995

## PROBATE, TRUSTS, AND FIDUCIARIES

**S.B. 94-043** Probate code - rewrite - evidence of death or status - intestate succession - elective share of surviving spouse - augmented estate - omitted spouse or children - exempt property and allowances - wills and will contracts - rules of construction for wills and other governing instruments - probate and nonprobate transfers - trusts for pets - powers of appointment - release and exercise by attorney-in-fact or agent. Repeals and reenacts certain portions of the "Colorado Probate Code" based substantially on recommendations of the National Conference of Commissioners on Uniform State Laws.

Identifies additional rules relating to the determination of death and status of an individual, including the following: That death occurs when an individual is determined dead under provisions relating to the practice of medicine; that, in the absence of prima facie evidence of death, the fact of death is to be established by clear and convincing evidence; and that the fact of death of an absentee is not to be determinative of any finding to be made in a formal testacy proceeding under the code. Reduces from 7 years to 5 years the length of time an individual whose death is not established must be absent in order to be presumed dead.

Defines the following additional terms: Agent, beneficiary designation, descendant, governing instrument, joint tenants with right of survivorship, payor, survive, and testator. Defines "descendant" to mean all of the individual's descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of parent and child contained in the probate code.

Permits a decedent, by will, to exclude or limit the right of an individual or class to succeed to property of the decedent passing by intestate succession. Changes intestate succession provisions by allowing the surviving spouse to take the following amounts in the following circumstances: The entire intestate estate if all of the decedent's surviving descendants are also descendants of the surviving spouse and there are no other descendants of the surviving spouse; \$200,000 of the intestate estate plus 3/4 of the balance if there are living parents of the decedent; \$150,000 plus 1/2 of the balance if there are children who are descendants of both spouses and the surviving spouse has more than one surviving descendant who is not a descendant of the decedent; \$100,000 plus 1/2 of the balance if there are adult children who are descendants of the deceased spouse, but not of the surviving spouse; and 1/2 of the intestate estate if one or more of the decedent's surviving descendants are not descendants of the decedent's surviving spouse, and if one or more of such descendants are minors.

For purposes of intestate succession, eliminates the consideration of the descendants' degree of kinship to the decedent and provides that shares passing to descendants pass by representation. Allows a birth child or a birth parent to file a claim for inheritance within 90 days of the decedent's death and provides that, if there is no other surviving heir identified, the intestate estate is to pass to such surviving birth child or birth parent. Treats an adopted individual as the child of the adopting parents and not the child of the birth parents for purposes of intestate succession, unless the birth child or the birth parent files such a claim. Establishes the burden of proof for determining whether an individual survived an event as "clear and convincing" evidence.

Establishes a different representation system for heirs to provide equal shares to those equally related. Requires each generation to take on the basis of the share the previous generation would have received, if it had survived. Creates a per-capita-at-each-generation system of representation.

Modifies the elective-share and augmented estate provisions. Bases the amount of a surviving spouse's percentage share of the augmented estate on the length of such spouse's marriage to the decedent up to a maximum of 50% of the augmented estate. In certain circumstances, entitles the surviving spouse to a supplemental elective-share amount payable from the decedent's probate estate and from recipients of the decedent's nonprobate transfers to others. Requires the net assets of the surviving spouse to be taken into account in calculating the augmented estate. Identifies property which is excluded from the augmented estate. Identifies and prioritizes the sources from which the unsatisfied balance of the elective-share amount is to be satisfied. Changes the time limitations within which a petition for the elective-share must be filed and delivered to 9 months after the date of the decedent's death or 6 months after the decedent's will is admitted to probate, whichever is later.

Changes the means by which the share of an unintentionally omitted spouse or child is determined. For purposes of exempt property and family allowances, sets forth special provisions on behalf of surviving spouses who are incapacitated and who exercise the right to any elective-share.

Concerning wills and will contracts, specifies the burden of proof and type of evidence by which a document may be established as the testator's will. Permits the establishment by extrinsic evidence of the testator's intent that a document constitute a will even if portions of the document are not in the testator's handwriting. Creates a rebuttable presumption that a subsequent will is intended to replace rather than supplement a prior will if it makes a complete disposition of the testator's estate and creates a rebuttable presumption that a subsequent will is intended to supplement rather than replace a prior will if it does not make a complete disposition of the testator's estate. Treats any provision in a will purporting to penalize an interested person from contesting the will as unenforceable if probable cause exists for instituting such proceedings.

Sets forth rules of construction for wills, codicils, and other governing instruments executed, republished, or reaffirmed on or after July 1, 1995. Permits wills to provide for the passage of property acquired by the estate after the testator's death. Creates the presumption of a substitute gift in certain circumstances, which presumption may be superseded by an alternative beneficiary designation. Determines which substitute gift is to take effect if more than one is created. Requires clear and convincing evidence that an individual survived an event by 120 hours. Creates exceptions to the 120-hour survival rule in the following circumstances: If the imposition of a 120-hour requirement of survival would cause a nonvested property interest or a power of appointment to fail to qualify for validity or if the application of a 120-hour requirement of survival to multiple governing instruments would result in an unintended failure or duplication of a disposition. Provides protection for payors and bona fide purchasers. For purposes of class gifts created by wills and other governing instruments, treats relationships in accordance with the provisions of intestate succession. Makes a future interest created under the terms of a trust contingent upon the beneficiary's surviving the distribution date and specifies the result if the beneficiary does not so survive.

Establishes a presumption that the distribution of class gifts in favor of "descendants", "issue", or "heirs of the body", if not otherwise specified, be distributed among the class members who are living when the interest is to take effect in possession or enjoyment in such shares as class members would take under intestate succession. Interprets the terms "by representation", "per capita at each generation", and "per stirpes". Abolishes the doctrine of worthier-title as a rule of law and as a rule of construction. Authorizes the disclaimer of an interest in property and sets forth rules governing the time within which a disclaimer must be filed or delivered and the form of the disclaimer. Explains the effect of a disclaimer.

Specifies the effect of a felonious killing upon the right of the killer to inherit either by will or intestate succession by expanding those rights forfeited by such an individual who feloniously kills the decedent. Revokes any disposition, appointment of property, or nomination as representative or fiduciary made by the decedent in the name of the killer. Provides protection for payors and bona fide purchasers. Treats a court order or a contract relating to the division of the marital estate between divorced individuals before or after a marriage, divorce, or annulment as a revocation of any revocable disposition or appointment of property made by a divorced individual to his or her former spouse or any provision conferring a general or nongeneral power or appointment on the divorced individual's former spouse.

Validates trusts for the care of designated domestic or pet animals and the animals' offspring in gestation. Subjects such honorary trusts and trusts for pets to certain provisions.

Authorizes the attorney-in-fact or agent acting under a power of attorney on behalf of a donee of a power of appointment to release such power or to exercise such power.

Applies to estates, wills, or governing instruments of decedents dying on or after July 1, 1995.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** July 1, 1995

**S.B. 94-142** Medical treatment decisions - CPR directives. Modifies the statutes governing patient autonomy in regard to the making of medical treatment decisions to: Allow a parent or legal guardian of a minor child to execute a CPR directive only after a physician issues a "do not resuscitate" order for the minor child; specify that compliance with an advance medical directive, including a CPR directive, a medical durable power of attorney, or a living will, shall not be considered as manslaughter under the "Colorado Criminal Code"; and specify that only CPR directives executed by a guardian, agent, or proxy decision-maker may be revoked by a guardian, agent, or proxy decision-maker.

**APPROVED** by Governor May 4, 1994

**EFFECTIVE** May 4, 1994

**H.B. 94-1216** Probate code - construction of marital deduction formula in will - closing of estates. Differentiates between the construction of any marital deduction formula that refers generally to federal and state tax credits and any marital deduction formula that refers specifically to federal and state tax credits. Allows a personal representative to file a verified

statement to close an estate one year after the date of death if the one-year anniversary date occurs sooner than 6 months after the personal representative's appointment.

**APPROVED** by Governor April 20, 1994

**EFFECTIVE** April 20, 1994

**H.B. 94-1228** Agency - agency instrument - content - form. Specifies the provisions that a principal may include in an agency instrument. Clarifies that the statutory provisions govern every agency instrument unless the agency instrument conflicts with the statutory provisions, in which case the instrument controls. Establishes a minimum age of 18 years for a person acting as principal and 21 years for a person acting as agent. Specifies that an agency continues through the incapacity of the principal until the death of the principal, unless otherwise stated in the agency instrument. Authorizes a principal to amend or revoke an agency, but provides that, until the agent has notice of such amendment or revocation, an agent is not liable for acts that are no longer authorized due to such revocation or amendment. Authorizes any agent to resign from an agency. Specifies that if the principal's spouse is appointed as agent and the principal and spouse are later separated or divorced, the spouse is deemed to have died for purposes of the agency. Establishes the duties of an agent to the principal.

Protects any third party who relies in good faith on an agency instrument in any dealings with the agent. Authorizes any third party who deals with an agent to demand an affidavit stating the validity of the agency. Specifies the presumptions regarding the validity of the agency that a third party may make. Requires any person who receives a direction from an agent to act on such direction. Authorizes any person who questions the validity of an agency to bring an interpleader action. Allows any third party to request proof of agency.

Requires an agent to take into account and enforce the principal's estate plan in acting under the agency. Specifies that an agent may not act with regard to a trust unless the trust is specifically referred to in the agency instrument. Grants an agent access to the principal's personal papers as necessary to carry out the agency.

Authorizes the court to order a guardian or conservator to act for the principal under the agency if the court finds the principal lacks capacity to act and the agent is not acting in the principal's best interests. Authorizes a court to construe an agency instrument if the court finds the instrument requires construction; except that the court may not amend the agency instrument. Specifies the venue for an interested person to bring an action for enforcement of the agency instrument. Requires the agent to work with the principal's guardian or conservator if one has been appointed. Empowers a principal's guardian or conservator to revoke, suspend, or terminate the agency instrument if the principal is incapacitated, except with respect to medical treatment decisions.

Establishes the statutory agent's affidavit regarding power of attorney form.

Modifies the statutory power of attorney for property form to provide notice to the principal of the extent of the agent's powers and to allow the principal to specify the agent's powers more precisely.

**APPROVED** by Governor May 4, 1994

**EFFECTIVE** January 1, 1995

## PROFESSIONS AND OCCUPATIONS

**S.B. 94-024** Money transmission - regulation by banking board - continuation of licensing function of state bank commissioner. Includes money transmission in the regulatory provisions of the "Money Order Act". Requires persons engaged in the business of money transmission to be licensed the same as persons issuing or selling exchange. Requires persons seeking licensure to be qualified and experienced as required by the banking board pursuant to rule.

Sets a penalty of up to \$25 per day for not submitting required statements or reports to the state bank commissioner without good cause. Increases from \$1,000 to \$10,000 the maximum penalty assessment for violating the act.

Specifies that any investments of a licensee shall be deemed to be held in trust for the purchasers and holders of the licensee's outstanding payment instruments if the licensee becomes bankrupt.

Extends the automatic termination date of the licensing functions of the state bank commissioner and the banking board to July 1, 2004, pursuant to the provisions of the sunset law.

**APPROVED** by Governor April 7, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-026** Engineers and land surveyors - regulation - continuation under sunset law - disputed boundaries - survey plots and monument records - land surveys and plats - land survey monuments - appropriation. Deletes the exemption for legally recognized professions and creates exemptions for architects and for utilities and their employees performing services during a disaster or emergency situation from licensure under the laws regulating engineers. Adds limited liability companies to the list of nonnatural persons which may perform engineering or land surveying work if there is a licensed engineer or land surveyor in responsible charge of such work.

Grants the board power to assess fines in the range of not less than \$50 for the first violation and up to \$2,500 for a subsequent violation against a licensee who violates the applicable laws or rules governing the profession. Grants the board the power to limit the scope of practice of an engineer or land surveyor who has violated the laws regulating engineers or land surveyors as applicable. Adds failing to pay a fine assessed pursuant to the laws regulating the profession and violating any law or rule governing the profession in another state as bases for disciplinary action against an engineer or land surveyor.

Empowers the board to issue cease and desist orders against any person violating the laws regulating engineers or land surveyors. Allows the board to request that the district attorney or attorney general bring suit for equitable relief to prevent further violations if the violator does not comply with the cease and desist order.

Makes the regulation of land surveyors parallel to the regulation of engineers by defining a violation of the laws regulating land surveyors as a class 3 misdemeanor.

Changes the requirement that the board automatically reinstate any engineer or land surveyor who has been retired to allow the board to require any such retiree to be examined as it deems appropriate.

Adds certain individuals to the list of individuals who are immune from civil liability in connection with a professional review of an engineer or land surveyor.

Changes the term used to refer to persons training to become engineers or land surveyors from engineers-in-training to engineer-interns and from surveyors-in-training to land surveyor-interns. Removes the requirement that the board mail certificates to individuals who become certified as engineer-interns or land surveyor-interns.

Removes certain restrictions on the use of official seals by engineers and land surveyors.

Modifies certain educational and experience requirements for land surveyor-interns.

Repeals and reenacts the provisions of law regulating survey plats and monuments records, standards for land surveys and plats, and perpetuation of land survey monuments, leaving the substantive provisions of those laws substantially as they are in current law while updating the language and organization of such law. Moves provisions regulating the determination of the proper location of a section corner or quarter section corner to the laws regulating county surveyors.

Extends the automatic termination date of the licensing functions of the board to July 1, 2004.

Appropriates \$30,585 from the division of registrations cash fund and 0.4 FTE to the department of regulatory agencies for allocation to the division of registrations for allocation to the state board of registration for professional engineers and professional land surveyors.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-033** Real estate - contracts - mandatory disclosure - remuneration of brokers. Changes the time at which the identity of persons paying any compensation or commission to a real estate broker must be disclosed from the time an offer is made to the time when the parties enter into a contract. Removes the requirement that the specific amount of any commission being paid to a broker by any party be disclosed.

**APPROVED** by Governor March 31, 1994

**EFFECTIVE** March 31, 1994

**S.B. 94-060** Limited gaming - use of funds for transportation improvements - transfer of moneys to state highway fund - appropriation. Requires a portion of limited gaming proceeds to be annually transferred to the state highway fund to be used solely for proposed or anticipated transportation needs attributable to limited gaming and to reimburse the department of transportation for any emergency repairs and modifications performed during

the previous fiscal year that are attributable to limited gaming. Defines "limited gaming community". Transfers \$997,000 from the limited gaming fund to the state highway fund and appropriates such amount for the fiscal year beginning July 1, 1994, to implement the act.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** May 22, 1994

**S.B. 94-079** Limited gaming - municipal limited gaming impact fund - transfer of moneys to fund. Creates a municipal limited gaming impact fund for mitigation of the impact of limited gaming on cities located in the counties of Gilpin and Teller that are not limited gaming cities. Requires 2% of limited gaming proceeds to be annually transferred to the municipal limited gaming impact fund. Provides for transfers from the municipal limited gaming impact fund to the governing bodies of the cities of Woodland Park and Victor within 30 days of a transfer to the fund. Permits such moneys to be used for public facilities, public services, and mitigation of other gaming impacts as the municipal governing bodies may determine. Directs that 75% of the moneys in the fund be transferred to the city of Woodland Park and 25% be transferred to the city of Victor. Requires each city to place moneys received from the fund in a special account for gaming impacts but permits the transfer of such moneys from the account as long as records are kept. Requires each city receiving moneys from the fund to prepare an annual report to the joint budget committee of the general assembly concerning the uses of such moneys and their relationship to limited gaming.

Applies to revenues collected in fiscal years commencing on or after July 1, 1993.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** June 3, 1994

**S.B. 94-093** Board of medical examiners - delegation of authority - licensing functions. Authorizes the state board of medical examiners to establish a subcommittee of board members for the purpose of facilitating the licensing of applicants. States that 3 members shall constitute a quorum of such subcommittee and that any action taken by the subcommittee concerning licensing functions shall constitute action by the board.

**APPROVED** by Governor March 31, 1994

**EFFECTIVE** March 31, 1994

**H.B. 94-1026** Plumbing - installation of medical gas and vacuum systems. Provides that the installation of medical gas and vacuum systems in health care facilities is within the definition of "plumbing". Makes plumbers who install such systems subject to the laws that regulate plumbing installations generally.

**APPROVED** by Governor February 17, 1994

**EFFECTIVE** February 17, 1994

**H.B. 94-1037** Alcoholic beverages - liquor license - hotel and restaurant license - hours

meals must be served. Decreases the hours which a hotel and restaurant licensee must serve meals. Specifies that licensees shall serve meals only if open for business and selling alcoholic beverages. Requires licensees to provide sandwiches and snacks after the hours required for meal service.

**APPROVED** by Governor February 18, 1994

**EFFECTIVE** February 18, 1994

**H.B. 94-1038** Electricians - inspections or investigations - citations - fines and penalties. Grants the state electrical board the power to issue citations to persons who violate certain laws regulating electricians. Allows state electrical inspectors to conduct inspections or investigations and to provide service of process for citations. Directs the board to adopt a schedule of fines for violations and sets forth requirements for the schedule. Requires all fines collected to be deposited in the state general fund and mandates that the local governments in whose jurisdictions the violations occur receive one-half of the fines collected. Removes certain remedial provisions and sets forth new remedies for persons who have received citations. Specifies the penalties for not complying with a citation, a settlement agreement, or order from an administrative hearing, including granting authority to the board to revoke, suspend, or deny a license. Adds to the list of unlawful acts and increases the penalty for certain unlawful acts from a class 3 misdemeanor to a class 1 misdemeanor.

**APPROVED** by Governor March 11, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1056** Agricultural products - dealers - exemptions for small-volume dealers, retail grocery merchants, and restaurateurs - definitions. After March 1, 1995, creates a new license category, designated "small-volume dealer", for persons whose dealer activity is no more than \$20,000 worth of farm products per year and \$2,500 per transaction. Exempts such persons from bonding requirements and allows them to obtain licenses at a reduced fee. Requires them to maintain detailed records to establish the continued entitlement to small-volume dealer status.

Tightens the retail grocery merchants' and restaurateurs' exemptions from licensing to require that persons claiming the exemption use the relevant farm products in a manner directly related to the operation of their business.

Expands the definition of a "terminal warehouse" to include warehouses licensed by states which have a warehouse examination cooperative agreement with Colorado or the United States department of agriculture.

Classifies hay as an agricultural commodity.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 1, 1995

**H.B. 94-1081** Nursing - advanced practice nurses - definition - registry - appropriation.

Directs the state board of nursing to establish an advanced practice registry of licensed professional nurses who have obtained specialized education or training. Authorizes the use of the title "advanced practice nurse" and the use of other titles relating to additional specialties or practice categories by persons accepted by the board for inclusion in the registry. Requires the board to establish reasonable standards for registration of nurses who apply prior to July 1, 1995.

On and after July 1, 1995, requires the completion of a nationally accredited education program or the passage of a national certification examination for inclusion in the registry. On and after July 1, 2008, requires the completion of a graduate degree in the appropriate specialty for inclusion in the advanced practice registry for any individual not registered prior to such date.

Appropriates \$57,401 and 0.7 FTE to the department of regulatory agencies for allocation to the division of registrations and \$2,145 to the department of law for the implementation of the act.

**APPROVED** by Governor May 19, 1994

**EFFECTIVE** May 19, 1994

**H.B. 94-1087** Private occupational education - claim for loss of tuition or fees - public record - filing requirements. Provides that a claim for loss of tuition or fees is a public record once it is filed with the private occupational school division, unless a release of such claim information would violate federal privacy law. Lengthens from 180 days to 2 years the period of time after a student discontinues his or her training during which a claim may be filed with the division. Eliminates the requirement that a claim for loss of tuition or fees be notarized before it is filed with the division.

**APPROVED** by Governor March 31, 1994

**EFFECTIVE** March 31, 1994

**H.B. 94-1106** Health care professionals - peer health assistance programs - rehabilitation committees - pharmacists - nurses - licensure fees. Terminates the nursing peer health assistance diversion fund June 30, 1995, and the pharmacy peer health assistance fund, July 1, 1994. Requires the balance in such funds to be transferred to an administering entity selected by the board of nursing and the state board of pharmacy. States the requirements for and the responsibilities of the administering entity.

Provides that the nurses rehabilitation evaluation committee shall be reimbursed by the administering entity instead of the nursing peer health assistance diversion fund. Provides that the board of nursing shall select at least one peer health assistance program, known as a designated provider, to help nursing licensees who are experiencing impaired practice. Includes criteria the board shall use in selecting designated providers. Requires applicants for licensure to pay a fee, not to exceed \$28 biennially, to the administering entity for the purpose of supporting the designated providers who provide assistance to nurses with physical, psychiatric, or emotional problems.

Restores the pharmacist's rehabilitation committee and states that committee members

shall be reimbursed by the administering entity. States that a pharmacist may be referred to the pharmacist's peer health assistance program for help with a drug or alcohol abuse problem.

**APPROVED** by Governor May 22, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1111** Alcoholic beverages - bed and breakfast establishments - authority to serve complimentary alcoholic beverages. Creates a new class of liquor license, designated a "bed and breakfast permit", available in lieu of a hotel and restaurant license and at a lower cost (\$50 total), which allows an overnight lodging establishment with not more than 20 sleeping rooms to offer complimentary alcoholic beverages to its guests so long as the beverages are not sold by the drink, are consumed on the premises only by overnight guests, and are not available for more than 4 hours a day. Eliminates the local petition process but allows local licensing authorities to prohibit the issuance of any bed and breakfast permits within their jurisdiction. Provides for enforcement by the department of revenue in a manner similar to that of enforcement of liquor licenses.

**APPROVED** by Governor March 2, 1994

**EFFECTIVE** March 2, 1994

**H.B. 94-1119** Electrical inspectors - waiver of qualification requirements. Allows a local government employing an electrical inspector to waive the requirement that such inspector have at least 2 years of practical experience unless such entity is a county with a population of more than 150,000. States that if the 2 year requirement is waived, such inspector shall be supervised by a licensed electrical inspector, who has not less than 2 years of experience, for the lesser of 6 months or 30 inspections.

**VETOED** by Governor April 29, 1994

**H.B. 94-1128** Alcoholic beverages - sale - importation - "come-to-rest" provisions - purchased from wholesaler required. Requires that alcoholic beverages be placed in the physical possession of a licensed wholesaler and inventoried for tax collection purposes before being sold. Prohibits retailers from selling alcoholic beverages unless purchased from a licensed wholesaler.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1146** Physical therapists - wound debridement. Removes the restriction that physical therapists who perform wound debridement only perform nonsurgical wound debridement. Repeals the definition of "nonsurgical wound debridement". Specifies that performing wound debridement does not violate the prohibition on performing surgery.

**APPROVED** by Governor March 9, 1994

**EFFECTIVE** March 9, 1994

**H.B. 94-1151** Alcoholic beverages - denial of liquor license. Requires that an application for a liquor license be denied if the same class of liquor license has been denied for the same location within the previous 2 years. Changes the basis for denying an application for a specific location from the denial of any type of liquor license in the previous 2 years to the denial of the same class of license in the previous 2 years for the same location.

**APPROVED** by Governor March 15, 1994

**EFFECTIVE** March 15, 1994

**H.B. 94-1219** Hospital professional review committees - scope of review - collaboration - confidentiality. Grants authority to a professional review committee organized to review patient care rendered by a licensed physician to also review the patient care rendered by a nonphysician, recognizing that nonphysician patient care influences patient care by a physician. Requires a professional review committee that believes that care rendered by a nonphysician may have adversely affected the outcome of patient care to either refer the matter to a hospital committee established pursuant to law or to consult with a representative of the other nonphysician's profession. Allows a professional review committee to collaborate with a hospital review committee established pursuant to law. Requires matters considered in collaboration with or referred to a hospital review committee to remain confidential subject to certain immunities and privileges. Specifies that there is no extension of the authority or jurisdiction of the board of medical examiners to any individual not already subject to the board's jurisdiction.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**H.B. 94-1220** Real estate - exclusion of business entities from real estate laws - when purchaser is developing land - sole proprietors. Excludes from the term "real estate broker" an officer, partner, or regularly salaried employee of a sole proprietorship, corporation, partnership, or limited liability company, with respect to property located in Colorado, where the purchaser is in the business of developing land for residential, commercial, or industrial purposes. Excludes from the term "real estate broker" a sole proprietor with respect to property owned or leased by the sole proprietor on which a previously unoccupied building has been or will be erected and where the consideration paid for such property includes the cost of such building less deposit or down payment payable at the time of conveyance of such property and building.

**APPROVED** by Governor April 6, 1994

**EFFECTIVE** April 6, 1994

**H.B. 94-1232** Alcoholic beverages - delivery - sale with food items - public transportation system licenses - unlawful financial assistance - exemption - minibar - fee - occasional sales - hours of operation. Authorizes any person who holds a license for the sale of fermented malt beverages for consumption on and off the premises to deliver such beverages in conjunction with the delivery of food products if a permit for such delivery has been obtained. Authorizes the state licensing authority to issue such permits.

Authorizes retail liquor stores to sell certain liquor-filled candy and food items in containers up to 16 ounces that are directly related to the consumption of malt, vinous, and spirituous liquors, solely for the purpose of cocktail garnish. Prohibits the sale of any food item that could constitute a snack or meal. Authorizes retail liquor stores to sell items for the benefit of a charitable organization if such stores do not receive compensation for any such sale.

Authorizes the state licensing authority to issue a permit to retail liquor store and liquor-licensed drugstore licensees which will entitle them to deliver malt, vinous, and spirituous liquors to persons of legal age at places not licensed by the state licensing authority.

Authorizes any commercial airline that holds a public transportation system license to sell malt, vinous, or spirituous liquors by the drink in an airport private club room that is in existence and operational by April 1, 1995.

Provides an exemption from the unlawful financial assistance provisions to enable manufacturers, wholesalers, and certain other parties to provide financial or in-kind assistance to a nonprofit arts organization that has an arts license.

Authorizes a hotel and restaurant licensee to contract with a lodging facility for such facility to sell alcoholic beverages provided by the hotel by means of a minibar, if the hotel and facility meet stated ownership and proximity requirements. Authorizes the state licensing authority to establish a processing fee of \$325.00 for reviewing such contracts. Prohibits the placement of any container of malt, vinous, or spirituous liquors in a minibar if such container has a capacity in excess of 500 milliliters.

Exempts from all provisions of the liquor code except those concerning excise tax payments, the occasional sale of alcoholic liquor through public auction by an organization qualifying for a special event permit, for the purpose of disposing of liquor acquired through a lawful donation. Limits such auctions to 4 per year.

Allows the sale of malt, vinous, or spirituous liquors between the hours of 7 a.m. and 12 midnight on the day following Christmas.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

**H.B. 94-1245** Real estate - appraisals - exception from statutory requirements. Replaces the current \$100,000 de minimis exception from appraisal requirements with an exception for appraisals relating to transactions that the primary state or federal regulator of the financial institution has excepted from appraisal regulations and which are performed either by an officer, director, or employee of a financial institution or its affiliate or by a licensed real estate broker or salesperson under contract with the institution.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1256** Alcoholic beverages - licenses - limited winery - limitation - hotel and restaurant - meal requirement - malt liquors - delivery. States that any person who relinquishes a financial interest in a limited winery license to apply for another alcoholic beverage license shall not obtain a limited winery license for 3 years from the date of issuance of such other license.

States that a licensed brewery which has a hotel and restaurant license need only receive 15% rather than 25% of its gross income from the sale of meals.

Provides that malt liquors produced by the head of a family for family use and thereby exempt from the "Colorado Liquor Code" may be delivered to a licensed premise where consumption is authorized for affairs such as home brew contests, tastings, or judgments, if the liquor is served in portions not exceeding 6 ounces and is not offered for sale or made available for consumption by the general public.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

**H.B. 94-1282** Certified public accountants - authority to practice accounting as partnership. Permits certified public accountants to practice in this state as any form of partnership allowed by law. Deletes the requirement that partnerships practicing as certified public accountants be general partnerships. Requires that each partner practicing as a public accountant in this state be certified in Colorado and in good standing and that those partners not practicing in this state must be certified in some state and in good standing. Permits accounting firms practicing as limited liability companies to use the abbreviation "LLC" in their firms' names. Includes the term "limited liability company" where appropriate in the laws regulating certified public accountants.

**APPROVED** by Governor May 4, 1994

**EFFECTIVE** May 4, 1994

## PROPERTY

**S.B. 94-092** Mobile homes - termination of tenancies in mobile home parks - taxation of mobile homes held as inventory. Allows a tenancy in a mobile home park to be terminated on short notice if the conduct of the home owner or any lessee, guest, agent, invitee, or associate of the home owner unreasonably endangers the life of or constitutes willful, wanton, or malicious damage or destruction to the property of the landlord or others living in the park, constitutes one of several identified types of felonies, or is the basis for a pending action to declare the mobile home or its contents a class 1 public nuisance. Shortens the eviction notice period in such cases to 10 days from the date the notice is served or posted, or 15 days if the home is a multisection mobile home.

Requires that mobile homes held as inventory by mobile home dealers be located on sales display lots in order to qualify for an exemption from property taxation.

Removes obsolete references to "manufactured housing" and to the manufactured housing licensing board which no longer exists.

Effective upon passage eviction provisions apply to leases executed and to leases in effect on or after the date of passage when any prohibited conduct is committed on or after said date.

**APPROVED** by Governor April 19, 1994

**Effective** April 19, 1994

**S.B. 94-181** Unclaimed property - applicability - exemption of state agencies, small businesses, and nonprofits - reporting period - verification of reports. Exempts certain businesses and nonprofit organizations from the reporting and remitting requirements of the unclaimed property statutes as follows: Businesses with annual gross receipts less than \$500,000 are exempt if they hold less than \$3,500, rather than the previous \$500, of unclaimed property unless \$250 or more is attributable to one individual; nonprofits with annual contributions totalling \$1 million or more may also claim such an exemption; nonprofits with annual contributions of less than \$1 million are wholly exempt. Includes only property acquired during the immediately preceding 5-year period for purposes of computing the de minimis exemptions.

Defines an "item" of property to mean the aggregate total of all property held under the name of an apparent owner, or, in the case of intangible property of different types or classes that cannot practicably be handled together, each separate account or other form of such property.

Provides that, in case of conflict between the unclaimed property statutes and statutes governing the disposition of money by state agencies generally, the unclaimed property statutes prevail except in regard to moneys received from the federal government, state funds held inviolate, and tax warrants or other warrants issued by the state. Reduces the reachback period for initial reports from 10 to 5 years, except in the case of state warrants.

Eliminates the requirement that reports of unclaimed property and related documents

be verified. Repeals obsolete provisions regarding the 1992 initial report by the public employees' retirement association.

**VEETOED** by Governor June 7, 1994

**S.B. 94-214** Foreclosures - borrower's right to cure - technical defaults. Where property is subject to a mortgage or deed of trust and a borrower has failed to provide balance sheets or tax returns as required by the evidence of debt, mortgage, or trust deed, gives the borrower the right to cure the default and avoid foreclosure by furnishing adequate evidence of the borrower's financial condition so long as all amounts currently due have been paid.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-216** Large planned communities - regulation - "Colorado Common Interest Ownership Act". Creates a new category under the "Colorado Common Interest Ownership Act" for the development of large planned communities. Requires a planned community to consist of at least 200 acres, be zoned for development of at least 200 hundred residences and 20,000 square feet of commercial use, and meet the definition of a planned community pursuant to the "Colorado Common Interest Ownership Act" to be designated as a large planned community.

Sets forth the information that the owner of the property must record with the county to obtain large planned community status. Specifies that the declaration filed by the owner of a large planned community does not need to contain certain provisions required for other planned communities. Requires the declaration to contain a statement that the planned community is exercising certain exemptions from the act as a large planned community.

Requires the association established for the large planned community to operate with respect to community-wide matters and not for the interests of any single unit owner.

Allows a large planned community to make assessments for common expenses of the association as provided for in the declaration. Allows for assessments on retail sales, real estate transfers, and specified services within a large planned community as provided for in the declaration which shall be entitled to lien priority subject only to first deeds of trust.

Allows a large planned community to allocate votes as provided for in the declaration. Provides that a large planned community may allow voting by certain classes of members including residence owners, commercial space owners, and owners of lodging space.

Allows a large planned community to amend its declaration to allow for the change of boundaries of any unit within the community.

Exempts large planned communities from the 2-year cap on the control of an executive board by declarants. Prohibits removal by a specified percentage of voters of a member elected pursuant to a class vote.

**APPROVED** by Governor June 7, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1104** Deeds - documents of title - inclusion of assessors' information. Allows inclusion of an assessor's schedule number or parcel number when identifying real property in conveyance (transfer) documents. Provides that the absence of such information does not render the document ineffective and, in cases of internal conflict, the legal description of the property shall prevail.

**APPROVED** by Governor March 9, 1994

**EFFECTIVE** March 9, 1994

**H.B. 94-1224** Dry cleaning and related service establishments - disposition of unclaimed personal property. Reduces from 120 to 90 days the period of time that dry cleaning and related service establishments must wait before they sell unclaimed personal property. Revises the notice requirement to require that the establishment mail a registered letter to the address given at the time the property was delivered before it may dispose of the unclaimed personal property and to authorize the establishment to dispose of the property if it is not claimed within 30 days after such notice. Eliminates publication requirements. States that property left with a service establishment longer than 180 days may be disposed of by the establishment without notice or liability. Requires that dry cleaning and related service establishments post a notice that includes required language concerning this 180-day provision.

Eliminates provisions concerning the disposition of sale proceeds that limit the recovery of the establishment to the cost of its services and require such establishment to mail the balance to the owner of the property.

**APPROVED** by Governor March 31, 1994

**EFFECTIVE** March 31, 1994

## PUBLIC UTILITIES

**S.B. 94-113** Taxicabs - granting certificates of public convenience and necessity - appropriation. Specifies that granting a certificate of public convenience and necessity for the operation of a taxicab for hire shall not be deemed an exclusive grant or monopoly in counties with 60,000 or more persons. Grants the public utilities commission the authority to issue more than one certificate of public convenience and necessity to operate taxicabs within and between counties with 60,000 or more persons. Bases the population count on the federal census conducted in 1990. Specifies that the public utilities commission has the authority and duty to adopt rules which are in the public interest to regulate matters of safety, insurance, and service quality for taxicab service.

Applies to any application for a certificate of public convenience and necessity which is filed with or received by the public utilities commission on or after July 1, 1994.

Appropriates \$2,059 to the public utilities commission from the motor carrier fund. Specifies that such amount is to be appropriated to the department of law for the provision of legal services to the commission.

**APPROVED** by Governor June 2, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1130** Public utilities commission - renewable energy development - legislative declaration. Adds encouragement of renewable energy development to the factors to be considered by the Colorado public utilities commission in setting and reviewing rates and policies of regulated utilities. Defines renewable energy as useful electrical, thermal, or mechanical energy converted directly or indirectly from resources of continuous energy flow or that are perpetually replenished and whose utilization is sustainable indefinitely. Directs the commission to consider a utility's ability to recover its capital and operating costs when considering the factors that encourage the development of renewable energy.

**APPROVED** by Governor April 8, 1994

**EFFECTIVE** April 8, 1994

**H.B. 94-1189** Intrastate telecommunications services - regulation and deregulation - operator services. Distinguishes among three subgroups of what are now collectively referred to as "operator services": Operator services necessary for the provision of basic local exchange service; operator services designated as "nonoptional", which means that an operator is required for individualized call processing or specialized or alternative billing; and operator services designated as "optional", which includes all other types of operator services.

Regulates operator services necessary for the provision of basic local exchange service under statutes governing "regulated telecommunications services". Makes nonoptional operator services initially regulated, subject to potential deregulation, under statutes governing "emerging competitive telecommunications service". Exempts optional operator services from regulation.

States that rates for nonoptional operator services shall allow the provider of such

services the opportunity to earn a just and reasonable return on the investment costs incurred to originate such services.

**APPROVED** by Governor May 4, 1994

**EFFECTIVE** May 4, 1994

**H.B. 94-1251** Carriers of sludge - exemption from regulation - requirements to operate - review by general assembly - tax credit for certificate holders. Exempts carriers of sludge from having to prove that the present or future public convenience and necessity requires or will require such operation in order to operate a motor vehicle for the transportation of sludge. Requires carriers of sludge to obtain a permit from the public utilities commission, comply with motor carrier safety rules, and maintain insurance limits of at least \$750,000 combined single limit liability.

Makes violating the provisions of this law a class 2 misdemeanor.

Directs the house and senate agriculture committees to jointly review the article governing carriers of sludge during the 1999 legislative session for the purpose of determining whether to continue the permitting of carriers as provided in this law.

Creates a tax credit against state income tax for a person who holds a certificate issued by the public utilities commission to operate as a carrier of sludge based upon the book value of such certificate as of January 1, 1994. Repeals such tax credit, effective January 1, 1999.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** June 3, 1994

## SOCIAL SERVICES

**S.B. 94-028** Medically indigent - provision of health care. Combines out-state indigent care and specialty indigent care under the state medically indigent program into a single category for the purposes of identifying in the annual appropriations act the contract amounts for providing such care. Continues the state medically indigent program scheduled to be repealed.

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** April 14, 1994

**S.B. 94-041** Public assistance - food stamps - fraudulently obtained benefits - remedies - disqualification from benefit programs. Disqualifies any person from participating in specified public assistance programs if the person fraudulently obtains or aids another to obtain public assistance or vendor payments or medical assistance, if a civil judgment is obtained against the person based on allegations that the person fraudulently obtained or aided another to obtain public assistance or vendor payments or medical assistance, or if the person commits an intentional public assistance program violation. Provides that a person is disqualified for 6 months for a first offense or incident, for one year for a second offense or incident, and permanently for a third or subsequent offense or incident.

Authorizes the use of a writ of continuing garnishment to collect a debt for fraudulently obtained public assistance or overpayments of public assistance. Provides that a continuing garnishment for collection of fraudulently obtained public assistance or overpayments has priority over any continuing garnishment other than a garnishment for collection of child support. Allows the garnishment of a maximum of 35% of the disposable earnings of an individual to collect fraudulently obtained public assistance or overpayments, as compared to the garnishment of a maximum of 25% of disposable earnings to collect other debts.

Disqualifies any person from participating in the food stamp program if the person fraudulently obtains or aids another to obtain food stamp coupons, authorization to purchase cards, or an electronic benefits transfer card or similar device or if a civil judgment is obtained against the person based on allegations that the person fraudulently obtained or aided another to obtain food stamp coupons, authorization to purchase cards, or an electronic benefits transfer card or similar device. Provides that a person is disqualified for 6 months for a first offense or incident, for one year for a second offense or incident, and permanently for a third or subsequent offense or incident.

Directs the division of employment and training in the department of labor and employment to withhold amounts from the unemployment compensation of an individual to repay any uncollected overissuance of food stamp coupons that the individual owes and directs that amounts collected be paid to the appropriate state food stamp agency. Allows the withholding of amounts from unemployment compensation to pay for food stamp coupon overissuances only if arrangements have been made for the state food stamp agency to reimburse the division of employment and training for administrative costs.

Prohibits any person from cashing or accepting a public assistance payment check,

draft, or order for the payment of money unless the bearer provides specified identification. Authorizes the appropriate state agency to determine not to make payment on a check, draft, or order for the payment of money that was cashed or accepted without proper identification if there is an allegation of fraud regarding the check, draft, or order.

Applies to any offense committed on or after July 1, 1994.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-052** County departments of social services - eligibility for federal pass through funds. Eliminates restrictions on the types of activities conducted by county departments of social services that are eligible for reimbursement from federal pass through funds.

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** April 14, 1994

**S.B. 94-091** Medical assistance - medical assistance eligibility for certain managed care enrollees - recipient liability for certain services - vendor payments - long-term care personal needs accounts - post-eligibility treatment of income limited deduction - home health aide pilot program authorized - home and community-based services for persons with developmental disabilities - dual eligibility prohibited - care in intermediate care facilities for the mentally retarded - home and community-based services for persons living with AIDS - reimbursement for care rendered by family members - medical assistance cost-containment measures - competitive bidding and selective contracting requirements - appropriations. Makes various amendments to the "Colorado Medical Assistance Act". Establishes a guarantee which provides that any recipient who becomes ineligible to receive benefits under the "Colorado Medical Assistance Act" and who has been enrolled in a managed care program for less than 6 months shall continue to be eligible for enrollment in such program for the minimum enrollment period, which period begins the first day a recipient is initially enrolled in the managed care program and ends 6 months after that date. Repeals restrictions pertaining to vendor contracts in counties with populations of 20,000 or less.

States that medicaid recipients are liable for the cost of nonreimbursable items set forth in rules. Specifies that the statutory provision concerning the nonliability of medicaid recipients for reimbursable medical services applies regardless of whether medicaid has actually reimbursed a provider and regardless of whether the provider of service is enrolled in the Colorado medical assistance program. Describes "reasonable cost" for the purposes of reimbursement for nursing home vendors. Relates the reimbursement to a maximum allowable amount.

Changes reference from "maximum" to "minimum" in describing the amount of money that may be maintained by a medicaid recipient receiving long-term care as a personal needs amount. Imposes various requirements for maintaining the personal needs funds of nursing facility residents, including: Requirements concerning the type of account in which funds that exceed a specified amount may be maintained; how interest on a resident's account is to be credited; a requirement concerning pooled accounts; requirements concerning the accounting system used by a nursing facility, including a prohibition against using an

accounting system under which residents' personal needs funds are commingled with nursing facility funds or funds of any person other than another resident; a requirement concerning the assurance of the security of personal needs funds maintained by a nursing facility; and a requirement the funds be transferred to the resident's estate following the resident's death.

Requires the department of health care policy and financing to conduct a pilot program to study the cost-efficiency, benefits, and the impact on the quality of care in using home health aides for providing skilled nursing services to medical assistance recipients at locations other than nursing facilities, hospitals, or intermediate care facilities for the mentally retarded. Establishes an advisory committee for the pilot program. Repeals the program, effective July 1, 2000. Eliminates reference to the old age pension standard in describing an allowance that may be deducted from a home and community-based recipient's income that is required to be contributed by the recipient for care. Changes references in statutes governing home and community-based services for persons with developmental disabilities from "developmentally disabled" to "persons with developmental disabilities" and from "nursing homes" to "intermediate care facilities for the mentally retarded".

Amends reporting requirements with respect to home and community-based services for persons living with the acquired immune deficiency syndrome (AIDS). Authorizes the medical assistance program to reimburse family members other than a spouse who provide reimbursable services to persons living with AIDS.

Specifies that persons eligible for home and community-based services for the developmentally disabled are not eligible for home and community-based services for the elderly, blind, and disabled.

Authorizes the department of health care policy and financing to enter into competitive bidding or selective contracting arrangements with respect to specified services. Establishes specific requirements to be met by the department before entering into such contracts.

Appropriates \$181,575 to the department of health care policy and financing for medical assistance administration and decreases the appropriation in the general appropriation act to the department of health care policy and financing for medical assistance, medical programs by the same amount, for the implementation of the provisions of this act except the provisions related to medical assistance eligibility for certain managed care enrollees.

Appropriates \$125,500 to the department of health care policy and financing for the implementation of the provisions of this act related to medical assistance eligibility for certain managed care enrollees. Decreases the appropriation in the general appropriation act to the department of health care policy and financing, medical services division by \$377,981.

**APPROVED** by Governor June 1, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-101** Child care centers - licensing and fees - advisory committee. Specifies that the provisions of the "Child Care Act" continue to be applicable after a child care facility has

been approved, certified, or licensed. Limits the issuance of provisional licenses granted to a family care home or a child care center to one 6-month period. Authorizes an applicant for an original license to appeal licensure standards. Designates an appeal procedure. Eliminates provisions pertaining to original licensing and renewal fees. Authorizes the department to establish license fees for full licenses with a periodic fee for the continuation of such licenses. Directs the department to include in its minimum standards for licensing a requirement that licensees provide verification that each child has received specific immunizations.

Alters the composition of the standards appeal panel. Increases the number of members who serve on the advisory committee on licensing of child care facilities.

**APPROVED** by Governor May 4, 1994

**EFFECTIVE** January 1, 1995

**S.B. 94-110** Medical assistance - payments to vendors - quality of care incentive program - advisory committee created - sunset. Creates a quality of care incentive payment program for the purpose of encouraging improvement in the quality of care provided by nursing facility vendors. Specifies that the sum of all payments made under the quality of care incentive program shall not exceed the aggregate sum of payments made to vendors to compensate them for a reasonable share of the amount by which their reasonable costs exceed actual costs in specified categories. Effective January 1, 1995, decreases the maximum amount of such reasonable share payments from 25% to 12.5%. Beginning January 1, 1995, requires the department of human services to begin issuing incentive payments to nursing facility vendors that meet eligibility criteria established by rules and regulations. Specifies factors to be considered in establishing such criteria. Requires the department to promulgate rules and regulations establishing the dollar amounts of incentive payments. Provides that such payments may be graduated in amount in order to provide higher payments to those nursing facility vendors which provide a comparatively higher degree of quality care. For the period beginning January 1, 1995, and ending June 30, 1995, requires the department to evaluate all nursing facility vendors in accordance with established criteria and issue quality incentive payments to a minimum of 45% of such vendors. Beginning July 1, 1995, and on July 1 of each fiscal year thereafter, requires annual evaluation and issuance of quality incentive payments. Establishes an appeal procedure for any nursing facility vendor that is denied an incentive payment.

Creates an advisory committee of 9 persons to make recommendations on the appropriate method of measuring the quality of care delivered by nursing facility vendors for the purpose of making quality incentive payments. Sets forth criteria for appointment to the committee. Provides for the automatic termination of such committee on July 1, 2000, pursuant to the provisions of the sunset law.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-133** Department of health care policy and financing - creation of medical services board - rule-making by executive director and the board. Establishes the rule-making authority of the executive director of the department of health care policy and financing.

Creates the medical services board in the department of health care policy and financing. Establishes the rule-making authority of the board in connection with specific programs administered by the department. Makes conforming amendments.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-141** Child support - establishment and enforcement - hospital-based paternity - consumer reporting agencies - administrative lien and attachment - workers' compensation benefits - unemployment insurance benefits. Authorizes the written acknowledgment of paternity by unmarried parents of children born in institutions to be on witnessed acknowledgment forms prescribed and furnished by the state registrar in lieu of notarized affidavits. Requires the person in charge of an institution, or that person's designee, to provide an opportunity for an unmarried woman and the natural father of a child born in that institution to provide information concerning the paternity of the child on witnessed forms prescribed and furnished by the state registrar rather than by affidavits.

Authorizes the state child support enforcement agency to provide information to consumer reporting agencies regarding child support obligations in cases in which child support debt or child support arrearages are owed.

Permits the state child support enforcement agency to issue a notice of administrative lien and attachment to any person, insurance company, or agency providing workers' compensation insurance benefits for the purpose of attaching the benefits of an obligor who is responsible for the support of a child on whose behalf the custodian of the child is receiving state support enforcement services. Identifies what the notice of administrative lien and attachment shall include. Prioritizes such administrative lien and attachment in relation to other liens, wage assignments, or garnishments. Requires the state child support enforcement agency to file a verified entry of judgment with the court, if one has not been filed, in order to attach and collect workers' compensation income. Requires that an employee be notified at the time such employee files a claim for workers' compensation benefits that the benefits may be attached for payment of a child support obligation.

Adds unemployment insurance benefits to the term "earnings" for purposes of garnishment resulting from a judgment taken for arrearages in child support or for child support debt. Eliminates the requirement that the state child support enforcement agency send a notice to the employer for purposes of activating a wage assignment or for immediate deductions for support in circumstances in which the obligor's source of income is unemployment compensation benefits and the custodian of the child is receiving state support enforcement services. In such cases, requires the child support enforcement agency to electronically intercept the unemployment compensation benefits through an automated interface with the department of labor and employment.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** June 3, 1994

**S.B. 94-147** Medical assistance - home and community-based services - persons with brain injury - appropriation. Authorizes the department of health care policy and financing to

request a waiver from the federal government for a home and community-based services program for persons with brain injury. Makes implementation of the program contingent upon the receipt of the federal waiver. Requires that the program be implemented in accordance with federal waiver requirements. Describes persons eligible for services under the program and the services available under the program. Sets forth the duties of the department. Includes the program in the long-term care single entry point system.

Repeals the home and community-based program for persons with brain injury, effective July 1 of the year in which the federal waiver for the program expires or July 1, 1999, whichever occurs first.

Decreases the appropriation in the general appropriation act to the department of health care policy and financing, for medical assistance programs by \$173,514. Appropriates \$133,156 and 1 FTE to the department of health care policy and financing, for medical assistance administration for the implementation of the act.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-164** Federal mandates - child support - medical assistance - use of trusts authorized - limitations - appropriations. Makes miscellaneous amendments to state statutes affected by the federal "Omnibus Budget Reconciliation Act of 1993".

Prohibits insurers from denying coverage to dependent children for whom a parent is obligated to provide medical support even if the child was born out of wedlock, the child is not claimed as a dependent on the federal or state tax return of the parent enrolled under the insurance plan, or the child does not live in the insurer's service area. Imposes responsibilities on the parent's employer in connection with the prohibition.

Requires insurers to cooperate with, provide relevant information to, and respond to claims submitted by a dependent child's custodial parent. Imposes other restrictions upon insurers, including a prohibition against canceling or revoking an employee's insurance plan except under specified circumstances.

Requires insurers that offer coverage for dependent children to cover adopted children or children placed for adoption under the same terms. Prohibits insurers from denying coverage to an adopted child or child placed for adoption due to a preexisting condition.

Includes as earnings for garnishment purposes state tax refunds and third-party payments made to a parent who is responsible for his or her child's medical support or who owes a medical support debt to cover a medicaid-eligible child's health care costs, if the parent fails to apply the payment to such costs.

Prohibits insurers from reducing the coverage for pediatric vaccinations from the level of coverage on May 1, 1993.

Prohibits insurers from denying health insurance coverage to a person on the basis that the person is a medical assistance recipient. States that a third party, including an insurer,

who is liable for the medical costs of a medical assistance recipient is liable to the state. Specifies that the state is an assignee of a medical assistance recipient.

Authorizes the recovery of medical assistance from the estate of a recipient who was at least 55, rather than 65, years of age when the assistance was received. Allows the creation of disability and pooled trusts for persons seeking public or medical assistance. Imposes limitations on the amounts and types of assets used to fund such trusts and on distributions from the trust. Makes the limitations applicable to income trusts created on and after the effective date of the act. Prohibits the court from approving trusts that do not meet the statutory criteria for the trusts and renders such trusts void for the purpose of establishing eligibility for public or medical assistance. Deletes language that conditioned the implementation of the estate recovery statute upon the state's receipt of federal funds for persons who qualify for medical assistance as a result of the creation of a court-approved trust.

Appropriates \$16,590 and 0.6 FTE to the department of human services for the implementation of the act. Appropriates to the department of health care policy and financing \$158,506 and 0.9 FTE for medical services, administration costs and \$842,718 for medical program and services costs, associated with the implementation of the act. Appropriates \$2,964 from the division of insurance cash fund to the department of regulatory agencies for the implementation of the act.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1029** Health and human services delivery systems - restructuring. Makes the conforming amendments necessary to complete the departmental changes established in H.B. 93-1317.

Requires the departments of human services and health care policy and financing to provide evidence to the general assembly that they will save \$5,000,000 over the next 2 years as a result of restructuring. Requires the departments to submit reports to the general assembly on the progress made toward the savings goal and other areas of restructuring.

Authorizes the state personnel board to adopt rules and regulations establishing a voluntary separation incentive program for all state employees who are subject to separation based on the governor's determination that a department has excess employees due to lack of work, lack of funds, or reorganization. Limits the authority of the department of public health and environment and the state board of health to adopt rules governing the programs or services provided at skilled nursing facilities, intermediate care facilities, or personal care boarding homes which receive no public funding. Authorizes the state board of human services to adopt standards for the administration of county departments of social services.

Authorizes the executive director of the department of human services to distribute any funds remaining which were appropriated to the department to cover the state's additional share of social services costs as a result of the county cap provision established in HB 93-1317 to any county whose assessed valuation declined between calendar year 1992 and 1993

if the county provides evidence of a shortfall in 1994. Defines "shortfall".

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1082** Public assistance - aid to families with dependent children - persons eligible to participate - "dependent child" - workers' compensation - "employee". Redefines those relatives with whom a child may reside for purposes of defining "dependent child" under the "Colorado Public Assistance Act".

Alters the definition of "employee" under the "Workers' Compensation Act of Colorado" by specifying that a person who is placed with a private employer as part of a county or city and county social services rehabilitation program is an employee of the private employer rather than an employee of the county or city and county that arranged the placement. Also alters the definition of "employee" by specifying those entities that may be responsible for providing workers' compensation benefits to any person who receives a work experience assignment under the "Colorado Welfare Reform and Self-sufficiency Act".

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1108** Domestic abuse programs - funding - voluntary income tax contribution - repeal. Increases the amount of state reimbursement payable to any local government or nongovernmental agency operating a domestic abuse program from 100% of non-state revenues to double such amount. Eliminates the requirement that the domestic abuse program be repealed in January, 1995.

Extends the voluntary income tax contribution procedure for the Colorado domestic abuse program fund and the repeal date applicable to domestic abuse program voluntary contributions from January 1, 1995, to January 1, 2000.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** April 28, 1994

**H.B. 94-1142** Public assistance - job opportunity and basic skills (JOBS) program - participation requirements for parent or caretaker relative of elementary school child. Makes a participant in the job opportunity and basic skills (JOBS) program who is the parent or caretaker relative of an elementary school child and who receives aid to families with dependent children (AFDC) accountable for the child's educational performance. Requires the case manager for a JOBS participant to assess whether the educational performance of the participant's elementary school-age child indicates a barrier to the self-sufficiency of the participant's family. If so, directs that the participant's employability plan include provisions under which the participant agrees to participate in actions designed to improve the child's academic performance.

Requires the JOBS participant, the JOBS case manager, the elementary school, and the county department of social services to provide and share specific information and documentation concerning a child's academic performance. Directs the case manager, the

JOBS participant, and appropriate school personnel to determine the support services available to a participant that will improve a child's educational performance. Requires that each party's responsibilities be set forth in the employability plan.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** July 1, 1994

## STATUTES

**S.B. 94-047** Validation of Colorado Revised Statutes and replacement volumes and supplements thereto - effective date - proceedings of the committee on legal services. Establishes the effective date for the 1993 replacement volume 17 and the 1993 cumulative supplement to the Colorado Revised Statutes, and enacts them as the positive statutory law of the state of Colorado.

Adds a section concerning compensation of brokers which was enacted by Senate Bill 93-223 and was inadvertently omitted from the 1993 Cumulative Supplement to the 1991 Replacement Volume 5B.

**APPROVED** by Governor February 4, 1994

**EFFECTIVE** February 4, 1994

**S.B. 94-206** Revisor's bill - revisions to conform, correct, and clarify statutes. Amends or repeals various statutory provisions which are obsolete, inconsistent, or in conflict with other law, clarifies the language and more accurately reflects the legislative intent of the laws. The specific reasons for each amendment or repeal are set forth in the appendix to this bill.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

## TAXATION

**S.B. 94-064** Income tax - enterprise zones - credits for contributions to promote temporary housing for the homeless. For income tax years commencing on or after January 1, 1994, adds monetary or in-kind contributions to promote temporary, emergency, or transitional housing programs for the homeless that offer child care, job placement, and counseling services as permissible contributions to enterprise zones qualifying for existing tax credit programs.

**APPROVED** by Governor June 3, 1994

**EFFECTIVE** July 1, 1994

**S.B. 94-080** Property tax - valuation for assessment - producing mines. Requires an owner or operator of a producing mine which is located in more than one county to report the number of acres in each county in the annual statement filed with the county assessor for valuation purposes. Requires the owner or operator to report the quantity of products derived from the ore extracted from the mine if the value of such products is used in determining gross value. Mandates the use of actual gross selling prices of the first salable products in the determination of gross value.

Permits an owner or operator of a producing mine to elect to report certain figures in the annual statement submitted to the county assessor based on an average of the figures for a 3- or 5-year period preceding January 1 of the year the annual statement is to be filed. Requires an owner or operator who has made such an election to continue to use the same averaging period for all annual statements until the boards of county commissioners of each county in which the mine is located approve a change. Sets forth procedures for electing or requesting a change in the averaging period.

Defines "costs" for purposes of the annual statement filed with the county assessor. Specifies that increases in valuation of producing mines shall constitute additions to taxable real property for purposes of "local growth" under section 20 of article X of the state constitution (Amendment #1). Requires machinery and equipment and personal property associated with a producing mine to be listed on a personal property schedule for valuation by the county assessor. Requires improvements to be listed separately and valued for assessment. Authorizes the county assessor to require an owner or operator of a producing mine to provide documentation in support of the amounts reported in the annual statement filed with the county assessor. Directs the division of property taxation to set forth guidelines concerning the county assessor's examination authority.

Applies to property tax years commencing on or after January 1, 1994.

**APPROVED** by Governor May 19, 1994

**EFFECTIVE** May 19, 1994

**S.B. 94-156** Income tax - continuation of tax checkoff for homeless prevention activities program. Extends the voluntary income tax checkoff program for funding the homeless prevention activities program. Exempts the homeless prevention tax checkoff program from the requirement that any program funded by voluntary contributions of income tax refunds

have a sunset clause.

**APPROVED** by Governor April 19, 1994

**EFFECTIVE** April 19, 1994

**S.B. 94-182** Property tax - incentive agreements - school districts - counties - municipalities - enterprise zones. Changes the name of incentives provided by a school district to certain taxpayers who establish new or expanded business facilities in the district from "incentive payments" to "incentive payments or credits." Limits the duration of any incentive agreement entered into by school districts to 4 years. Directs the department of education to ensure that the state's share of a district's total program, which takes into account the terms of any incentive agreements entered into by the school district, does not exceed what the state's share would have been if no new or expanded business facility had been established in the district. Requires the state board of education to promulgate rules and regulations for making such determination. Provides that incentive agreements pertaining to a particular facility or expansion shall only be considered in determining the state's share for a period of 10 years. Repeals the January 1, 1995, sunset of the provisions authorizing such incentive payments or credits by school districts.

With respect to counties and municipalities, changes the name of incentives provided to certain taxpayers who establish new or expanded business facilities from "incentive payments" to "incentive payments or credits." Repeals the January 1, 1995, sunset of the provisions authorizing such incentive payments or credits by counties and municipalities.

Changes the name of incentives provided by a county, municipality, or city and county located within an enterprise zone from "incentive payments" to "incentive payments or credits."

**APPROVED** by Governor June 7, 1994

**EFFECTIVE** January 1, 1995

**S.B. 94-200** Income tax - historic property preservation tax credit - extension. Extends the Colorado income tax credit until January 1, 2000, for qualified costs incurred in the preservation of qualified historic properties.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

**S.B. 94-212** Special fuel tax - exemptions - dyed special fuel. Exempts any special fuel that has been dyed in accordance with federal regulations and that is not subject to federal excise tax from the imposition of a state excise tax if the seller notifies the purchaser, in accordance with federal regulations, that the dyed fuel is not legal for taxable use.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1024** Collection of taxes imposed by certain political subdivisions of the state - use

of net incremental cost recovery method by department of revenue. Specifies net incremental costs as the type of costs recovered by the department of revenue for the collection of lodging and rental taxes imposed by counties and for the collection of sales taxes imposed by local improvement districts, the Denver metropolitan major league baseball stadium district, and scientific and cultural facilities districts, including the Denver metropolitan scientific and cultural facilities district.

Establishes a maximum amount, as adjusted to reflect changes in the Denver-Boulder consumer price index, which may be recovered in any given fiscal year commencing on or after July 1, 1994, by the department of revenue for costs incurred by said department in the collection of sales taxes imposed by local improvement districts, the regional transportation district, the Denver metropolitan major league baseball stadium district, and scientific and cultural facilities districts, including the Denver metropolitan scientific and cultural facilities district.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1036** Property tax - valuation of real property during intervening years. For property tax years commencing on and after January 1, 1994, eliminates any occurrence, condition, factor, act, or change which results in the actual value of the property being less than or greater than the correct level of value by more than 10% as an unusual condition requiring assessors to revalue real property during the intervening year of the reassessment cycle.

**APPROVED** by Governor March 22, 1994

**EFFECTIVE** March 22, 1994

**H.B. 94-1053** Income tax - capital gains - income modification. For income tax years commencing on or after July 1, 1995, allows a modification in the form of a reduction of income taxable by the state of Colorado for the amount of income attributable to qualifying gains receiving capital treatment earned by a qualified taxpayer and included in federal taxable income. Defines "qualified taxpayer" and "qualifying gains receiving capital treatment". Prohibits the modification from being carried forward to subsequent tax years or from resulting in a right to a cash refund. Requires the taxpayer claiming the income modification to submit an affidavit stating that the taxpayer meets the requirements for claiming the modification.

**APPROVED** by Governor May 9, 1994

**EFFECTIVE** May 9, 1994

**H.B. 94-1058** Medical savings accounts - contributions - distribution limitations - taxation - portability. Revises the "Individual Medical Account Act of 1986" and renames it the "Medical Savings Account Act of 1994". Provides that an employer may offer to establish medical savings accounts for its employees or, in the alternative, that an employee may establish such accounts on his or her own behalf.

Restricts the amount that may be contributed to a medical savings account each year to \$3,000, unlike former law which limited contributions to \$2,000 for the account holder, \$2,000 for the account holder's spouse, and \$1,000 for each dependent child. Eliminates the requirements that the account be established as a trust and that the trustee purchase major medical coverage for the account holder. States that if an employer contributes less than the maximum allowed then the employee may contribute the difference. Provides that employee contributions to a medical savings accounts shall be made on a pre-tax basis through payroll deductions.

States that account moneys shall be distributed only to pay an eligible medical expense, cash out a deceased account holder's balance, or cash out an account holder's prior years' account balance. States that medical expenses will be reimbursed from a medical savings account only if they are incurred by the account holder or his or her spouse or dependent child. Eliminates the 10% distribution penalty on early withdrawals and the \$100 deductible requirement. States that amounts that have accumulated in a medical savings account or been withdrawn for the payment of eligible medical expenses shall not be subject to state income taxation. Provides that amounts withdrawn for other purposes shall be subject to state income taxation.

Prohibits employees from using account moneys to fund a policy that covers the deductible for a "qualified higher deductible health plan", which may be as much as \$3,000. Adds portability provisions which provide that an account holder may change his or her account administrator upon changing employment.

**APPROVED** by Governor June 7, 1994

**EFFECTIVE** January 1, 1995

**H.B. 94-1067** Property tax - collection procedures. Repeals obsolete statutory provisions concerning a study of the method for collecting and distributing property tax. Allows a property tax payment due on a Saturday, Sunday, or legal holiday to be made on the next business day rather than on the preceding business day. Requires a receipt for payment of taxes to be issued by the treasurer only upon request of the taxpayer rather than issued in every case and mailed only upon request of the taxpayer. Removes the requirement that a receipt for taxes paid include the valuation for assessment of the property on which the taxes were paid. Allows the treasurer to retain records by photographic, electronic, or other means.

Requires the notice of delinquent taxes to include the amount of interest due on delinquent taxes through the last day of the month in which the notice is mailed rather than through the last day of August. Requires the time for sale of personal property to run from the date the notice is first published rather than from the date of the first notice. Clarifies statutory provisions concerning actions to collect unpaid taxes. Establishes that the county attorney's obligation to perform all legal work involved in the collection of personal property taxes exists only upon request of the treasurer.

Requires the treasurer to publish notice of a tax sale in a weekly newspaper in 3 rather than 4 successive weekly issues. Permits the treasurer to keep records concerning the affidavit of posting the taxpayer's list and tax certificates issuance and transfer in a permanent record of the office rather than a record book.

Expands the prohibition against county officials and employees acquiring property by sale of a tax lien to also apply to acquiring a tax lien on property.

**APPROVED** by Governor April 20, 1994

**EFFECTIVE** April 20, 1994

**H.B. 94-1101** Special fuel tax on liquified petroleum gas and natural gas - collection - reporting. Directs the department of revenue to promulgate rules and regulations allowing owners or operators of motor vehicles powered by liquified petroleum gas or natural gas to pay the annual license tax fee, if applicable, and to acquire a decal for such motor vehicles directly from vendors and distributors of such fuels. Requires that such rules and regulations permit participating vendors and distributors to return decals not issued and remit license tax fees collected not earlier than 120 days from when such decals are supplied to the vendor or distributor. Exempts motor vehicles that are owned or operated by nonprofit transit agencies that receive public funds and that are used exclusively in performing nonprofit functions and activities from the annual license tax fee and the special fuel tax. Authorizes the department of revenue to promulgate other reasonable rules and regulations concerning annual license tax fees collected and decals issued.

Permits distributors to aggregate figures on tax reports for all service stations that dispense liquified petroleum gas and natural gas owned by the same distributor and for all sales of liquified petroleum gas and natural gas to a particular type of user. Provides that inventory reporting requirements do not apply to distributors of natural gas who receive special fuel through a pipeline and who have an on-site fuel storage capacity of less than one thousand gallon equivalents. Exempts distributors who sell liquified petroleum gas and natural gas exclusively to other distributors, vendors, or retailers from tax reporting, collection, and remittance requirements.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1163** Income tax - enterprise zones - credit for new business facility employees. Provides that a new business facility employee whose primary duty is operating a commercial motor vehicle with a commercial driver's license is deemed to be working 100% within an enterprise zone, for purposes of qualifying the facility for an existing tax credit, if the employee spends no more than 5% of his or her time at another facility of the employer. Applies to tax years beginning on and after January 1, 1994.

**APPROVED** by Governor June 2, 1994

**EFFECTIVE** July 1, 1994

**H.B. 94-1221** Income tax - United States olympic committee voluntary contribution - extension. Reestablishes the state income tax voluntary contribution designation in support of the United States olympic committee and continues such contribution for 4 years. Subjects the olympic tax checkoff program to automatic elimination if the program does not meet or exceed 10% of the amount contributed to all voluntary tax checkoffs during the 4-year period.

**APPROVED** by Governor April 28, 1994

**EFFECTIVE** April 28, 1994

**H.B. 94-1239** Severance tax - molybdenum ore - coal. Deletes statutory provisions which would have increased the severance tax rate on molybdenum ore from 5¢ per ton to 10¢ per ton and the severance tax rate on coal from 36¢ per ton to 60¢ per ton on July 1, 1994.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

## TRANSPORTATION

**S.B. 94-014** Highway legislation review committee. Changes the name of the highway legislation review committee to the transportation legislation review committee. Requires the committee to review legislation affecting transportation and to develop and make recommendations concerning the financing of the state transportation system rather than the financing of streets, roads, and mass transit.

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** April 14, 1994

**H.B. 94-1010** Highway maintenance of local effort requirement - repeal. Repeals the requirement that distribution of state revenues from the highway users tax fund to a municipality or county be withheld unless the municipality or county spends a certain amount of local funds to maintain highways. Eliminates the provision that states that provisions on withholding municipal allocations of highway users tax fund money do not apply to funds withheld pursuant to the maintenance of local effort statute.

**APPROVED** by Governor March 18, 1994

**EFFECTIVE** March 18, 1994

**H.B. 94-1019** Right-of-way fences - construction - maintenance - damages. Requires the department of transportation to maintain right-of-way fences existing as of June 1, 1994, in agriculturally zoned areas adjacent to federal aid highways constructed and maintained by the department. Stipulates that the department must make necessary repairs to such fences only upon actual notice to the department. Specifies that neither the department nor the landowner is liable for any damages caused by failing to adequately construct, maintain, or repair the fence unless actual notice is given to the department. Requires the department to replace a fence removed during a construction project unless an agreement is reached between the department and the landowner.

Allows the department to erect a fence in an area other than an agriculturally zoned area if the highway is a designated freeway or if the landowner and the department agree to the erection of the fence.

Requires the department to maintain fences at the boundary of highway property adjacent to municipal property upon actual notice unless the municipality and the department agree otherwise.

Allows the department to remove a fence at its expense if the landowner agrees. Makes the landowner liable for any damages caused by the landowner's removal of a fence without proper department authorization.

Enables a landowner to erect a fence at the landowner's expense if a fence is removed or not replaced pursuant to an agreement with the department. Requires the landowner to erect the fence in accordance with standards applicable to the department and to be liable for any damages incurred by failing to adequately construct the fence. Stipulates that the department must repair the fence upon actual notice.

Provides that neither the landowner nor the department is liable for any damages caused by livestock if both agree to remove or not replace a fence and if the landowner does not maintain livestock on the land adjacent to the right-of-way.

Specifies that a landowner may not recover damages for trespass if a person herds livestock along a highway adjacent to property from which a fence has been removed unless the landowner can prove the person allowed the livestock to enter the property without trying to remove the livestock.

**APPROVED** by Governor May 19, 1994

**EFFECTIVE** May 19, 1994

## UNITED STATES

**S.B. 94-145** Lowry air force base - jurisdiction - return to state. Accepts the relinquishment of federal jurisdiction over Lowry air force base from the United States effective upon acceptance by the governor of the notice of relinquishment. Directs the governor to notify the office of legislative legal services of the date of such acceptance. Provides for the repeal of statutory sections which cede state jurisdiction over Lowry air force base to the United States.

**APPROVED** by Governor April 14, 1994

**EFFECTIVE** April 14, 1994

## WATER AND IRRIGATION

**S.B. 94-029** Water conservation board - project authorization and deauthorization - floodplain project loans - emergency infrastructure account - publications account. Authorizes the Colorado water conservation board to make loans from the Colorado water conservation board construction fund for certain water resources projects. Specifies that the loans to the town of Johnstown, the city of Salida, and the city of Fort Morgan are contingent upon a finding by the board that alternate financing is not available. Specifies that the loan to the city of Alamosa is in conjunction with work being conducted by the federal government on flood control. Deauthorizes loans from the fund for certain water resources projects.

Authorizes the expenditure of moneys from the fund for certain nonreimbursable purposes including: Continuation of the Colorado river compact decision support system, continuation of the South Platte river water rights management and data collection support system, maintenance of the satellite monitoring system, continuation of the small dam site reconnaissance program, an extreme precipitation investigation, a feasibility study for the repair of the Continental reservoir, and an aquatic habitat study.

Amends the requirements for a loan on a project authorized in 1986 to allow a loan equal to 100% of the cost rather than the original cap of 50% of the cost.

Modifies the prohibition on recommendations by the board for floodplain projects to allow such recommendations if the projects do not exceed 5% of the annual projected revenue earned by the fund. Specifies that if an emergency exists and a majority of the board certifies that exigencies of time require a meeting of the board without public notice, a meeting may occur without public notice but that such meeting must be followed by notice to the public as soon as is practicable.

Creates the publications account to which moneys paid by the public for copies of public records provided by the board shall be credited. Directs the board to pay for the cost of providing copies of public records to the public from the publications account.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** May 31, 1994

**S.B. 94-054** Conditional water rights - conditions for acquisition or change to instream flow uses. Authorizes the Colorado water conservation board to acquire or change conditional water rights to instream flow uses only if the conditional water rights are located in the Yampa River Basin and will be used in the recovery of species determined to be threatened or endangered pursuant to the Endangered Species Act. Further, provides that the conditional water rights must be a recognized component of an ongoing recovery program to offset jeopardy to a listed species or adverse modifications to critical habitat caused by water project depletions and that the board must find that acquisition of conditional water rights will provide benefits to the recovery program not available through initial appropriation by the board.

**APPROVED** by Governor April 20, 1994

**EFFECTIVE** April 20, 1994

**S.B. 94-097** Recharge of waters into certain aquifers - state engineer to promulgate rules. Requires the state engineer to promulgate rules by July 1, 1995, concerning the permitting and use of waters artificially recharged into the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers. Requires that the rules effectuate maximum utilization of the aquifers through use of both ground and surface waters.

**APPROVED** by Governor April 13, 1994

**EFFECTIVE** April 13, 1994

**S.B. 94-138** Conditional underground water right - expiration of permit to construct a well - no finding of abandonment. Specifies that a conditional underground water right requiring the construction of a well shall not be declared abandoned solely upon the ground that the permit issued for the construction of the well has expired.

**APPROVED** by Governor May 19, 1994

**EFFECTIVE** May 19, 1994

**S.B. 94-203** Transfers of general fund moneys for water purposes - appropriation. Modifies the amount and allocation of the transfer of general fund moneys for water purposes scheduled to occur on July 1, 1994, as follows: \$10,500,000 to the Colorado water conservation board construction fund; \$4,552,960 to the fish and wildlife account in the Colorado water conservation board construction fund; \$1,500,000 to the Colorado water resources and power development authority; \$6,200,000 to the domestic water supply project revolving fund; \$2,800,000 to the Colorado water conservation board construction fund for a portion of the construction costs of the Ridges Basin dam of the Animas-La Plata project; \$447,040 to the Colorado water conservation board construction fund for activities relating to the Arkansas river litigation; and \$4,000,000 to the litigation account in the Colorado water conservation board construction fund. Eliminates the transfers of general fund moneys for water purposes scheduled to occur in 1995 and 1996.

Creates the litigation account in the Colorado water conservation board construction fund. Specifies the purpose for which the Colorado water conservation board, in its discretion, may expend moneys in such account. Sets forth certain conditions for the expenditure of said moneys.

Creates the domestic water supply project revolving fund. Specifies the purposes for which moneys in the fund may be expended. Provides for the establishment and modification of the domestic water supply project eligibility list. Prohibits any financial assistance from the domestic water supply project revolving fund being given to projects not included on the eligibility list as approved. Sets forth procedures and requirements for providing financial assistance from the fund to qualified domestic water supply projects.

Appropriates \$447,040 and 4.5 FTE to the department of natural resources, water resources division, for activities relating to the Arkansas river litigation. Appropriates \$4,000,000 to the department of law for activities related to litigation supporting users of water facilities located on federally owned lands.

**APPROVED** by Governor May 25, 1994

**EFFECTIVE** May 25, 1994

**H.B. 94-1027** Conservancy districts - development of parks and recreational facilities. Expands the purposes of a conservancy district to include participation in the development of parks and recreational facilities within the boundaries of the district.

Expands the authority of a conservancy district's board of directors to include participation in the development of parks and recreational facilities, including trails, greenways, and riverfront development, within the boundaries of the district.

**APPROVED** by Governor April 7, 1994

**EFFECTIVE** April 7, 1994

**H.B. 94-1242** Wells - relocation - presumption of no substantial change of usage. Requires the state engineer to presume, absent a showing by a preponderance of evidence, that the relocation of a well will not change substantially the usage of water under certain circumstances for purposes of issuing a permit to relocate the well. Defines the circumstances as: existing well was constructed pursuant to a permit issued by the state engineer, location for the new well is within 200 feet of the existing well, same aquifer, same historical usage of water, same or less annual volume of water used, and same or less gallons per minute flow.

**APPROVED** by Governor March 29, 1994

**EFFECTIVE** March 29, 1994

**H.B. 94-1289** Underground water - wells - permits - regulation - judicial review - rules - appropriation. Enlarges the period of time by which the ground water commission may extend a conditional permit for good cause shown from 6 months to one year. Requires a holder of a conditional permit to withdraw water from certain aquifers to notify the ground water commission when the permit holder has constructed a complying well. Specifies that when a well has been constructed pursuant to a conditional permit and the beneficial use of water from the well has begun, that the permit holder notify the ground water commission within 30 days.

Grants specific power to the ground water commission to promulgate rules necessary to carry out the "Colorado Ground Water Management Act".

Modifies the powers of the state engineer to allow enforcement of any regulation, control, or order promulgated pursuant to the "Colorado Ground Water Management Act" and not just those promulgated by the ground water commission. Modifies the duties of the state engineer to conserve all state ground waters rather than just designated ground waters.

Modifies judicial review procedures so that review of an action by the ground water commission continues to be made to the district court, but an appeal of a rule adopted by the ground water commission is made pursuant to the "State Administrative Procedure Act".

Requires owners of well permits to maintain a current name and address with the state engineer. Makes name and address changes which occur between July 1, 1994, and January 1, 1995, subject to the filing deadline of January 1, 1995. Requires that name and address changes be filed within 60 days for changes which occur on and after January 1, 1995.

Appropriates \$160,000 and 4.0 FTE to the state engineer from the division of water resources ground water management cash fund for implementation of the act.

**APPROVED** by Governor May 31, 1994

**EFFECTIVE** July 1, 1994

## PROPOSED STATE CONSTITUTIONAL AMENDMENTS

**S.C.R. 94-005** Information about statewide ballot issues - ballot information booklet - publication of measures. Requires the nonpartisan research staff of the general assembly, prior to any election at which the voters of the entire state will vote on any initiated or referred constitutional amendment or legislation, to prepare and make available to the public a ballot information booklet that includes the text, the title, and a fair and impartial analysis of each measure to be voted on. Requires that the analysis include a summary of each measure and the major arguments both for and against the measure, and provides that the analysis may include any other information that would assist understanding the purpose and effect of the measure. Allows any person to file written comments for consideration during the preparation of the analysis.

Requires that the ballot information booklet be distributed to active registered voters statewide at least 30 days before the election. If any measure to be voted on includes matters arising under section 20 of article X of the state constitution ("Amendment No. 1"), requires that the booklet include the information and the titled notice required by section 20 of article X. Provides that the mailing of such information pursuant to section 20 of article X is not required. Requires the general assembly to provide sufficient appropriations for the preparation and distribution of the ballot information booklet at no charge to recipients.

Transfers from the secretary of state to the nonpartisan research staff of the general assembly the duty to publish the text and title of every proposed initiated or referred constitutional amendment or legislation. Requires that such publication be made at least one time in at least one legal publication of general circulation in each county of the state, rather than in two issues of two newspapers of opposite political faith in each county in the state. Requires that such publication be made at least 15 days before the final date of voter registration for the election, rather than between 3 and 5 weeks before the election.

**EFFECTIVE** upon the Governor's proclamation or thirty days after a canvas of the votes is completed, whichever occurs earlier.

**NOTE:** For provisions implementing this resolution, see S.B. 94-223 on page 65.

**H.C.R. 94-1003** Bail - right to postconviction bail - exceptions. Authorizes the court to set bail when a person is convicted and awaiting sentencing or when an appeal is pending, but sets forth exceptions when the conviction is based on a serious felony or crime of violence. Prohibits the court from setting bail for a convicted person unless the court specifically finds that the person is unlikely to flee and does not pose a danger and that the convicted person's appeal is not frivolous or pursued for the purpose of delay.

**EFFECTIVE** upon the Governor's proclamation or thirty days after a canvas

of the votes is completed, whichever occurs earlier.

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