

# DIGEST OF BILLS ENACTED BY THE SIXTIETH GENERAL ASSEMBLY

1996 SECOND REGULAR SESSION  
JUNE 1996

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 Sixtieth General Assembly at its Second Regular Session ending May 8, 1996. 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.

# Digest of Bills - 1996

## ADMINISTRATIVE RULE REVIEW

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**S.B. 96-129** State implementation plans - air quality - continuation. Postpones until May 15, 2003, the expiration of air quality state implementation plans and revisions of the air quality control commission that were adopted or amended on or after January 1, 1995, and before November 1, 1995.

**APPROVED** by Governor May 1, 1996

**EFFECTIVE** May 1, 1996

**S.B. 96-236** Continuation of 1995 rules of executive agencies - exceptions - rules on affirmative action. Provides for the continuation of the rules and regulations of state agencies that were adopted or amended on or after November 1, 1994, and before November 1, 1995; except that certain rules and regulations shall expire as scheduled on May 15, 1996.

Postpones indefinitely the expiration of the rules and regulations of the public employees' retirement association scheduled to expire on May 15, 1996.

Provides for the expiration on May 15, 1996, of rules of the department of personnel relating to affirmative action concerning selective referral, trainees and interns, promotional examinations, and affirmative action referrals. Postpones until May 15, 1998, the expiration of the remainder of the affirmative action rules of the department of personnel.

Authorizes the state personnel board to adopt rules providing for the use of affirmative action remedies within the state personnel system. Directs that such rules shall apply only where the following conditions exist with reference to appointments or promotions within a division of a principal department in the state personnel system: Discrimination has occurred and there continue to be present-day effects of that discrimination; the affirmative action remedies are necessary to eliminate the present-day effects of the prior discrimination; the remedies are narrowly tailored to further the governmental interest in remedying such discrimination; the remedies are used only to the extent, and only for the duration, necessary to eliminate the present-day effects of the prior discrimination; and the remedies employ race-neutral methods where possible. Repeals the authority to adopt rules on affirmative action, effective July 1, 1997.

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 the act.

**APPROVED** by Governor May 15, 1996

**EFFECTIVE** May 15, 1996

## AGRICULTURE

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**S.B. 96-3** Colorado state fair authority - short-term borrowing. Authorizes the Colorado state fair authority to obtain a short-term loan to meet working capital and other cash flow needs of the authority. Limits the amount of such a loan to the difference between the anticipated revenues for the fiscal year and the amount credited to the state fair fund up to the time of the loan. Permits the authority to pledge its revenues to the retirement of the loan and requires that such a loan be repaid within 8 months.

**APPROVED** by Governor March 20, 1996  
**EFFECTIVE** March 20, 1996

**S.B. 96-36** Protection of agricultural operations - local ordinances - "Right to Farm" statute. Specifies that local governments may enact ordinances or pass resolutions to protect agricultural operations from nuisance suits, but that such resolutions or ordinances shall not restrict the right of such a landowner to sell the land or put it to any alternate use nor diminish the rights of any real property interests.

**APPROVED** by Governor May 2, 1996  
**EFFECTIVE** May 2, 1996

**S.B. 96-43** Nurseries - inspection requirements - continuation of registration functions of the commissioner of agriculture and the department of agriculture. Exempts any nursery selling only nursery stock grown within Colorado from mandatory inspections conducted by the commissioner of agriculture. Authorizes the commissioner of agriculture to inspect such a nursery upon request if the required inspection fee is paid.

Eliminates the automatic termination date of the registration functions of the commissioner of agriculture and the department of agriculture.

**APPROVED** by Governor April 17, 1996  
**EFFECTIVE** April 17, 1996

**S.B. 96-167** Depredating animals - control by commissioner of agriculture. Grants exclusive jurisdiction over the control of depredating animals to the commissioner of agriculture. Allows the commissioner to:

- Adopt rules for the control of depredating animals in consultation with the wildlife

commission;

- Establish methods of controlling depredating animals, whether lethal or nonlethal;
- Allow owners of agricultural products or resources and their agents or designees to control depredating animals; and
- Allow nonlethal methods of control or preventive activities.

Requires the commissioner, when promulgating rules, to obtain the prior approval of the state agricultural commission and to consider and encourage humane and effective methods of control.

Includes specific provisions concerning the control of depredating animals of at-risk species as follows:

- Requires the wildlife commission to preapprove any rules concerning the taking of such animals;
- Requires the commissioner of agriculture to consider any reasonably workable alternative designed to minimize the direct effect on such animals;
- Prohibits the commissioner from controlling such animals unless damage is occurring; and
- Requires the commissioner to notify the division of wildlife before controlling such animals.

Authorizes the commissioner to contract with the division of wildlife for financial and other assistance.

**APPROVED** by Governor April 12, 1996

**EFFECTIVE** April 12, 1996

**H.B. 96-1008** Noxious weeds - management - appropriation. Renames the "Colorado Weed Management Act" the "Colorado Noxious Weed Act". Redefines "integrated management" to include biological and chemical management and cultural and mechanical control.

Creates the noxious weed management fund in the office of the state treasurer. Requires civil penalties to be imposed on persons and governments that violate the "Colorado Noxious Weed Act", taking into consideration the effect of the penalty on the ability of the person charged to stay in business. States that such penalties shall be deposited into the fund with any donations and gifts. Requires the general assembly to annually appropriate moneys in the fund to the department of agriculture. Authorizes the department to expend moneys for the following purposes:

- Weed management programs with local weed control districts;
- Administrative expenses;
- Grants to local weed control districts and state universities for weed management research and control, with the approval of the agricultural commission.

Authorizes the department, when it verifies new noxious weeds, to allocate up to \$50,000 of fund moneys to government agencies for emergency relief. Requires the division of plant industry to designate a state weed coordinator who shall develop a management plan for the management of designated weeds on state-owned lands, facilitate cooperation between government land managers, and provide guidance for local governmental weed managers.

Authorizes a board of county commissioners to levy a property tax, upon voter approval, to create a county fund to control noxious weeds.

Appropriates \$40,000 and 0.7 FTE from the noxious weed management fund to the department of agriculture for implementation of this act.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1018** Pest control - commissioner of agriculture - administrative enforcement - civil penalties. Authorizes the commissioner of agriculture (commissioner) to issue a cease and desist order to those persons in violation of any rule, order of quarantine, or any provision of the "Pest

Control Act". Provides that any person issued a cease and desist order by the commissioner may request an immediate hearing. Empowers the commissioner to hold hearings, administer oaths, and issue subpoenas. Enables the commissioner to petition any court of competent jurisdiction for an order to enforce an administrative subpoena, an order to temporarily or permanently restrain or enjoin any violation of the "Pest Control Act", or an order to enforce a civil penalty. Establishes a maximum \$1000 civil penalty per violation of any provision of the "Pest Control Act", any rule, or quarantine order.

Expands emergency disposal authority to include any shipment of plant material in violation of a quarantine order. Changes the time within which such material will be destroyed by the commissioner if not removed from the state from 48 hours to a time to be ordered by the commissioner. Expands the maximum time limit a state of quarantine emergency may be declared by the governor from 60 to 180 days.

Funds quarantine and eradication measures from moneys recovered from the producers of the crops protected by those measures, rather than from moneys appropriated by the general assembly, and moneys received from federal or local governments or private agencies.

Authorizes the commissioner to enter into agreements with any agency of the federal government to inspect sites and plants and monitor compliance with the federal "Plant Quarantine Act of 1912" and to promulgate rules to implement the agreements. Provides that the cost of implementation of these agreements shall be recovered from those crop growers that signed post-entry quarantine agreements or, if no agreement exists, from the owners of the articles at the growing site.

**APPROVED** by Governor April 16, 1996

**EFFECTIVE** April 16, 1996

**H.B. 96-1284** Agricultural chemical regulation - elimination of certain requirements. Ends the registration requirement for applicators of lawn and garden fertilizers and for persons who treat or sell treated manure. Changes plant nutrient terminology from phosphoric acid to phosphate for purposes of the guaranteed analysis. Allows the commissioner of agriculture to consider values in excess of the guaranteed value of plant nutrients when computing penalties for deficiencies uncovered in the guaranteed analysis inspection. Conforms Colorado law to all other states by eliminating the "Not a plant food" label requirement for packaged soil conditioners and plant amendments. Eliminates required county tonnage reports. Gives the commissioner rule-making authority to require additional information in the current semiannual tonnage shipment affidavit.

**APPROVED** by Governor March 20, 1996

**EFFECTIVE** March 20, 1996

**H.B. 96-1340** Public livestock markets - veterinary practices - procedure to deal with injured, diseased, or disabled animals. Prohibits the sale of any animal at a public livestock market if the animal is injured, disabled, or diseased beyond recovery or has an injury or disease that permanently renders the animal unfit for human consumption.

If a veterinarian of the department of agriculture determines that an animal presented at a public livestock market is injured, disabled, or diseased beyond recovery, requires the veterinarian to humanely euthanize the animal or to direct the consignor to immediately remove the animal from the premises of the public livestock market. Provides that all expenses incurred for euthanasia and disposal of such animal are the responsibility of the consignor and that the collection of such expenses is not the responsibility of the consignee.

Directs the commissioner of agriculture to promulgate reasonable rules regarding veterinary practices at public livestock markets, including rules that designate which diseases render livestock permanently disabled or the carcasses thereof permanently unfit for human consumption.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** July 1, 1996

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## **APPROPRIATIONS**

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**S.B. 96-195** Legislative appropriation. Appropriates \$19,979,505 to the general assembly and the legislative service agencies for the 1996-97 fiscal year. Specifies that \$100,000 of this sum is from the cash funds and the remainder is from the general fund. Provides for the study of staff services to individual members of the general assembly. Projects that the statutory tax levy on civil actions in 1996-97 will return \$200,000 to the general fund to offset the expenses of the revision of statutes by the office of legislative legal services.

**APPROVED** by Governor May 2, 1996

**EFFECTIVE** May 2, 1996

**H.B. 96-1319** Supplemental appropriation - department of corrections. Amends the 1995 general appropriation act to decrease the total appropriation to the department of corrections. Decreases the general fund portion of the appropriation. Amends sections of 1995 acts to adjust the appropriations made to the department of corrections in the 1995 general appropriation act to decrease the general fund portion.

**APPROVED** by Governor March 1, 1996

**EFFECTIVE** March 1, 1996

**H.B. 96-1320** Supplemental appropriation - department of education. Amends the 1995 general appropriation act to decrease the total appropriation to the department of education. Decreases

the general fund and cash funds exempt portions of the appropriation and increases the cash funds portion.

**APPROVED** by Governor March 13, 1996

**EFFECTIVE** March 13, 1996

**H.B. 96-1321** Supplemental appropriation - department of health care policy and financing. Amends the 1995 general appropriation act to decrease the total appropriation to the department of health care policy and financing. Increases the cash funds portion of the appropriation and decreases the general fund, cash funds exempt, and federal funds portions.

**APPROVED** by Governor March 1, 1996

**EFFECTIVE** March 1, 1996

**H.B. 96-1322** Supplemental appropriation - department of higher education. Amends the 1995 general appropriation act to increase the total appropriation to the department of higher education. Decreases the general fund portion of the appropriation and increases the cash funds portion.

**APPROVED** by Governor March 13, 1996

**EFFECTIVE** March 13, 1996

**H.B. 96-1323** Supplemental appropriation - department of human services. Amends the 1995 general appropriation act to decrease the appropriation to the department of human services. Increases the general fund portion of the appropriation and decreases the cash funds, cash funds exempt, and the federal funds portions. Amends a section of a 1995 act to adjust the appropriations made to the department in the 1994 general appropriation act to decrease the federal funds portion.

**APPROVED** by Governor March 7, 1996

**EFFECTIVE** March 7, 1996

**H.B. 96-1324** Supplemental appropriation - judicial department. Amends the 1995 general appropriation act to increase the total appropriation to the judicial department. Increases the general fund, cash funds, and cash funds exempt portions of the appropriation. Adds a footnote to the 1995 general appropriation act.

**APPROVED** by Governor March 7, 1996

**EFFECTIVE** March 7, 1996

**H.B. 96-1325** Supplemental appropriation - department of labor and employment. Amends the 1995 general appropriation act to decrease the total appropriation to the department of labor and employment. Increases the cash funds portion of the appropriation and decreases the cash funds exempt and federal funds portions. Repeals and reenacts a section of a 1995 act that adjusted the appropriation to the department in the 1995 general appropriation act.

**APPROVED** by Governor March 7, 1996  
**EFFECTIVE** March 7, 1996

**H.B. 96-1326** Supplemental appropriation - department of law. Amends the 1995 general appropriation act to increase the total appropriation to the department of law. Decreases the general fund portion of the appropriation and increases the cash funds and cash funds exempt portions.

**APPROVED** by Governor March 7, 1996  
**EFFECTIVE** March 7, 1996

**H.B. 96-1327** Supplemental appropriation - department of local affairs. Amends the 1995 general appropriation act to increase the total appropriation to the department of local affairs. Increases the cash funds exempt portion of the appropriation.

**APPROVED** by Governor March 7, 1996  
**EFFECTIVE** March 7, 1996

**H.B. 96-1328** Supplemental appropriation - department of natural resources. Amends the 1995 general appropriation act to increase the total appropriation to the department of natural resources. Increases the general fund portion of the appropriation and decreases the cash funds and cash funds exempt portions.

**APPROVED** by Governor March 7, 1996  
**EFFECTIVE** March 7, 1996

**H.B. 96-1329** Supplemental appropriation - department of personnel. Amends the 1995 general appropriation act to increase the total appropriation to the department of personnel. Increases the general fund and cash funds exempt portions of the appropriation.

**APPROVED** by Governor March 8, 1996  
**EFFECTIVE** March 8, 1996

**H.B. 96-1330** Supplemental appropriation - department of public health and environment. Amends the 1995 general appropriation act to increase the total appropriation to the department of public health and environment. Increases the general fund and cash funds portions of the appropriation and decreases the cash funds exempt and federal funds portions.

**APPROVED** by Governor March 7, 1996  
**EFFECTIVE** March 7, 1996

**H.B. 96-1331** Supplemental appropriation - department of public safety. Amends the 1995 general appropriation act to increase the total appropriation to the department of public safety. Increases the general fund and cash funds portions of the appropriation and decreases the cash funds exempt portion. Amends a section of a 1995 act to adjust the appropriation made to the

department in the 1995 general appropriation act by reducing the increase in the general fund portion of the appropriation for the executive director's office.

**APPROVED** by Governor March 13, 1996

**EFFECTIVE** March 13, 1996

**H.B. 96-1335** Supplemental appropriation - department of regulatory agencies. Amends the 1995 general appropriation act to increase the total appropriation to the department of regulatory agencies. Decreases the cash funds portion of the appropriation and increases the cash funds exempt portion.

**APPROVED** by Governor March 7, 1996

**EFFECTIVE** March 7, 1996

**H.B. 96-1336** Supplemental appropriation - department of revenue. Amends the 1995 general appropriation act to increase the total appropriation to the department of revenue. Increases the general fund and cash funds portions of the appropriation and decreases the cash funds exempt portion.

**APPROVED** by Governor March 7, 1996

**EFFECTIVE** March 7, 1996

**H.B. 96-1337** Supplemental appropriation - department of transportation. Amends the 1995 general appropriation act to increase the total appropriation to the department of transportation. Increases the cash funds portion of the appropriation.

**APPROVED** by Governor March 7, 1996

**EFFECTIVE** March 7, 1996

**H.B. 96-1338** Supplemental appropriation - department of the treasury. Amends the 1995 general appropriation act to increase the total appropriation to the department of the treasury. Decreases the general fund portion of the appropriation and increases the cash funds exempt portion.

**APPROVED** by Governor March 7, 1996

**EFFECTIVE** March 7, 1996

**H.B. 96-1366** 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, 1996. Sets the grand total of the operating budget at \$8,677,367,749, of which \$4,184,963,968 is from the general fund, \$2,601,163,086 is from cash funds, and \$1,891,240,695 is from federal funds.

Appropriates \$316,401,894 for capital construction, of which \$187,922,154 is from the capital construction fund, \$124,826,706 is from cash funds, and \$3,653,034 is from federal funds.

For the 1995-96 fiscal year: Increases the general fund appropriation to the department of education for total program under public school finance; decreases the general fund and federal funds appropriations and increases the cash funds appropriation to the department of health care policy and financing for medical services; reduces an amount specified in a lettered note to the general fund appropriation to the department of human services for child welfare; redistributes amounts from various funds specified in a lettered note to the cash funds exempt appropriation to the department of revenue for the executive director's office; and increases the general fund appropriation and decreases the cash funds exempt appropriation to the department of revenue for the motor vehicle division.

For the 1994-95 fiscal year, increases the general fund and federal funds appropriations to the department of health care policy and financing for disproportionate share payments to hospital providers.

**APPROVED** by Governor May 2, 1996

**EFFECTIVE** May 2, 1996

**PORTIONS VETOED** May 2, 1996

**H.B. 96-1368** Supplemental appropriation - capital construction. Amends the 1992 general appropriation act to increase the total appropriation for capital construction. Increases the capital construction fund portion. 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. Amends the 1994 general appropriation act to increase the total appropriation for capital construction. Increases the cash funds exempt and federal funds portions of the appropriation. Amends the 1995 general appropriation act to increase the total appropriation for capital construction. Increases the capital construction fund exempt, cash funds exempt, and federal funds portions of the appropriation.

For the 1993-94 fiscal year, appropriates \$1,149,800 from cash funds for the planning, design, and construction of the advanced technology center at Pueblo community college.

For the 1994-95 fiscal year: 1) Decreases the appropriations to the board of regents of the university of Colorado; 2) decreases the appropriation to the state board for community colleges and occupational education for telecommunications and technology infrastructure; 3) appropriates \$2,350,000 from the capital construction fund to the Grand Valley board of cooperative educational services for the construction of phase II of the unified technical education center of Mesa state college; 4) appropriates \$2,034,540 from cash funds for additions and renovations at the Larimer campus of the Front Range community college; and 5) increases the appropriation from the general fund to the capital construction fund to \$57,318,645.

**APPROVED** by Governor May 2, 1996

**EFFECTIVE** May 2, 1996

## CHILDREN AND DOMESTIC MATTERS

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**S.B. 96-2** Child support - establishment and enforcement - income assignment - determination of paternity. Expands the definitions of "earnings", "gross income", and "wages" to include different sources of income not necessarily paid through a paycheck. States that gross income for purposes of child support calculation does not include income from additional jobs that result in the employment of the obligor more than 40 hours per week or more than what would otherwise be considered full time. Excludes social security benefits received by a minor child as a result of the death or disability of a stepparent from gross income.

In the "Uniform Interstate Family Support Act", provides that a support enforcement agency is not authorized to modify a spousal support order. Repeals a statute relating to proceedings not to be stayed that is in conflict with another provision.

Authorizes the court to order an amount of retroactive child support for a time period that occurred after the date of the parties' physical separation or filing of the petition or service upon the respondent, whichever is latest, and prior to the entry of the support order. Authorizes a delegate child support enforcement unit acting pursuant to administrative process to use discretion in determining the amount of child support in circumstances in which the parent is living below a minimum subsistence level.

Repeals the portion of the "Uniform Dissolution of Marriage Act" that authorizes the court to order an obligor to make an assignment of earnings or trust income to the person entitled to receive child support payments.

Repeals the current wage assignment provisions of law and the provisions on immediate deductions for family support obligations. Enacts a new statute to cover all types of wage withholding procedures as income assignments with consistent and streamlined procedures.

Limits the application of the requirement in the "Uniform Parentage Act" that the court enter a custody order when a paternity determination is entered pursuant to the "Uniform Interstate Family Support Act".

Requires that a parent proposing to relinquish a child, or that parent's counsel, provide notice to the delegate child support enforcement unit to whom the parent has assigned child support rights when the parent seeks to relinquish his or her parental rights. Clarifies who shall issue a summons for a support proceeding under the "Colorado Children's Code".

Authorizes the district attorney in each judicial district to appoint an attorney performing child support enforcement services for the county department of social services as a special deputy district attorney for the purpose of prosecuting felony nonsupport actions. Limits such a special deputy district attorney's powers.

Requires a delegate child support enforcement unit, where applicable, to prepare reports for the state registrar of vital statistics concerning decrees relating to parentage.

Allows the county to pay the applicant's fee for child support services provided to persons not receiving public assistance. Authorizes the county department to recover any costs incurred in excess of fees from either the obligor or obligee where the individual is receiving child support enforcement services.

Amends the state parent locator statute to make certain records available to local agencies or officials seeking to collect child support, the custodial parent, legal guardian, attorney, or agent of a child not receiving public assistance, and United States agents or attorneys dealing with federal parent locator services in connection with a parental kidnapping or custody case. Permits the state locator service or a local child support enforcement unit to request a financial institution or a person in the state or doing business in the state to provide information regarding assets of a child support obligor. Authorizes the state parent locator service to establish fees for the provision of services. Repeals a statute allowing a fee for credit reporting that conflicts with a federal law prohibiting such a fee.

Eliminates the need for filing a verified entry of judgment in order to attach workers' compensation benefits for the collection of current child support obligations, requires that information concerning the obligor's rights to administrative review be provided to the obligor when an attachment occurs. Allows the child support enforcement agency to serve notice of an administrative lien and attachment for purposes of attaching and collecting workers' compensation income by first-class mail rather than by certified mail.

Directs the state department of human services to consult with counties to determine what services of the child support enforcement program should be privatized. Authorizes the state department to procure such services on behalf of participating counties. Requires the department to report to the joint budget committee by January 1, 1998, concerning such privatization.

States that duty of support includes medical support and any retroactive support due.

Allows for hand delivery of the notice of continuation of a negotiation conference. Reduces the time frame for establishing paternity after receipt of a notice of hearing from one year to 6 months.

States that a garnishee is not required to collect, possess, or control a judgment debtor's tips.

Allows the family support registry, when the delegate child support enforcement unit is no longer required to provide enforcement services and payments are received, to refer child support payments it receives to the court. Prohibits the child support enforcement unit from processing payments through the family support registry, even upon agreement of the parties, when it is no longer required to provide services. Eliminates the automatic repeal of statutory provisions relating to the family support registry.

Applies to orders entered on or after July 1, 1996; except that provisions relating to income assignments shall apply to orders entered before, on, or after July 1, 1996.

**APPROVED** by Governor May 1, 1996

**EFFECTIVE** July 1, 1996

**S.B. 96-30** Court-appointed special advocate program. Authorizes each judicial district or combination of adjacent judicial districts to establish a court-appointed special advocate program (CASA program) to assist in the investigation of cases brought under the "Colorado Children's Code". Provides that a CASA program entails appointments of trained volunteers to assist in the representation of children. Establishes the minimum requirements for a CASA program.

Sets forth the minimum qualifications for CASA volunteers affiliated with a program. Specifies the appointment requirements and duties of and restrictions on a CASA volunteer. Allows a CASA volunteer access to relevant data regarding a case, and requires the CASA volunteer to maintain the confidentiality of the information. Clarifies the relationship between a CASA volunteer and the other parties involved in a case.

Establishes the same immunity for CASA volunteers and program directors as granted under the "Volunteer Service Act" for other volunteers and under current law for directors of nonprofit organizations.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**S.B. 96-126** Postsecondary education expenses - authority to order eliminated - applicability. Eliminates the authority of the court on or after July 1, 1996, to order parents in a proceeding for dissolution of marriage or legal separation to pay for postsecondary education expenses upon the termination of child support at age 19. Provides that, for child support orders entered on or after July 1, 1996, child support terminates at age 19 unless the parties otherwise agree, the child is mentally or physically disabled, or the child is still in high school.

Allows an order for postsecondary education expenses entered between July 1, 1991, and July 1, 1996, to be modified to provide for postsecondary education expenses subject to the statutory provisions for determining the amount of a parent's contribution to the costs of postsecondary education, the limitations on the amount of a parent's contribution, and the changes to the definition of postsecondary education consistent with the postsecondary education statute as it existed on July 1, 1994.

States that an order for child support entered prior to July 1, 1996, that does not provide for postsecondary education expenses shall not be modified pursuant to the statute governing postsecondary education expenses.

Allows the parents to agree in a written stipulation to continue child support beyond age 19 or to provide for postsecondary education expenses. Makes such a stipulation enforceable if made part

of a decree of dissolution of marriage or legal separation.

Clarifies the provision allowing child support to continue between 19 and 21 years of age if the child drops out of high school and later reenrolls by specifying that the child support continues for one month following graduation but not beyond age 21.

**VETOED** by Governor May 2, 1996

**S.B. 96-137** Juvenile justice - sentencing - regimented juvenile training program. Authorizes a court to sentence a juvenile directly to the regimented juvenile training program ("boot camp") as a condition of probation rather than sentence the juvenile to the department of human services with a recommendation that the juvenile participate in boot camp. Allows the department of human services to determine whether a juvenile is appropriate for boot camp and, if not, directs the department to return the juvenile to court for another sentencing hearing. Identifies a sentence to boot camp as an alternative to detention, detention as a condition of probation, or commitment to the department of human services. Specifies that boot camp is intended for juveniles who would otherwise be placed in detention or committed.

Clarifies that phase I of boot camp is residential. Clarifies that the boot camp is established to accommodate 80 male juveniles. Directs the judicial department and the department of human services to establish selection guidelines for boot camp based on the severity and number of offenses committed by the juvenile. Requires the judicial department to provide the department of human services with information concerning a juvenile's criminal history. Requires the judicial department and the department of human services to determine what supportive services are necessary for boot camp.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** July 1, 1996

**S.B. 96-141** Domestic proceeding - parental education programs. Authorizes a court to order a parent of a minor child to attend an educational program concerning the impact of separation and divorce on children where the parent is a named party in a dissolution of marriage, legal separation, restraining order, or other custody or parenting time action. Permits each judicial district, or combination of judicial districts as designated by the chief justice, to establish such an educational program, or to arrange for the provision of such a program through competitively negotiated contracts, to be administered and monitored by the implementing judicial district or districts. Specifies what the educational program shall inform and teach parents. Identifies that the program shall be paid for by the participating parties in accordance with each party's ability to pay.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** July 1, 1996

**S.B. 96-204** Uniform Dissolution of Marriage Act - disposition of property - division of public employee retirement benefits. Specifies that the retirement benefits from a public employee

retirement plan established pursuant to Colorado law are divisible directly by the plan upon agreement of the parties to a legal action for dissolution of marriage, legal separation, or declaration of invalidity. Requires an agreement dividing a public employee retirement benefit to meet certain specified criteria. Provides that a court is without jurisdiction to order the division of benefits without the agreement of the parties or to modify the agreement of the parties. Defines pertinent terms.

Authorizes the trustees or the administrators of each retirement plan to promulgate rules or procedures governing the division of benefits under the public employee retirement benefit plan, including a rule requiring the use of a standardized form for orders approving the parties' agreement.

Clarifies that compliance with these provisions by a public employee retirement benefit plan does not subject the plan to any portions of ERISA that do not otherwise affect governmental plans generally. Specifies that any plan that complies with an order approving an agreement dividing benefits shall be relieved of liability for payments made to the parties pursuant to a court order approving the agreement. Identifies that a court may retain jurisdiction to supervise the implementation of an order dividing benefits.

Specifies that the act applies to causes of action filed on or after January 1, 1997.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** January 1, 1997

**H.B. 96-1005** Juvenile justice - miscellaneous amendments - appropriations. Relocates the juvenile justice provisions located in the "Colorado Children's Code", with the following changes:

**Legislative declaration.** Adds a legislative declaration that recognizes the general assembly's intent to protect the public and provide appropriate treatment to the juvenile.

**Jurisdiction of the juvenile court.** Gives the juvenile court and the county court concurrent jurisdiction over offenses involving marijuana and marijuana concentrate.

**Venue in juvenile matters.** Prohibits a juvenile court from rejecting a transfer of venue unless venue would be improper. Requires the receiving court to set a hearing within 30 days after transfer of venue.

**Jury trial.** Limits the right to a jury trial to juveniles charged as aggravated juvenile offenders and juveniles charged with offenses that would constitute crimes of violence. Specifies that there is no right to a jury trial for nonfelony offenses. Specifies that any juvenile who requests a jury trial is deemed to have waived the 60-day timeframe for an adjudicatory trial.

**Deadlines in delinquency proceedings.** Requires the district attorney to file a petition within 72 hours after the detention hearing in all cases in which a detention hearing is held. Requires the

first appearance to be held within 30 days after issuance of the summons. Requires the adjudicatory trial to be held within 60 days after the entry of a plea. Requires the sentencing hearing to be held within 45 days after completion of the adjudicatory trial. Allows the court to grant a continuance of any deadline, except the sentencing deadline, upon a showing of good cause.

**Parental requirements.** Requires the juvenile's parent, guardian, or legal custodian to attend all juvenile proceedings concerning the juvenile. Allows the court to impose contempt sanctions for failure to attend unless for good cause. Authorizes the court to impose requirements on the juvenile's parent, guardian, or legal custodian so long as the parent, guardian, or legal custodian is a party to the juvenile proceeding.

**Administrative entities.** Specifies which state agencies are responsible for juvenile programs. Creates the division of youth corrections ("DYC") in the department of human services ("DHS"). Authorizes DYC to enter into agreements with the judicial department to combine provision of juvenile parole and probation services. Directs DYC to submit an annual report to the judiciary committees of the general assembly regarding any interagency agreement into which DYC enters. Authorizes the director of DYC to appoint directors of the DYC facilities. Removes language allowing DYC to reject, on the basis of lack of physical capacity at juvenile facilities, any juvenile committed to DHS.

**Juvenile programs.** Adds juvenile day reporting and day treatment programs to the list of approved preadjudication service programs.

**Regimented juvenile training program.** Instructs DHS and the judicial department to adopt selection guidelines for juveniles sentenced to the regimented juvenile training program. Specifies that a juvenile may be sentenced to the regimented juvenile training program as a condition of probation, but not in conjunction with any sentence to detention or commitment to DHS. Provides that any juvenile rejected by the program is returned to the court for resentencing. Specifies that phase I of the program consists of a 60-day residential program for 80 males. Authorizes the judicial department to administer phase II of the program by contracting with any appropriate entity for provision of aftercare services for juveniles who complete phase I. Clarifies that failure to progress through the program is considered a violation of a condition of probation.

**Juvenile facilities.** Authorizes DHS to use staff secure facilities in providing both preadjudication and postadjudication detention. Allows DHS to reject any juvenile from a DHS detention facility, based on lack of physical capacity at the facility. Adds day reporting and day treatment centers and staff secure facilities to the list of approved DHS facilities. Allows facilities that house or provide nonresidential services to juveniles to respond in a reasonable manner to issues of control and restraint of adjudicated juveniles. Requires each facility or program to have clearly defined policies concerning restraint and control. Grants facilities, programs, and persons employed by the facility programs immunity from liability for damages arising from acts committed in good faith to restrain a juvenile. Imposes on each facility a duty to notify the court and local law enforcement agencies on discovering that a juvenile has run away from the facility.

**Taking a juvenile into custody.** Instructs the screening team, rather than law enforcement, to notify the juvenile's parents and the court whenever a juvenile is held in detention. Prohibits DYC from transferring a juvenile to an adult jail because the juvenile is considered an escape or safety risk. Allows the juvenile and the juvenile's parent, guardian, or legal custodian to waive the requirement that the parent, guardian, or legal custodian be present when the juvenile is questioned by a law enforcement officer.

**Violent juvenile offender.** Lowers from 13 years to 10 years the age at which a juvenile may be a violent juvenile offender. Lowers from 13 or 14 years to 10 or 11 years of age the ages at which the juvenile may be eligible for an exception to the mandatory sentence for violent juvenile offenders.

**Aggravated juvenile offender.** Lowers from 12 years to 10 years the age at which a juvenile may be adjudicated an aggravated juvenile offender ("AJO"). Adds felony sex offenses to the crimes for which a juvenile may be adjudicated an AJO. Allows the court to commit an AJO adjudicated for a class 3 or lower felony to DHS for a determinate period of up to 5 years. Requires the court to commit an AJO adjudicated for a class 2 felony to DHS for a determinate period of up to 5 years. Requires the court to commit an AJO adjudicated for a class 1 felony to DHS for a determinate period of up to 7 years.

**Direct file of charges in district court.** Adds vehicular homicide, vehicular assault, and felony arson to the criminal charges that a district attorney may file against a juvenile in district court. Allows the district court to sentence as a juvenile any juvenile convicted of a lesser included offense that the district attorney could not have filed in district court. Allows the district court to appoint a guardian ad litem for any juvenile charged by direct filing in the district court or by indictment.

**Transfer of charges to district court.** Allows charges that allege commission of a class 1 or 2 felony or a crime of violence and that are filed against a juvenile who is 12 or 13 years of age to be transferred to district court. Requires the district court judge to sentence as a juvenile any juvenile who is convicted of a lesser included offense for which charges could not have been transferred to district court. If a juvenile under 14 years of age is sentenced as an adult, requires the department of corrections to contract with DHS to house the juvenile in a juvenile facility until the juvenile reaches 14 years of age. After filing in juvenile court, but prior to a transfer hearing, allows the district attorney to file the same or different charges in district court.

**Mandatory restraining order.** Includes the juvenile's parent or legal guardian in the mandatory restraining order that prevents contact with the victim or witnesses of the alleged offense.

**Presentence investigation.** Requires the juvenile probation department to conduct a presentence investigation, unless waived by the court. Recommends the issues to be addressed in the presentence investigation.

**Juvenile sentencing.** Lowers the age for commitment to DHS from 12 years to 10 years if the juvenile is adjudicated as an AJO or otherwise adjudicated for a class 3 felony. Adds a

mandatory one-year period of parole to the term of commitment. Lowers the age for sentence to detention from 12 years to 10 years. Based on the expectation that a juvenile adjudicated for a class 1 or class 2 felony will be committed to DHS, prohibits a sentence to detention for such juveniles. Allows the court to order a parent to pay restitution only if the parent is a party to the proceeding and the parent is present at the restitution hearing. Deletes language that allowed a person to request DHS to review the placement of a juvenile who is held in a juvenile facility for over one year without parole consideration. Deletes the requirement that a judge review the terms and conditions of probation every 6 months.

**Juveniles sentenced to department of corrections.** For any juvenile sentenced to the department of corrections, requires the executive director of the department of corrections to consider the juvenile's safety in determining housing for the juvenile. Requires the department of corrections to develop a management plan for housing juvenile inmates segregated from the adult prison population and report to the general assembly by January 1, 1998.

**Legislative review of juvenile facility plans.** Prior to the appropriation of funds for constructing or renovating a juvenile facility, requires DHS to submit a proposed facility program plan to the capital development committee. Instructs the capital development committee to make a recommendation concerning the plan to the joint budget committee. Authorizes the general assembly to contract with a consultant to provide assistance in the review of facility program plans.

**Exchange of information between schools and the juvenile court.** Requires a school district to release information concerning a student within 15 days after receiving a court order for such release. If a juvenile is required to attend school as a condition of preadjudication release or as a condition of probation, requires the court to provide notice of the attendance requirement to the school in which the juvenile is enrolled and requires the school to notify the court if the juvenile fails to attend all or any portion of a school day.

**Definitions.** Clarifies the definition of "adjudication". Expands the definition of "basic identification information". Adds day reporting and day treatment programs to the definition of "services" for purposes of juvenile diversion programs. Defines "determinate period", "screening team", and "staff secure facility".

**Siting of Denver juvenile facility.** If the city and county of Denver fails to acquire an appropriate site for a new juvenile detention facility by August 1, 1996, instructs DHS to recommend to the capital development committee 3 appropriate sites for the facility in the Denver metropolitan area, and instructs the capital development committee to recommend the sites to Denver. If Denver fails to acquire one of the sites by January 1, 1997, authorizes DHS to acquire by eminent domain a site for location of the new juvenile detention facility in the Denver metropolitan area. This provision takes effect August 1, 1996, if Denver has not acquired a site by that date.

**Appropriations.** Appropriates \$1,895,445 in general fund moneys to DHS for use in acquiring a site for a new juvenile detention facility. Out of the amount appropriated to DHS, appropriates

\$57,045 to the department of law. Makes this appropriation take effect August 1, 1996, if Denver has not acquired a site by that date.

Appropriates \$621,934 in general fund moneys to the judicial department for implementation of the act. Appropriates \$164,342 in general fund moneys to the judicial department for allocation to probation and related services. Appropriates \$91,756 in general fund moneys to the judicial department for allocation to the public defender's office. Appropriates \$29,171 in general fund moneys to the department of corrections for allocation to the division of management, jail backlog subprogram. Appropriates \$245,041, of which \$215,870 is from general fund moneys and \$29,171 is from cash funds exempt, to DHS for allocation to NYC.

**APPROVED** by Governor June 3, 1996

**PORTIONS EFFECTIVE** June 3, 1996, August 1, 1996, January 1, 1997

**H.B. 96-1017** Children's Code - information management - programmatic review and evaluation of programs - standardized accounting standards - confidentiality - centralized integrated data base system study - appropriation. **Programmatic reviews.** Beginning January 1, 1997, requires the state auditor's office to conduct or cause to be conducted programmatic reviews and evaluations of state or federally funded prevention and intervention programs for children and families ("programmatic reviews"). Directs the executive director of each agency administering such a program and the state court administrator to submit a list of the programs that they administer to the state auditor's office. Specifies the priority and frequency of such programmatic reviews. On and after July 1, 1997, requires all service providers receiving federal or state moneys to use the accounting standards of the governmental accounting standards board.

Authorizes the state auditor to contract with one or more public or private entities to conduct the programmatic reviews and prepare annual summaries of them. Requires the staffs of the joint budget committee and the legislative council to work with the state auditor's office. Allows the state auditor's office and any other person assisting the auditor's office to have access to all records and information related to persons served by the programs being reviewed and requires them to maintain the confidentiality of the information received.

Requires the state auditor's office to report periodically on the programmatic reviews to the legislative audit committee, the governor, the executive directors of the affected agencies, the state court administrator, and the health, environment, welfare, and institutions committees or the judiciary committees, as determined by the legislative audit committee. Also requires the state auditor's office to submit an annual summary of the programmatic reviews to the legislative committee of reference.

Beginning in 1998, requires the appropriate legislative committee of reference to review the annual summary of each programmatic review and to recommend to the joint budget committee whether the state should continue funding the program. Allows the committee of reference to submit legislation to discontinue the statutory authority for a program.

**Exchange of information.** Allows the judicial department and agencies that maintain

information about children pursuant to the "Colorado Children's Code" to exchange certain information with other agencies and the judicial department. Authorizes school personnel to obtain information necessary to perform their legal duties and requires them to maintain the confidentiality of the information obtained.

Requires the state court administrator and the executive directors of affected agencies to develop a consent and release form ("consent form") for the voluntary exchange of information. Provides that a parent, guardian, or legal custodian of a child under 16 years of age may sign the consent form and that a child 16 years of age or older may sign the consent form on his or her own behalf. Requires the judicial department, agencies, and providers to inform persons about the consequences of signing the consent form. Describes a procedure for authorizing the exchange of information in involuntary cases that includes notice of a hearing. Specifies that a person who signs a consent form waives the notice required in involuntary cases.

**Relocation of provisions.** Consolidates records provisions throughout the "Colorado Children's Code" into a single statutory part.

**Juvenile records.** Allows the victim and the complaining party to have access to juvenile delinquency court records. Permits the complaining party to have access to law enforcement records related to a juvenile delinquency case upon authorization by the prosecuting attorney.

Changes the statutory provisions concerning the expungement of juvenile records as follows:

- Permits, rather than requires, a court to expunge records upon the request of a petitioning party.
- Requires the court to find that the expungement would be in the best interests of the petitioner and the community.
- Authorizes expungement one year after the completion of a juvenile diversion program or informal adjustment.
- Permits expungement 4 years, rather than 2 years, after termination of the court's jurisdiction over the petitioner or after the petitioner's unconditional release from parole supervision; also permits expungement 4 years after the petitioner's unconditional release from commitment to the department of human services.

- Permits expungement 10 years, rather than 7 years, after the date of the termination of the court's jurisdiction over the juvenile or the juvenile's unconditional release from parole supervision, whichever date is later, if the juvenile has been adjudicated a repeat or mandatory juvenile offender.
- Eliminates the ability of a juvenile to expunge records if the juvenile has been adjudicated a violent juvenile offender, has been adjudicated for an offense that would constitute a crime of violence, or has been charged by the direct filing of an information in the district court or by indictment.
- Limits number of expungement petitions a person may file to one in any 12-month period.

**Dependency and neglect records.** Restricts a court from prohibiting disclosure of identifying dependency and neglect information when an alleged juvenile offender is a victim of abuse or neglect or when the suspected perpetrator is arrested or charged by law enforcement.

**Tracking.** Sets forth a process for establishing business and technology plans for a centralized integrated data base system to track children subject to the "Colorado Children's Code". Creates the children's information management committee to develop a legislative proposal for the 1999 session to implement the business and technology plans.

Adjusts the appropriations made to the departments of human services and higher education in the 1996 long bill for the implementation of this act.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** January 1, 1997

**H.B. 96-1019** Children's Code - definitions. Consolidates definitions currently contained in many sections of the "Colorado Children's Code" into one statutory provision.

**APPROVED** by Governor March 20, 1996

**PORTIONS EFFECTIVE** March 20, 1996, July 1, 1996

**H.B. 96-1183** Child support enforcement procedures - deductions for health insurance - notice to health insurance provider. Enacts a procedure that applies to a child support obligor who provides health insurance coverage for a child pursuant to a court order through an insurance provider other than one available to the obligor through his or her employment. Requires the obligee, the obligee's representative, or the delegate child support enforcement unit to send

written notice by first-class mail to the insurance provider identifying that the obligor is under a court order to provide health insurance coverage for the child. Specifies that the notice must inform the insurance provider that it is required to notify the obligee, the obligee's representative, or the delegate child support enforcement unit of any cancellation in the coverage.

**APPROVED** by Governor May 1, 1996  
**EFFECTIVE** July 1, 1996

**H.B. 96-1208** Reports concerning children - child custody evaluations - reports to the central registry - appropriation. Requires that a person who signs child custody evaluation reports and supervises the preparation of such reports be a licensed mental health professional. Recognizes that such mental health professional may have associates working for him or her who are unlicensed.

Effective April 1, 1997, requires the director of the central registry to send a notice to a person whose name the director receives for placement on the central registry. Specifies the contents of the notice, including information concerning the person's right to review of the investigation by the director of the central registry and to an administrative hearing to determine whether the record of the report is accurate and there is a preponderance of the evidence to support a finding of child abuse and neglect. Places the burden of proof at the hearing on the department of human services. Exempts persons who have been convicted of criminal child abuse from the right to this hearing. Requires the department to report the number of persons requesting a fair hearing.

Provides that, if a subject is acquitted of criminal child abuse charges or if a petition in dependency and neglect on which the subject is a named respondent is not sustained or if no petition is filed, the director of the central registry may expunge the record of the report. Instructs the director to send notice of expungement to the subject. If the record is not expunged, requires the director to send notice to the subject that he or she may request a hearing at which the department of human services will be required to show by clear and convincing evidence why the subject's name should not be removed from the registry.

Appropriates \$412,328 from the general fund to the department of human services, of which \$190,997 cash funds exempt shall be appropriated to the department of personnel and \$62,322 cash funds exempt shall be appropriated to the department of law.

**APPROVED** by Governor June 1, 1996  
**EFFECTIVE** January 1, 1997

**H.B. 96-1291** Same sex marriages - invalid - prohibited. Creates an exception to the provision that all marriages validly contracted outside this state are valid in Colorado to provide that same sex marriages shall not be valid. Prohibits marriages between persons of the same sex in Colorado.

**VETOED** by Governor March 25, 1996

**H.B. 96-1363** Juvenile justice - sentencing - alternative services. Authorizes a judge to sentence a juvenile to alternative community services. Allows a judge to sentence a juvenile to up to 45 days detention only if the juvenile is failing to make satisfactory progress in alternative community services or if a sentence to alternative services would be contrary to the community interest. Limits use of state moneys for juvenile alternative services to services that are intended: To prevent the juvenile from being held in detention prior to adjudication or prior to being sentenced to detention or committed to the department of human services; or to reduce the length of time the juvenile is held in preadjudication or postadjudication detention or in a commitment facility.

**APPROVED** by Governor June 3, 1996

**EFFECTIVE** July 1, 1996

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## **CONSUMER AND COMMERCIAL TRANSACTIONS**

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**S.B. 96-25** Health care coverage cooperatives - elimination of not-for-profit requirement. Eliminates the requirement that health care coverage cooperatives be operated on a not-for-profit basis.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**S.B. 96-98** Central indexing system - agistors' liens - appropriation. Empowers the central indexing system board to:

- Operate and improve the central filing system;
  
- Adopt rules;
  
- Contract with private and public parties;
  
- Hire and delegate disbursement responsibilities to employees;

- Bring suit;
- Accept grants and other moneys and disburse funds in the central indexing system cash fund;
- Cooperate with other organizations engaged in similar activities for the purpose of carrying on joint programs.

Exempts certain filings and recordings from the existing one-dollar surcharge and authorizes the board to exempt others, as deemed appropriate. Requires all revenue collected by the board from the operation of the central indexing system to be credited to the central indexing system cash fund. Authorizes the board to allocate a portion of such revenues to governmental agencies that provide database information to the central indexing system. Requires appropriations of fund moneys after July 1, 1996, to be used only for purposes recommended by the board to the joint budget committee.

Creates within the central indexing system cash fund a county clerk's technology fund. Requires \$3 from financing statement filings made at the office of the secretary of state to be credited to the fund, as well as any revenue in the central indexing system cash fund that is not otherwise used or allocated.

Provides immunity from personal liability for department of revenue and central indexing system board contractors and contractors' employees for errors and omissions that are not the result of willful misconduct or bad faith.

Establishes procedures concerning the date and hour of electronically transmitted filings. Eliminates the requirement that records of tax lien sales on real estate and mobile homes be certified. Authorizes the treasurer to retain for safekeeping any certificate of purchase concerning the sale of real property for the payment of delinquent taxes.

Creates the "Agistor's Lien Act", which enables ranchers and farmers and others to have a lien on livestock entrusted to their care for any amount that may be due for such care. Describes filing requirements, foreclosure procedures, and procedures for handling abandoned livestock.

Appropriates 2.0 FTE to the department of state for allocation to the central indexing system filing board for the purpose of providing support for implementation of this act.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** July 1, 1996 **S.B. 96-132** Uniform Commercial Code - letters of credit - investment

securities. Enacts revisions to articles 5 and 8 of the "Uniform Commercial Code" (articles 5 and 8 of title 4, Colorado Revised Statutes) to conform Colorado statutes to updated versions of the code as adopted by the national conference of commissioners on uniform state laws.

Under article 5, letters of credit are used to obtain payment and as a backup to other kinds of credit extension. The revision to article 5 does not change the stated intent to create a flexible framework of rules that allow commercial entities great latitude in tailoring letters of credit by agreement. There is explicit recognition of standards of practice, so that standards such as the "Uniform Customs and Practices for Documentary Credits", issued by the International Chamber of Commerce, can govern many of the particulars of letters of credit. The "Statute of Frauds" provision is revised to allow for other forms of durable representation of language, such as computer storage devices. Prior ambiguities with the concept of fraud in the transaction are clarified. Damages for a dishonored or repudiated letter of credit are limited to the amount of the document plus incidental damages. Consequential damages are not permitted. Cover is not required to obtain damages. There are clear subrogation rights for any party who pays on a letter on behalf of another. Article 5 becomes much simpler and less detailed because of the explicit reliance upon standards of practice. Article 5 continues to provide rules that can be waived or modified by agreement between the parties.

The revision to article 8 introduces a new concept of "security entitlement" as a property interest in "security accounts," recognizing the fact that most investment securities are kept in securities accounts in what is called the indirect holding system for securities. That system is characterized by central depositories for the certificates representing investment securities in which securities intermediaries hold positions in their own names or the names of nominees. In turn, investors have interests in securities represented in accounts with the same securities intermediaries. A security entitlement is a property right that an investor has in a security account with an intermediary, and that an intermediary has in an account with a depository. That property right guarantees ownership rights even though direct ownership is not registered with the issuers of these same investment securities. One of the major impacts of these revisions is upon attachment and perfection of security interests in investment securities. A security interest may be taken in a security entitlement, or in the entire financial assets held in a securities account, or in the even broader category of investment property that includes commodities contracts. Commodities contracts are not securities under article 8. The security interest may be taken by filing a financing statement or by creditor control over the specific securities. Control is obtained by giving the secured creditor power over transactions concerning the investment property to which the security interest has attached.

Conforming amendments are made to articles 1, 2, 4, 9, and 10 of title 4, C.R.S.

Repeals part 6 of article 1 of title 15, C.R.S., concerning fiduciary security transfers since those provisions are replaced by revised article 8.

**APPROVED** by Governor April 8, 1996  
**EFFECTIVE** July 1, 1996

**S.B. 96-139** Charitable solicitations by container - disclosures. Amends the "Colorado Charitable Solicitations Act" to prohibit a person or charitable organization from publicly displaying a container offering a product for sale or distribution for solicitation purposes unless the container has a legible disclosure label that states:

- The percentage of annual contributions paid to any person to maintain the container;
- The percentage of annual contributions paid to the charitable organization; and
- Whether the person servicing the container is a volunteer or is paid.

**APPROVED** by Governor April 11, 1996

**EFFECTIVE** July 1, 1996

**NOTE:** This act was passed without a safety clause. Section 2 of the act establishes an effective date of July 1, 1996; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution, the act must be approved by a vote of the people.

**H.B. 96-1137** Deceptive trade practices - telephone solicitations. Makes telephone solicitation a deceptive trade practice unless a seller, within one minute after beginning a telephone conversation with a consumer residing in Colorado, identifies himself or herself, whom he or she represents, and the purpose of the call, or if the seller repeatedly causes any telephone to ring or engages any person in a telephone conversation repeatedly or continuously with the intent to annoy, abuse, or harass any person at the telephone number called. Creates an exception for telephone solicitations between sellers and consumers with existing business relationships.

Eliminates the repeal of part 3 of the "Colorado Consumer Protection Act" concerning the prevention of telemarketing fraud.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1260** Deceptive trade practices - use of term "occupational therapist". Makes it a deceptive trade practice for a person to claim either orally or in writing that such person is a "certified occupational therapist", an "occupational therapist registered", an "occupational therapist", or a "licensed occupational therapist" or to use the abbreviation "O.T.R." or "O.T.R./L." unless such person has met certain experiential and certification requirements and holds either an associate or at least a baccalaureate degree in occupational therapy from an accredited or other specified institution.

Mandates persons claiming to be occupational therapists before July 1, 1996, to meet the experiential and certification requirements on or before July 1, 1999.

**APPROVED** by Governor June 3, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1264** Health care coverage cooperatives - requirements for waived health care coverage cooperatives. Adds definitions to the statutes governing health care coverage cooperatives to make such provisions consistent with the laws regulating small group health insurance.

Clarifies the type of bond a cooperative must post in order to obtain a certificate of authority and permits such bond requirement to be satisfied if an outside administrator under contract with a cooperative obtains the appropriate bond.

Specifies requirements for cooperatives to obtain carrier waiver certificates from the executive director of the department of health care policy and financing. Authorizes the executive director to promulgate rules to set forth application procedures.

Allows health insurance entities offering coverage through a waived health care coverage cooperative to offer certain standardized coverages and specially negotiated rates only to cooperative members and not to others outside the cooperative.

**APPROVED** by Governor May 1, 1996

**EFFECTIVE** May 1, 1996

**H.B. 96-1332** Persons with disabilities - motorized wheelchair warranty act - tax credit. Requires motorized wheelchair manufacturers to furnish consumers with express warranties that extend for at least one year. States that a motorized wheelchair shall be covered by a warranty having the same features as an express warranty if the manufacturer fails to furnish the express warranty.

Requires the manufacturer to repair any nonconformity of the motorized wheelchair if the consumer reports the nonconformity and makes the motorized wheelchair available for repair. Requires a manufacturer to respond within 5 business days to a motorized wheelchair dealer's request for repair authorization.

Prohibits any person from selling or leasing a motorized wheelchair that has been returned because of a nonconformity without first making a full disclosure of the reasons for the return.

voids as against public policy any waiver of rights with respect to these provisions. Authorizes a consumer to pursue any other available remedies against a manufacturer, including suing for damages.

For income tax years commencing on and after January 1, 1997, creates a deduction from state taxable income for a taxpayer with a disability and for each taxpayer dependent with a disability

in an amount equal to the amount of the federal exemption for a dependent. Defines "disability" in accordance with the federal definition used for social security purposes; except that "disability" shall not include a disability that results from a controlled substance addiction or alcoholism.

**VETOED** by Governor June 5, 1996

**H.B. 96-1356** Consumer Credit Code - loans - examination of business records. For purposes of the "Uniform Consumer Credit Code" as it relates to loans, eliminates the requirement that the administrator, designated as the assistant attorney general, examine the loans, business, and records of every licensee under the code at least once every year. Regardless of whether a lender's records are located within or outside the state, allows the administrator to require lenders to make the records available at the administrator's office or at any other location the administrator deems appropriate, if the administrator determines that examination of the records at the location where the records are maintained endangers the safety of the examiner or that the location where the records are maintained lacks adequate facilities to conduct the examination.

**APPROVED** by Governor April 16, 1996

**EFFECTIVE** April 16, 1996

**H.B. 96-1357** Consumer Credit Code - business credit transactions - commercial credit plan - usury. Removes consumer related sales and consumer related loans from the "Uniform Consumer Credit Code".

Establishes that a creditor may extend credit to a debtor pursuant to a commercial credit plan which is governed by agreement between the creditor and the debtor. Under a commercial credit plan:

- A creditor may acquire obligations of the debtor, accept security, and charge and collect periodic interest on any outstanding indebtedness at periodic percentage rates not exceeding 45% per annum.
- The interest rate, subject to certain limitations, may be calculated daily, monthly, or another time period.
- The creditor and debtor may agree to the imposition and collection of transaction charges, automated teller machine charges, late payment charges, returned payment charges, documentary evidence charges, minimum billing charges, fees for services, and any similar fee or charge.

- Additional fees and charges are interest.
- Payment by the debtor of reasonable attorney's fees and court costs incurred by the creditor in collection of the debt.
- A creditor may change terms of the agreement upon timely written notice to the debtor and if the debtor disagrees with the changes, the debtor may notify the creditor in writing that the debtor will not abide by the changed terms.
- The debtor may, upon written notice not to abide by the new terms, pay all sums owed to the creditor as of the effective date of the change pursuant to the existing terms in the remaining time allowed in the agreement.
- The debtor is deemed to have accepted the new terms if there is any authorized charge to the debtors account on or after the effective date of the change even if the debtor sent a notice to the creditor disagreeing with the new terms.

Exempts interest charges imposed under a commercial credit plan from the criminal usury statute.

**APPROVED** by Governor April 17, 1996

**EFFECTIVE** July 1, 1996

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## **CORPORATIONS AND ASSOCIATIONS**

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**S.B. 96-39** Colorado Cooperative Act - repeal of Colorado Marketing Law. Repeals and reenacts the "Cooperative Marketing Law" as the "Colorado Cooperative Act" ("the Act"). Clarifies the Act's flexibility and availability to types of businesses and industries other than agriculture. States that, if a matter is not covered by the "Colorado Cooperative Act", the "Colorado Business Corporation Act" shall apply unless the cooperative elects to have the "Colorado Nonprofit

Corporation Act" apply. Establishes a procedure for a business formed under other statutes, but operating as a cooperative, to amend its organizational documents and organize under the "Colorado Cooperative Act".

Requires the commissioner of agriculture to be notified when a cooperative dissolves. Allows the commissioner to promulgate rules that require reports to be submitted if the commissioner deems it necessary. Makes optional the involvement of the department of agriculture in the formation of agricultural cooperatives. Permits the commissioner to provide direction and assistance. Allows the department to become involved in monitoring or assisting agricultural cooperatives if the commissioner determines it necessary.

Prohibits the use of the word "cooperative" in a business, corporation, trade name, trade mark, service brand, or designation except as specified in the Act. Provides for enforcement by the cooperative or its members.

States filing requirements and the effective date and time of a cooperative's articles. Removes the former permissive posting of notice of meetings to consider amendments to the articles. Empowers the board of directors to make limited amendments to the articles.

Permits the establishment of bylaws consistent with the former "Cooperative Marketing Law". Requires that certain provisions be contained in the bylaws if they are not stated in the articles.

Allows cooperative membership to persons other than agricultural producers for nonagricultural cooperatives. Provides for evidence of membership, allows nonvoting equity investments by nonmembers, limits liability of members, and authorizes the organization of membership by districts.

Permits a cooperative organized without stock to issue preferred equity similar to preferred stock. Permits payment for membership stock to be made by adequately secured notes. Deletes a restriction on redemption of stock that prohibits a cooperative from redeeming stock when the debts of the cooperative exceed 50% of its assets. Clarifies that a stock cooperative may limit dividends on stock held by its voting members. Requires cooperatives to periodically set aside a portion of net margins, per unit retains, or other funds for reserve, distribution, patronage refunds, and capital or another lawful purpose. Requires net margins to be distributed at least once every 12 months. Permits the use of preferred equity as well as preferred stock to acquire property and other interests in other entities by the cooperative.

Reduces the minimum number of directors from 5 to 3 and allows the number of directors to be stated in the articles or the bylaws. Establishes a minimum quorum for membership meetings. Specifies how members may vote. Prohibits cumulative and proxy voting. Permits proportional voting based on patronage if allowed in the articles of the cooperative. Prohibits the use of proportional voting for any vote that requires a majority vote or more of the total number of members. Establishes that all members have at least one vote. Permits up to 20% of the directors to be nonmembers. Deletes the old provision regarding appointment of one or more of the directors by public officials. Sets procedures for meetings of the board. Sets procedures for

removal of a director by the board or a majority of the members of the cooperative. Enables the cooperative to indemnify its board of directors, officers, agents, and employees in the same manner as corporations unless otherwise limited by the "Colorado Cooperative Act".

Deletes the provision that makes it a misdemeanor for a person to maliciously and knowingly spread false reports about the finances, management, or activity of a cooperative.

Provides a limited antitrust exemption if the existence of a cooperative and contracts between the cooperative and its members do not in and of themselves constitute an antitrust violation. Exempts cooperatives from securities laws.

Details procedures for merger, consolidation, and share or equity capital exchange of the cooperative. Explains how a cooperative may merge or consolidate with another foreign or domestic cooperative or entity and exchange shares or equity. Allows the merger of parent and subsidiary cooperatives.

Authorizes a dissolution by a majority of the board of a cooperative if it has not yet issued memberships. Establishes a procedure for dissolution of a cooperative after memberships have been issued. Establishes a procedure for the disposition of claims made against the cooperative by written notice to known claimants and by publication to unknown claimants. Sets forth methods for the enforcement of claims made against the dissolved cooperative. Clarifies the procedures for and effects of administrative and judicial dissolution of a cooperative.

Removes the residency requirement for establishing a cooperative in Colorado. Allows a cooperative organized in another state or country to transact business in Colorado once it has applied for and received authority to transact business from the secretary of state. Provides procedures for the establishment, operation, and dissolution of foreign cooperatives.

Makes the provisions of this act applicable to existing domestic corporations, associations, or cooperatives organized pursuant to the former "Cooperative Marketing Law". Makes existing domestic corporations, associations, or cooperatives formed pursuant to the article governing agricultural and livestock associations subject to the article governing cooperatives in general until they elect to be governed by the "Colorado Cooperative Act". Repeals the article governing agricultural and livestock associations.

**APPROVED** by Governor April 23, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1285** Colorado Business Corporation Act - revisions. Clarifies the conclusiveness of, and the procedures for, the filing of articles of incorporation by the secretary of state. Clarifies that nonprofit corporations organized under the "Colorado Nonprofit Corporation Act" are not subject to the provisions of the "Colorado Business Corporation Act".

Establishes procedures necessary to effectuate a reverse stock split. Specifies that each outstanding share of the class must be divided by the same divisor as every other share of the

class. Requires shareholder notice of a meeting at which a reverse split will be considered. Requires a shareholder vote on reverse stock splits.

Allows the effective date of shareholder action without a meeting to be a date other than the date the writings are received by the corporation or later than such date.

Defines "registered agent" and "registered office". Allows a corporation not to have a registered office in this state. No longer allows less than a majority of the number of directors for a quorum of the board of directors. Exempts transactions with wholly owned subsidiaries from the definition of "conflicting interest transaction".

Allows dissolution of a corporation upon expiration of the period of duration for corporations with a finite life span. Clarifies that no articles of dissolution need to be filed by a corporation that is dissolved upon such expiration.

Specifies that dissenters' rights may not be exercised in connection with certain transactions with respect to shares of a class or series of shares that either were listed on a national securities exchange registered under the federal "Securities Exchange Act of 1934" or on the national market system of the national association of securities dealers automated quotation system, or were held of record by more than two thousand shareholders, unless shareholders will receive anything other than shares in the surviving corporation, cash in lieu of fractional shares, or shares of listed stock in exchange for their shares. Clarifies that a shareholder who was entitled to dissent but was not given proper notice is not precluded from demanding payment for the shares.

Establishes procedures to determine dates and locations for annual and special meetings of shareholders for corporations that have no such provisions in their bylaws.

Allows the survival of remedies and title to property of domestic corporations after dissolutions occurring prior to July 1, 1994. Permits the public trustee to convey and dispose of corporate property of such a corporation upon the death of the last remaining director.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

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## **CORRECTIONS**

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**H.B. 96-1128 Operations of the department - youthful offender system - repeal of furlough authorization - legislative facility program plan review - expansion and construction of facilities -**

voluntary payments by inmates to victims' assistance programs - appropriations. Limits the granting of credit to offenders in the youthful offender system (YOS) for presentence confinement time. Takes phase II of the YOS out of a community setting and places it in a YOS institution.

Deletes provisions authorizing inmate furloughs.

Clarifies that the executive director of the department of corrections must approve of importation of out-of-state prisoners into prison facilities operated by political subdivisions of the state, which approval is not to be unreasonably withheld.

Declares that prison construction, expansion, renovation, and improvement is a matter of statewide concern. Requires the department of corrections to submit facility program plans to local planning bodies for advisory review. Clarifies the intent of the general assembly that local approval is not required for authorization or construction of correctional facilities.

Requires the department of corrections to submit proposed facility program plans to the capital development committee of the general assembly prior to any appropriation for the construction of a new, expanded, renovated, or improved correctional facility, and not later than November 1 prior to the beginning of the budget year for which such an appropriation is made. Provides for the capital development committee to make a recommendation regarding a proposed facility program plan to the joint budget committee.

Authorizes the executive director to contract with political subdivisions of the state for the confinement of offenders. Deletes the cap on reimbursement of the expense of housing inmates.

Provides that contracts for the confinement of offenders in facilities operated by political subdivisions or private contract facilities shall be at rates as provided in the annual general appropriations bill.

Clarifies provisions authorizing the department of corrections to collect restitution and voluntary victim assistance payments.

Clarifies that the capacity of the Colorado correctional center shall not exceed 150 inmates and that the addition to the Colorado state penitentiary is to have a capacity of 252 inmates.

Makes technical corrections to the appropriations made to the department of corrections for fiscal year 1993-94 and 1994-95.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**H.B. 96-1205** Correctional industries - cleanup of waste tires. Authorizes the division of correctional industries to contract with counties or private entities for the use of supervised inmate labor to clean up and transport illegal and abandoned waste tires. Directs counties

receiving grants from the waste tire cleanup fund to use inmate labor whenever feasible in the discretion of the board of county commissioners.

Decreases the percentage of the direct and indirect costs that may be charged against the waste tire recycling development cash fund by the department of revenue and against the economic development fund by the Colorado housing and finance authority from 5% to 3-1/3%.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1221** Day reporting programs - direct sentence - inclusion in definition of "community corrections program". Authorizes a court to order a person who would otherwise be sentenced to county jail to be sentenced directly to a day reporting program. Includes day reporting programs in the definition of "community corrections program".

**APPROVED** by Governor March 25, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1289** Intensive supervision programs - administration - appropriation. Transfers administration of adult intensive supervision programs for certain parolees and community corrections offenders from the department of public safety to the department of corrections.

Increases the general fund appropriation in the long bill to the department of corrections, division of community supervision, by \$1,194,116 and decreases the general fund appropriation to the department of public safety, division of criminal justice, by the same amount.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1343** Community corrections - escape deterrence. As a condition of placement into a community corrections program, requires an offender to execute a limited power of attorney to the director of the community corrections program with which the offender is being placed, or the director's designee. In the event the offender escapes, authorizes the director or the director's designee to dispose of the offender's funds on account with the community corrections program to meet the offender's financial obligations and to pay any remaining funds into the victims and witnesses assistance and law enforcement fund in the judicial district in which the community corrections program is located.

Requires the director of a community corrections program, or the director's designee, to maintain records of disbursements of offender funds.

**APPROVED** by Governor March 25, 1996

**EFFECTIVE** July 1, 1996

## COURTS

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**S.B. 96-13** School crossing guards - immunity. Immunizes school crossing guards and their sponsors from civil liability, except for damages or injuries caused by willful and wanton acts or omissions, if the guard was acting within the scope of such guard's duties. Defines "school crossing guard" as any person 18 years of age or older who assists school children at a street or intersection and "school crossing guard sponsor" as any governmental agency, nonprofit organization, or individual that organizes school crossing guards.

**APPROVED** by Governor June 3, 1996

**EFFECTIVE** June 3, 1996

**H.B. 96-1001** Civil remedies available to survivors of homicide victims. Eliminates the \$250,000 limit on damages for noneconomic loss or injury in a wrongful death action where the act causing the death constitutes a felonious killing, as defined in the "Colorado Probate Code". Amends the personal property exemption statute to prevent a person who has committed an act found to be a felonious killing from exempting any personal property from attachment or levy in satisfaction of a judgment awarded under the wrongful death statutes for such felonious killing.

Applies to civil actions filed on or after July 1, 1996.

**APPROVED** by Governor March 20, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1279** Resigned and retired judges - appointment. Expands the use of retired judges in pending civil actions to include resigned judges when all parties agree on a specific judge. Extends provisions to include judges from the court of appeals. Allows the parties rather than the chief justice to select the retired or resigned judge. Specifies that the salary and expenses paid to such judge are to be agreed upon by the parties and the presiding judge rather than set as the amount paid to retired judges appointed at state expense. Authorizes the retired or resigned judge to be appointed once the case is at issue rather than when discovery is completed.

**APPROVED** by Governor March 25, 1996

**EFFECTIVE** See Note

**NOTE:** This act was passed without a safety clause. It will take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly unless a referendum petition is filed pursuant to section 1 (3) of the state constitution. In that event, the act will take effect on the date of the official proclamation of the governor, if it is

approved by the voters at the 1996 election.

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## **CRIMINAL LAW AND PROCEDURE**

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**S.B. 96-133** Drug offender surcharge - increase - repeal of controlled substances tax. For offenses committed on and after July 1, 1996, increases the surcharge imposed for drug offenses, other than possession of not more than one ounce of marihuana, by 50%. Repeals the controlled substances tax.

**APPROVED** by Governor March 25, 1996

**EFFECTIVE** March 25, 1996

**S.B. 96-174** Unlawful sexual offense against a child - testimony of child victim - use of closed circuit television. When a defendant is charged with an unlawful sexual offense against a child under 12 years of age, authorizes a court, upon the motion of any party or upon its own motion, to allow the testimony of the child to be taken in a room other than the courtroom and to be televised in the courtroom by means of closed circuit television.

Requires a party to file such a motion no later than 10 days prior to trial. Specifies that the court must find that the testimony by the child victim in the courtroom and in the presence of the defendant would result in the child suffering serious emotional distress or trauma such that the child would not be able to reasonably communicate and that closed circuit television equipment is available for use. Specifies that only the prosecuting attorney, the defense attorney, the guardian ad litem, if any, and the judge may question the child victim when he or she testifies by closed circuit television. Identifies the people who may be in the room with the child victim when the child testifies.

Provides that the procedure for examining a child victim by means of closed circuit television shall not apply if the defendant is appearing pro se. Specifies that the provisions for closed circuit television shall not preclude the identification of the defendant by the child in person. Allows the defendant, rather than the child, to be removed from the courtroom upon the stipulation of the parties and the approval of the court.

**APPROVED** by Governor May 2, 1996

**EFFECTIVE** May 2, 1996

**S.B. 96-214** Concealed weapons permits - fingerprint processing - appropriation. Requires the sheriff or chief of police, in making a background inquiry on any person who applies for a permit to carry a concealed weapon, to request a check of the applicant's fingerprints. Specifies that the Colorado bureau of investigation has authority, upon request of local law enforcement

authorities, to conduct a criminal history check, including processing fingerprints, on any person who applies for a concealed weapons permit. Specifies that the applicant bears the cost of the fingerprint check.

Appropriates to the department of public safety, Colorado bureau of investigation, \$151,455 from fingerprint processing fees paid by persons applying for concealed weapons permits and 2 FTE for implementation of the act.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**S.B. 96-221** Integrated criminal justice information system - task force - implementation - local pilot programs - appropriation. Adopts recommendations of the task force created under HB 95-1105 to establish an integrated criminal justice information system to enable criminal justice agencies to exchange information concerning offenders. Creates the criminal justice information program task force, with members from the departments of public safety, corrections, and human services, the judicial department, and the Colorado district attorneys council who served on the earlier task force. Directs the task force to implement a program for all criminal justice agencies to share data stored in each other's systems to reduce duplicative data entries.

Requires the task force to submit a plan for implementing the program to the commission on information management by June 1, 1996. The plan must include:

- Descriptions of current and projected costs and full-time employees necessary for implementing the exchange of information among criminal justice agencies;
- A description, including the costs, of the hardware and software necessary for each agency to connect to a network linking the agencies;
- A description of what personnel are responsible for the ongoing maintenance of the proposed network system;
- Procedures for establishing a pilot program in at least 2 criminal justice agencies to demonstrate the effectiveness of the network system and the cost savings;

- Timeframes for developing a common data dictionary of terms, connecting each criminal justice agency to the network, and training;
- Specific benchmark dates by which demonstrable cost savings and the impact on the need for full-time employees will be shown.

Prohibits any expenditure of money prior to the approval of the plan. Requires the commission on information management to approve any requests for expenditures by a criminal justice agency for the program if the plan and requests meet specified criteria. Authorizes the state controller to expend moneys approved by the commission.

Requires the task force to review changes to computer applications that might impact the program and to make recommendations to all appropriate budgetary approval agencies concerning future expenditures by criminal justice agencies for computer platforms.

Requires the task force to develop a plan and timetable for a local pilot program in El Paso, Jefferson, and Weld counties for the seamless integration of local criminal justice agencies with the statewide criminal justice agencies.

Appropriates \$2,711,323 out of the capital construction fund for the fiscal year beginning July 1, 1995, to the division of accounts and control under the department of personnel.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1087** Criminal offenses - immunity for peace officers - false reporting - punishment for third conviction - husband and wife privilege - definition of runaway child - controlled substances - escape - second degree murder - sale of animal parts - cost of care - abuse of property insurance - habitual offenders. **Section 1:** Provides immunity from civil liability for peace officers who, in good faith, make statements to support the issuance of emergency protection orders.

**Sections 2 and 3:** Adds the act of providing false identifying information to a law enforcement agency to the crime of false reporting to authorities.

**Sections 4 and 5:** Clarifies that a person who has been twice convicted of a felony is not eligible to receive a fine in lieu of imprisonment on the 3rd conviction and may not receive a suspended sentence.

**Section 6:** Clarifies that the husband-wife privilege does not apply in class 1, 2, or 3 felony cases for offenses committed on or after July 1, 1993, as well as in felony offenses committed prior to that date.

**Section 7:** Clarifies that the definition of "runaway child" applies to persons who are under 18 years of age.

**Sections 8 and 9:** Corrects the spelling of certain controlled substances.

**Sections 10 and 11:** Allows a court to suspend the sentence of a juvenile who is convicted of escape or attempted escape if the court is sentencing the juvenile to the youthful offender system.

**Sections 12 and 13:** Deletes murder committed in the heat of passion as a form of manslaughter, makes it a form of second degree murder, and designates it as a class 3, rather than a class 2, felony.

**Section 14:** Amends the definition of "sell" in the wildlife statute to include transactions by a principal proprietor, agent, servant, or employee.

**Sections 15 and 16:** Specifies that wages or other payment received by an inmate while incarcerated may be applied to the inmate's payment of restitution, child support, and costs of care.

**Section 17:** Creates a private right of action for enforcement of laws prohibiting abuse of property insurance.

**Sections 18 and 19:** Makes conforming amendments to clarify that the judge, rather than the jury, determines whether a defendant is a habitual sex offender against children or a habitual child abuser.

**APPROVED** by Governor June 5, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1120** Criminal procedure - miscellaneous changes. Requires the sex offender treatment board to implement, as well as develop, guidelines and standards for sex offender treatment programs. Requires the sex offender treatment board to undergo sunset review prior to July 1, 2001.

For purposes of authorizing a peace officer to act when a crime is committed in the officer's presence, specifies that "peace officer" includes federal law enforcement officers. Authorizes the peace officer to act regardless of whether the officer is acting within the scope of his or her duties at the time the crime is observed.

Prohibits the sealing of criminal records when an offense is not charged or a dismissal occurs as part of a plea agreement in a separate case.

Provides that the prosecuting attorney shall present any available arrest affidavits, rather than investigative reports, of a person who is subject to a restraining order at the restrained person's first court appearance following arrest.

Clarifies that a defendant may be subject to enhanced sentencing if such defendant commits a felony while on bond following revocation of probation.

Replaces the special prosecutions unit in the attorney general's office with the criminal enforcement section. Authorizes the criminal enforcement section, or any attorney in the department of law authorized by the attorney general, to prosecute all criminal cases for the attorney general. Authorizes the attorney general to appoint a deputy attorney general as head of the criminal enforcement section, and requires the deputy attorney general to have at least 2 years of criminal experience as a trial or appellate prosecutor.

Deletes the requirement that a district attorney, at the time of filing charges, file with the court a written list of the names and addresses of the witnesses whom he or she intends to call at the preliminary hearing.

Deletes "Whether a falsification is material in a given factual situation is a question of law" from the definition of "materially false statement".

Clarifies that venue is proper in any county in the state for a trial based on a state grand jury indictment, as determined by the chief judge who is supervising the grand jury.

Provides that the probation department in each judicial district may enter into agreements with a state or public agency, corporation, or private agency or person to provide supervision for defendants placed on probation by the court.

**APPROVED** by Governor May 22, 1996  
**EFFECTIVE** July 1, 1996

**H.B. 96-1145** Affirmative defense - not guilty by reason of insanity. For offenses occurring on or after July 1, 1995, clarifies that the plea of not guilty by reason of insanity is an affirmative defense and shall be tried in the same proceeding as the substantive charges.

**APPROVED** by Governor January 31, 1996  
**EFFECTIVE** January 31, 1996

**H.B. 96-1181** Unlawful sexual behavior - evidence of prior acts - genetic testing of probationers - third degree sexual assault - data base for registering sex offenders - term of parole for sex offenders - confidentiality and sealing of records - appropriation. Reenacts with amendments provisions stating when evidence of prior acts may be introduced to prove the commission of an offense involving unlawful sexual behavior. Establishes procedures for the offering of such evidence by the prosecution.

Extends to persons receiving probation as well as parole the requirement that a person convicted of an offense involving unlawful sexual behavior or for which the factual basis involved unlawful sexual behavior must undergo genetic testing. Requires the probationers to pay for such testing. Establishes the sex offender identification fund to collect payments and pay the costs of

the testing.

Expands the crime of sexual assault in the third degree to include taking a photograph of a person's intimate parts without the person's consent. Defines "photograph" to include any mechanically, electronically, or chemically reproduced visual image.

Establishes a common definition of "unlawful sexual behavior" that includes:

- 20 specific crimes;
- Criminal attempt, conspiracy, or solicitation to commit any of those 20 crimes; and
- Any offense the underlying factual basis was the commission or criminal attempt, conspiracy, or solicitation to commit any of those 20 crimes.

Adopts this definition for purposes of admissibility into evidence of other acts, for determining when a person on parole or probation must undergo genetic testing or register as a sex offender, and for determining when records are confidential or may be sealed.

Requires a juvenile adjudicated for the delinquent act of failing to register as a sex offender to be sentenced to a minimum 45-day detention and a juvenile adjudicated for the class 6 felony of failing to register as a sex offender to be committed out of the home for at least one year.

Requires local law enforcement agencies to forward copies of sex offender registration forms to the Colorado bureau of investigation and requires, rather than permits, the director of the bureau to establish a central registry of such persons. Requires the criminal justice information system to develop an interactive data base to allow querying of a sex offender's registration status, known addresses, and modus operandi. Directs that the system include cross validation of the offender's registered address with the address on the offender's driver's license or identification card.

On or after September 1, 1996, requires any person seeking employment at a nursing facility or the nursing facility to make inquiry of the Colorado bureau of investigation to determine if the person has a criminal history. Costs of the inquiry are to be paid for by the person seeking employment or the nursing facility.

Extends the maximum length of parole for a person convicted of an offense involving unlawful sexual behavior from up to 5 years to the maximum sentence imposed by the court.

Allows the department of corrections access to otherwise confidential juvenile court records and

information in the central registry of child protection for aid in determining treatment, visitation approval, and supervised conditions for persons convicted of offenses involving unlawful sexual behavior. Prohibits the expungement of juvenile records and the sealing of criminal justice records relating to offenses involving unlawful sexual behavior. Permits the name of the victim of a sexual assault or attempted sexual assault to be included within the criminal justice record if delivered to a criminal justice agency.

Contingent upon passage of bills relating to the children's code, makes the same changes to the provisions amended by such bills.

Appropriates \$237,853 out of the general fund to the sex offender identification fund to pay the costs of drawing and testing blood of sex offenders receiving probation who are unable to pay such costs. Appropriates \$252,981 and 1.0 FTE out of such fund to the department of public safety, Colorado bureau of investigation, and \$11,282 to the judicial department, probation department, to pay for the drawing and genetic testing of blood from sex offenders receiving probation.

Grants spending authority to the Colorado bureau of investigation for \$26,108 anticipated to be paid by or on behalf of persons seeking employment at nursing facilities.

The act takes effect on July 1, 1996, and applies to offenses committed on and after such date; except that the sections amending provisions amended by the children's code bills adopted in 1996 are effective January 1, 1997, and only if the applicable children's code bill becomes law.

**APPROVED** by Governor June 3, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1196** Deferred sentencing - mentally ill misdemeanants - demonstration program - repeal. Authorizes the division of mental health, under the department of human services, to develop and implement a 3-year demonstration program in no more than 3 participating counties for the purpose of studying the use of deferred sentences for mentally ill persons charged with a class 2 or class 3 misdemeanor. Conditions such deferred sentencing upon participation in a mental health treatment program. Establishes procedures to be followed, including requiring the district attorney and the court to approve any plea agreement and requiring the defendant to obtain a final evaluation prior to dismissal of the case. Directs the division of mental health to establish a fee schedule, and requires the defendant or the county to pay for the mental health treatment. Directs the participating counties to submit an objective evaluation to the division of mental health at the end of the program, and requires the division to submit a report to the general assembly by December 1, 2000, on the effectiveness of the program. Repeals the 3-year demonstration program, effective July 1, 2001.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**H.B. 96-1198** Collection of monetary orders - restitution in amount of pecuniary loss - time

payment and late payment fees - assignment to private counsel or collection agency - attachment of earnings. Requires that all orders for restitution be in the full amount of the pecuniary loss suffered by the victim, and removes a court's discretion to consider a defendant's ability to pay in establishing the amount of restitution. Removes the authority of the court and the parole board to modify the amount of an order for restitution.

Adopts a uniform definition of "victim" for purposes of restitution orders that includes:

- The victim of a crime;
  
- The immediate family of the victim;
  
- A victim compensation board that has paid a victim compensation claim;
  
- Any person or entity that has suffered a loss due to a contractual obligation with a victim, including an insurer;
  
- A husband or wife that has suffered a loss because of their joint liability for family expenses or the expenses of their children's education; and
  
- The state.

Clarifies that an order of restitution is a final judgment that may be enforced by any of the parties defined as a victim. Establishes that, notwithstanding the general statute of limitations on civil judgments, orders of restitution are valid until paid in full. To collect on orders of restitution, fines, or fees, allows the state to use any method available to collect other amounts owed to the state, including assigning the account to a private attorney or collection agency. States that the costs of any private attorney or agency shall be added to the amount due, but limits such costs to 25% of the amount collected.

Authorizes a court to order up to 50% of a defendant's earnings to be withheld by the defendant's employer and credited to unpaid orders for restitution, fines, and fees. So long as it is under 50% of the defendant's earnings, permits the court to increase or decrease the amount ordered to be

withheld upon a showing of changed circumstances or to suspend or cancel attachment of earnings. Allows the superintendent of a correctional facility in which a person is confined to fix the manner and time of payment of these orders.

For restitution paid into a court and unclaimed for 2 years, changes the fund to which such restitution is credited from the general fund to the victim and witness assistance and law enforcement fund in the judicial district where the crime occurred. Clarifies that these local funds receive restitution payments due to the state when the victim cannot be located or declines to accept the restitution payments.

Establishes a \$25 time payment fee whenever a defendant does not pay all court-ordered restitution, fines, costs, or fees at the time the court enters the order. Specifies that the time payment fee may only be assessed once per case. Authorizes the assessment of the \$10 late penalty fee whenever restitution or a fine or a fee is not made when due. Allows the court to waive these fees if it determines that the defendant does not have the financial resources to make the payments. Creates the judicial collection enhancement fund in the state treasury to which time payment and late fees are to be credited, and directs the general assembly to appropriate moneys in the fund to pay part of the costs of collecting restitution, fines, and fees. Prioritizes how payments by the defendant are to be credited.

States that the provisions are effective upon passage and shall apply to orders entered and delinquencies occurring on and after the effective date. Makes amendments to new provisions of the "Colorado Children's Code" effective January 1, 1997, but only if the new provisions of the "Colorado Children's Code" become law.

**APPROVED** by Governor June 3, 1996  
**PORTIONS EFFECTIVE** June 3, 1996, January 1, 1997

**H.B. 96-1281** Criminal offenses - use of forged academic records. Makes the use of a forged academic record with intent to seek employment or with intent to seek admission to a public or private institution in this state or to secure a scholarship or other form of financial assistance a crime, punishable as a class 1 misdemeanor.

**APPROVED** by Governor May 23, 1996  
**EFFECTIVE** July 1, 1996

**H.B. 96-1361** Criminal offenses - endangering public transportation - school buses - future appropriations. Expands the definition of "public" for purposes of the crime of endangering public transportation to include the transportation of pupils enrolled in public or nonpublic schools in preschool through grade 12.

Makes a future appropriation to the department of corrections out of the mass transportation account to the corrections expansion reserve fund for fiscal year 1997-98.

Makes future appropriations to the department of corrections out of the general fund for fiscal

years 1998-99 through 2000-01.

Applies to offenses committed on or after July 1, 1996.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** July 1, 1996

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## **EDUCATION — PUBLIC SCHOOLS**

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**S.B. 96-63 School discipline - disciplinary information - expulsion prevention.** Authorizes a school district to transmit to another school district disciplinary information concerning a student who transfers to the other district. Requires a principal to communicate discipline information concerning any student to any teacher or counsellor who has direct contact with the student, and prohibits the teacher or counsellor from communicating the information to any other person. Requires each school district to inform the student and the student's parent or guardian when disciplinary information is communicated, give the student and the student's parent or guardian a copy of the disciplinary information, and allow the student and the student's parent or guardian to challenge the accuracy of the information.

Requires a court that convicts or adjudicates a juvenile for a mandatory expulsion offense, a crime of violence, or an offense involving controlled substances to notify the school district in which the juvenile is enrolled.

Requires school districts to identify students who are at risk of suspension or expulsion and to work with the student's parent or guardian to provide services to those students to help them avoid expulsion. For any student who is expelled, instructs the school district to:

- Provide information concerning educational services available to the student;
  
- Upon request, assist the student's parent in obtaining appropriate home-school curricula;  
and

- Contact the student's parent or guardian every 60 days until the student is enrolled in another school district or in a private school to determine whether the student is receiving educational services.

Allows a school district to work with the student's parent or guardian to provide services for a student who is expelled. Specifies that, for purposes of school finance, the school district shall include in its pupil enrollment any expelled student who receives services.

Allows each school district to enter into agreements with local governmental agencies and managing state agencies, nonprofit community-based entities, and institutions of higher education to work with students' parents or guardians to provide services for students who are at risk of suspension or expulsion or have been suspended or expelled and for their families. Requires each agreement to specify:

- The services to be provided;
- The entity that will coordinate provision of the services;
- The responsibilities of each entity involved in the agreement; and
- The services or funds to be provided by each entity involved in the agreement.

Requires the school district to use a portion of its per pupil operating revenues and allows it to use any additional public or private moneys to provide

services under the agreement.

**APPROVED** by Governor April 22, 1996

**EFFECTIVE** April 22, 1996

**S.B. 96-76** School finance - cost of living factors - certification. Changes the date for certification by the legislative council staff of the cost of living factors under the school finance act from January 15 to April 15.

**APPROVED** by Governor January 16, 1996

**EFFECTIVE** January 16, 1996

**S.B. 96-77** Charter school districts - pilot program - creation. Enacts the "Charter School District Act". Authorizes the state board of education to initiate a pilot program beginning with the 1997-98 school year to test the effectiveness of charter school districts in the state. Authorizes the state board of education to approve not more than 5 school districts, each with a pupil enrollment of 15,000 or less, to operate under a charter rather than under state law and regulations. Specifies that a charter school district shall continue to comply with certain specified state and all federal requirements.

Requires a local board of education, prior to applying to become a charter school district, to submit the issue of whether to operate the school district as a charter school district to the electors of the district at any regular biennial school election or at a special election prior to applying to become a charter school district. Requires the state board to promulgate rules specifying the procedures for applying for charter status. Specifies certain requirements for the application.

Specifies that a school district charter is valid for a period not to exceed 6 academic years, after which the school district must apply for renewal. Requires the state board to provide procedures for reviewing and renewing a school district charter and the grounds upon which the state board may revoke or refuse to renew a charter or place a charter school district on probation. Provides that no charter may be renewed prior to July 1, 2003.

Requires the state board and the charter school districts to report on the pilot program to the general assembly before January 1, 2002. Repeals the "Charter School District Act" effective July 1, 2003.

Makes conforming amendments.

**APPROVED** by Governor May 2, 1996

**EFFECTIVE** May 2, 1996

**S.B. 96-95** Boards of cooperative services - plans for provision of education and support services programs. Allows any board of cooperative services ("BOCES") to receive additional appropriations by submitting a plan for the provision of education and support services programs. Authorizes the department of education to distribute any moneys that may be appropriated to the BOCES based on the number of children enrolled in the school districts that are members of the participating BOCES. Specifies the contents of the plan. Authorizes a participating BOCES to provide the programs and support services specified in the plan to nonmember school districts by contract. Requires each participating BOCES to submit an annual report to the department. Requires the department to submit an annual summary report to the education committees of the general assembly. Authorizes the state board of education to adopt rules as necessary to implement the section.

Allows a BOCES to receive funds if it serves multiple school districts located in the same county. Deletes the requirement that a BOCES serve school districts that have a minimum specified valuation for assessment or total area.

**APPROVED** by Governor May 23, 1996  
**EFFECTIVE** May 23, 1996

**S.B. 96-125** Standards and assessments - implementation timelines. Clarifies that statewide assessments shall be phased in over 3 years at the 4th, 8th, and 11th grades. Specifies that, in creating a stratified random sample for assessing students, at a minimum the department of education shall base the sampling strata on district size. Provides that, beginning with the 3rd year of school district assessments and each year thereafter, school districts shall assess students in the 4th, 8th, and 11th grades. Establishes the statutory deadlines for full implementation of student assessments and reporting of assessment results.

**APPROVED** by Governor April 17, 1996  
**EFFECTIVE** April 17, 1996

**S.B. 96-199** Public school fund - interest retained to account for inflation. Requires the state treasurer to retain a portion of the interest derived from the public school fund in the fund to account for inflation and to credit the remainder of the interest to the public school income fund. Provides that the interest shall not be retained in the public school fund if inflation is zero or is negative. Provides that inflation is to be determined based on the percentage change in the consumer price index for the Denver-Boulder consolidated metropolitan statistical area.

**APPROVED** by Governor May 23, 1996  
**EFFECTIVE** July 1, 1997

**S.B. 96-207** Extracurricular and interscholastic activities - student participation. Establishes the circumstances under which school districts and public schools are required to allow nonresident and nonenrolled students to participate in extracurricular or interscholastic activities or programs. Establishes a presumption that a student may participate in an activity through an amateur association and participate in the same activity at a school. Requires the student to obtain permission from the school principal prior to participating in the activity through an amateur association. Allows a student to participate in an activity at a nonpublic school, at the nonpublic school's discretion. Specifies that the statutory participation provisions apply to students enrolled in public schools or nonpublic schools and students participating in nonpublic home-based educational programs.

Allows a student to participate in an activity in another school in the student's school district of attendance or residence if the school in which the student is enrolled does not offer the activity. Allows the student to participate at a school in a school district contiguous to the student's school district of residence if the activity is not offered in the student's school district of attendance or residence. Authorizes the school district to choose the public school at which the student shall participate if the student is participating in a public school other than the school at which the student is enrolled. Requires the school district to choose the school that offers the greatest number of activities in which the student wishes to participate. Prohibits a student from participating in activities at more than one school in any school year, unless an activity is not available at the school of participation.

Specifies eligibility requirements for participation in activities. Clarifies that a student who is not eligible to participate in activities at a school cannot become eligible by applying to participate in activities at another school and that the student must pay any assessed penalty before being eligible to participate in activities at any school.

Specifies that a school may charge students a participation fee as a prerequisite to participating in an activity, but that the amount of the fee for nonenrolled students cannot exceed the amount charged enrolled students who participate in the activity.

Specifies that a student who participates in an activity but who is not enrolled at the school is not included in the school district's pupil enrollment for purposes of school finance.

If a student transfers enrollment without an accompanying change of domicile by the student's parent or guardian, specifies that the transfer rules adopted by the school district determine whether a student is eligible to participate in activities at the new school; except that no transfer rule may prohibit the student from participating if the student transfers within 15 days after the beginning of the school year and prior to participating in the activity during the same year at the old school.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**S.B. 96-237** Intergovernmental agreements for school district capital projects - existing impact fee agreements - authority to require site dedication. Amends the statutory provision that states that the school finance act does not preempt intergovernmental agreements between local governments and school districts to fund school district capital projects using local government revenues other than impact fees.

Declares that this provision does not affect any agreement entered into prior to May 1, 1996, that is the subject of pending litigation before the Colorado supreme court. If a supreme court decision affirms the right to impose impact fees, permits local governments that imposed fees prior to May 1, 1996, to continue to impose such fees until July 1, 1997. If a supreme court decision rejects the right to impose impact fees, permits local governments that imposed fees pursuant to a voluntary agreement entered into prior to July 1, 1996, to continue to impose such fees for the term of the agreement. Requires that all impact fees or similar development charges or fees be appropriated on or before December 31, 1997.

States that this provision does not authorize local governments to require school site dedications or payments in lieu thereof, but does not restrict any other statutory authority of local governments to require school site dedications or payments in lieu thereof.

**APPROVED** by Governor June 5, 1996

**EFFECTIVE** June 5, 1996

**H.B. 96-1012** School districts - boundaries. Reduces the number of signatures required for a

school district reorganization petition. Limits school district residents to bringing one reorganization petition per school district every 3 years. Stipulates the requirements for a reorganization plan.

In a detachment and annexation where there are no public schools in the affected territory, allows posting of public notice of the meeting on the proposed plan of organization in 3 public buildings located within the affected territory or, if there are fewer than 3 public buildings, mailing of notice to eligible electors residing in the affected area.

Requires the school organization planning committee to file a map showing the proposed boundaries of each school district affected by the proposed plan of organization.

Where the plan of organization includes an increase in the mill levy, makes implementation of a plan of organization conditional upon voter approval of the mill levy increase.

Specifies that a detachment and annexation takes effect on the date specified in the plan of organization, that the affected districts continue as bodies corporate as prior to the detachment and annexation, and that the school directors of a new school district shall be elected on the day specified in the plan of organization.

Clarifies when a plan of organization is deemed rejected. Where a plan of organization involves 3 or more existing school districts, and the plan is approved by at least 2 but less than all of the involved school districts, allows the approving school districts to formulate a new plan of organization involving the approving districts.

Clarifies that the limit of bonded indebtedness for new school districts is the same as existing school districts.

Where a reorganization results in creation of 2 or more school districts within the boundaries of an existing school district, authorizes the plan of organization to include the creation of joint taxation districts to incur bonded indebtedness for capital construction and to raise and expend property taxes to retire such indebtedness. Authorizes the school districts in the joint taxation district to share their assessed valuations.

Eliminates the district-specific requirements for creating a capital improvement zone in a school district within 36 months after the district attempts a successful or failed reorganization.

Directs the department of education to promulgate rules and regulations for the assignment of a cost of living factor to new districts, except districts created through deconsolidation. Provides that such rules and regulations shall apply only until a cost of living factor is certified for the new districts by the legislative council. Specifies that deconsolidated districts retain the cost of living factor of the district from which they were separated until a new cost of living factor is certified for the district by the legislative council.

Specifies the method of determining the mill levy in and the specific ownership tax revenue

payable to reorganized districts in the first year following the reorganization.

Includes other miscellaneous amendments concerning district reorganization.

**APPROVED** by Governor March 20, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1041** Special education - deaf and hard-of-hearing children. Recognizes the unique needs of children with low-incidence disabilities. Identifies the specific educational needs of deaf and hard-of-hearing children.

Requires the committee that prepares an individual educational program for a child who is deaf or hard of hearing to consider the child's specific communication needs, including:

- The child's communication mode;
  
- The availability of peers, adult models, and staff with whom the child can communicate; and
  
- The availability of appropriate educational services.

Requires the school to explain to the child's parent all of the educational options available to the child at the time the individual educational program is prepared. Specifies reasons for which a child may not be denied education in a particular communication mode or language. Allows a child to receive education in multiple communication modes or languages. Requires that a child receive education in the communication mode or language that is deemed beneficial for the child.

Clarifies that the committee does not have to ensure the availability of a specific number of peers, that the provisions of the act do not abrogate a parent's statutory rights to educational choice, and that no school district is required to expend additional resources or hire additional personnel to implement these requirements.

**APPROVED** by Governor March 18, 1996

**EFFECTIVE** March 18, 1996

**H.B. 96-1139** State board of education - kindergarten through third grade literacy standards. Enacts the "Colorado Basic Literacy Act".

Requires the state board of education, after consultation with the state standards and assessments

development and implementation council, to approve and identify instruments to assess the reading readiness of kindergarten pupils and the literacy and reading comprehension levels of pupils in 1st grade through 3rd grade. Requires school districts to assess such pupils annually to determine their reading readiness or literacy and reading comprehension levels. Requires public schools, in cooperation with parents, to formulate individual literacy plans for all pupils in kindergarten through 3rd grade who are reading below grade level. Specifies the minimum requirements for the individual literacy plans. Prohibits school districts from permitting pupils who are reading below grade level to pass from 3rd to 4th grade for reading classes, except for children with disabilities or children exempted from this requirement pursuant to rules promulgated by the state board of education. Requires the inclusion of model reading readiness, literacy, and reading comprehension programs in the model content standards resource bank.

Requires school districts to report annually to the department of education concerning the literacy levels of pupils in the school district.

Identifies the number of pupils reading at or above grade level as one of the criteria for the excellent schools program.

**APPROVED** by Governor April 22, 1996

**EFFECTIVE** April 22, 1996

**H.B. 96-1203** At-risk students - suspension programs - pilot schools authorized - appropriation.

The bill contains materials relating to the following:

**School attendance law:**

Limits to 25 school days the total period of any suspension of a student from a public school. Requires an informal hearing before suspending a student for a period of 10 days or less.

Requires the suspending authority to try to meet with the student's parent, legal guardian, or custodian during the period of a student's suspension to discuss whether the pupil should receive a remedial discipline plan. Prohibits the suspending authority from extending a period of suspension because of the failure of the suspending authority to meet with the student's parent, legal guardian, or custodian. Requires the development of a remedial discipline plan for a student who is suspended for more than 10 school days during any school year. Requires the suspending authority to allow any suspended student to make up school work missed while the student was suspended.

Allows local school boards to delegate to a designee the responsibility to conduct crime of violence hearings. Specifies that time spent by a student in an alternate education program while awaiting disposition of criminal charges is not considerate a period of expulsion.

Changes the definition of "habitually disruptive student" to a student who has been suspended 3 times during a school year. Requires that notice of each suspension counted toward defining the student as "habitually disruptive" be given to the student's parent, legal guardian, or custodian.

Requires the school, in cooperation with the student's parent, guardian, or legal custodian, to develop a remedial discipline plan for a student after the first suspension and to review and modify the plan after the second suspension.

Changes one ground for mandatory expulsion from possession of a deadly weapon to possession of a dangerous weapon and defines "dangerous weapon" for this purpose.

Requires the development of a plan to assist habitually truant students to remain in school. Deletes the requirement that school personnel and the student's parent meet after the 4th unexcused absence in a month or the 10th unexcused absence in a year.

**In-school and in-home suspension programs:**

Establishes a grant program for in-home and in-school suspension programs that will provide continuous instruction, supervision, and discipline to suspended students for the duration of their suspensions. Specifies minimum program requirements. Authorizes the state board of education to approve applicants. Provides for 2-year renewable grants. Allows any public school or any public or private agency operating in conjunction with any such public school to apply for such grants. Limits the grant amount to \$25,000 per program per year and \$500,000 for all programs per year. Requires each participating school to submit an annual report concerning the effectiveness of the program.

**Pilot schools:**

Authorizes the state board of education to establish not more than 4 pilot schools throughout the state for students in grades 6 through 9 who are at risk of being expelled or who have been expelled for a period in excess of 30 days. Establishes the required features of a pilot school and the process for applying to operate such a pilot school.

Appropriates \$557,853 out of the general fund to the department of education. Decreases the general fund appropriation in the long bill to the capital construction fund and the capital construction fund exempt appropriation to the department of transportation by \$557,853.

**APPROVED** by Governor June 5, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1217** School districts - detachment and annexation - tax-exempt property. Allows the detachment and annexation of 40 acres or less of territory in one school district owned by a tax-exempt entity that adjoins property owned by the entity in another school district if the adjoining school districts adopt resolutions to that effect by a 2/3 majority of the boards of education of said districts. Specifies a procedure for detachment and annexation of such territory. Provides that the detachment and annexation authority is repealed December 31, 1998.

**APPROVED** by Governor March 20, 1996

**EFFECTIVE** March 20, 1996

**H.B. 96-1249** Qualifications of special education teachers. Requires the department of education to issue a special endorsement to any applicant who completes a special education program offered by an accepted institution of higher education that has been approved by the state board of education. Requires the state board of education to establish for shortage areas within the state criteria for the issuance of a provisional teacher license to any applicant from another state or country.

Directs the Colorado commission on higher education to adopt policies and procedures to require state-supported institutions of higher education currently offering approved special education programs to require the minimum amount of preparation necessary to perform services as an entry-level special education teacher.

**APPROVED** by Governor June 3, 1996

**EFFECTIVE** June 3, 1996

**H.B. 96-1254** Special services providers - licensing. Excepts physical therapists, occupational therapists, and school nurses holding valid Colorado licenses or registrations or valid national certificates from any assessment of basic skills as a requirement for a provisional special services license.

**APPROVED** by Governor March 25, 1996

**EFFECTIVE** March 25, 1996

**H.B. 96-1293** Revisions to the "Charter Schools Act". Adds encouragement of the use of proven teaching methods to the purposes of the "Charter Schools Act".

Allows a local board of education to waive locally imposed school district requirements for a charter school applicant without seeking a waiver from the state board of education.

Repeals the requirement that a charter school application include a statement of the need for a charter school in the specified geographic area. Requires that a charter school application include the employment policies of the proposed charter school.

Requires applications to be filed with a local board of education by October 1 to be eligible for consideration for the following school year, and prohibits a local board of education from charging any application fees. Authorizes the applicant and the local board of education to jointly waive statutory deadlines. Authorizes a charter applicant to appeal a decision of a local board of education granting a charter that unilaterally imposes conditions unacceptable to the charter applicant. Requires a local board of education to state its reasons for denying, revoking, or not renewing a charter. Requires a local board of education to send the department of education a copy of an approved charter within 15 days after granting the charter.

Requires an applicant appealing a local board of education's denial, revocation, or nonrenewal of a charter to state the reasons it is appealing the decision of the local board of education, limited to the grounds specified by the local board of education. Allows parties to use a facilitation

process in lieu of appeal to the state board.

Increases the cap on the number of charters granted from 50 to 60.

Declares that the provisions of the "Charter Schools Act" are severable. Provides that charters entered into prior to July 1, 1998, shall remain in effect for the remainder of the term of the charter, subject to statutory provisions in existence prior to said date.

Provides that the amount of tuition to cover excess costs in educating a child with a disability by a charter school shall be determined by guidelines developed by the department of education rather than pursuant to a contract between the district of residence and the charter school that is approved by the department.

**APPROVED** by Governor May 22, 1996

**EFFECTIVE** May 22, 1996

**H.B. 96-1354** School finance - additional funding - district levies - pupil count dates - transfer of interest - bonded debt limit - property tax carryforwards - full-day kindergarten program - preschool program providers - out-of-district placement study - intergovernmental agreements for capital projects - appropriations. Increases the minimum per pupil funding amount from \$4,200 to \$4,305 and provides that this amount shall increase in future years by an amount equal to at least 85% of the percentage increase in statewide base per pupil funding. Increases statewide base per pupil funding from \$3,463 to \$3,568. Establishes a formula for determining the cost of living factor to be used in computing school finance funding for the 1996-97 budget year and thereafter.

For districts' 1996-97 total program, permits districts to certify their eligibility for additional school finance revenues: 1) Under their constitutional fiscal year spending limits; and 2) In excess of their constitutional fiscal year spending limits with voter approval but in no event more than the district could receive under the school finance formula. Requires that such certifications be submitted no later than December 1, 1996, and have been reviewed and approved by a district auditor.

Increases the amount required to be allocated to the instructional supplies and materials, the capital outlay, and the other instructional purposes accounts from \$120 to \$130 per pupil. Reduces the amount of such moneys that may be used for staff development from one-third to 20%. Increases the amount required to be allocated to the capital reserve fund or insurance reserve fund from \$202 to \$210 per pupil.

Reduces the maximum school district levy by one and a half mills but prohibits any district from setting a levy that would cause a total levy reduction of more than 2.5 mills for the 1995-96 and 1996-97 budget years. Clarifies a statutory reference concerning the required school district mill levy. Permits the continuation of a hold harmless levy at a level which will generate the same amount of revenue as that levy generated for the 1995-96 budget year. Clarifies that "additional levy", as used in the section authorizing local district overrides, refers to a levy in addition to the levy required by the school finance act.

Provides that the categorical funding for transportation associated with a court-ordered desegregation plan shall not be credited to the public school transportation fund and shall be funded by an appropriation that is separate from other categorical transportation funding provided to school districts.

Authorizes school districts to elect to count at-risk pupils on October 15 or the school day nearest that date. Authorizes the department of education to establish alternate count dates for determining pupil enrollment when appropriate but requires that such alternate dates be no less than 45 nor more than 60 days after the beginning of the regular school program.

Clarifies language requiring interest earned on certain moneys transferred to the public school fund during the 1994-95 and 1995-96 fiscal years to be retained in the fund and directs the state treasurer to transfer all other interest to the public school income fund.

Makes a technical correction to a statutory reference concerning limits on school district bonded indebtedness. Provides that the school district bonded indebtedness limit is the greater of 25% of the district's assessed valuation or 6% of the actual value of taxable property in the district and extends the time for holding elections on bonded indebtedness from July 1, 1996, to July 1, 2000.

Makes existing provisions concerning the offset and use of property tax revenues carried forward by a school district applicable to districts that received the minimum state aid under the "Public School Finance Act of 1988". Permits the use of property tax carryforwards for both capital projects and other purposes, but limits the amount that can be spent for purposes other than capital projects.

Extends the department of education's authority to establish a full-day kindergarten program through the 2000-01 budget year and increases the limit on the number of children that may participate to 500.

Authorizes the state board of education to revoke or withhold its accreditation of any school district, after 60 days notice and an opportunity for hearing, for failure to comply with the provisions of the school finance act. Provides that board of education members, superintendents, and chief financial officers of school districts may be held personally liable to district taxpayers for knowingly and willingly certifying a mill levy in excess of the amount authorized by law.

Requires every district preschool program council to annually submit to the board of education a list of private child care agencies that are licensed and in good standing and that are eligible for participation in the district's preschool program. Requires that the list also include the number of children each agency can serve. Provides that preschool program criteria established by the department of education shall require that all private providers afford all eligible children an equal opportunity to enroll regardless of their race, ethnicity, or place of residence within the district.

Directs the commissioner of education to conduct a study in conjunction with the executive director of the department of human services concerning pupils placed in foster homes, child

placement agencies that are located in a jurisdiction other than the jurisdiction that licensed them, pupils placed by such agencies, and the impact of such placements on school districts. Requires that the results of the study be reported to the General Assembly no later than December 1, 1996.

Requires that appropriations made to fund gifted and talented programs be designated by a separate line item in the annual general appropriation act. Extends the deadline for making the electronic data communications reporting system available on a pilot basis from July 1, 1995, to July 1, 1996, and the deadline for complete implementation from July 1, 1996, to July 1, 1997. Authorizes school districts to deposit the proceeds from sales of certificates of participation in their pension or retirement funds.

Provides that, beginning with the 1996-97 budget year, teachers at the Colorado school for the deaf and the blind shall be compensated in accordance with the previous year's salary schedule, salary policy, or both, of the school district in which the school is located. Provides that funding for the compensation of such teachers shall be included in the appropriation for the school for the deaf and the blind and shall not affect state funding distributed to the district in which the school is located. Holds any teacher who would receive less compensation under this system harmless until application of the previous year's salary schedule, salary policy, or both, would result in an increase in the compensation to which the teacher is entitled.

States that nothing in the school finance act shall be construed to prohibit intergovernmental agreements between school districts and local governments to perform capital construction projects using local government revenues other than impact fees or other development charges or fees. Allows a local government to continue to accept and expend impact fees for capital projects contributed voluntarily on or before December 31, 1997, pursuant to existing agreements. Declares that this section has no effect on county subdivision regulation powers.

Provides that the provisions of this act applicable to the Colorado preschool program take effect July 1, 1996.

Appropriates \$56,341 for the compensation increases for teachers at the Colorado school for the deaf and blind. Appropriates \$3,200 to the department of human services for the out-of-district placement study. Adjusts the appropriation for the state aid school finance payments for the 1996-97 budget year to decrease the general fund appropriation for total program by \$59,541, to increase the cash fund appropriation for total program by \$1,225,684, and to increase the cash fund exempt appropriation for the total program by \$1,838,526.

**APPROVED** by Governor June 3, 1996

**PORTIONS EFFECTIVE** June 3, 1996, July 1, 1996

## EDUCATION — UNIVERSITIES AND COLLEGES

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**S.B. 96-9** Colorado commission on higher education - admission standards for institutions of higher education. Requires the Colorado commission on higher education, in establishing admission standards for first-time admitted freshmen and transfer students, to consider academic performance indicators, including but not limited to grade point average, class rank, and content standard assessments, for all students, and national assessment test scores for entering freshmen. Former law required consideration of grade point average and, for entering freshmen, class rank and standardized test scores.

**APPROVED** by Governor April 8, 1996  
**EFFECTIVE** July 1, 1996

**S.B. 96-23** Institutions of higher education - members of the national guard - tuition assistance. Specifies that the minimum percentage of tuition the department of military affairs shall pay for tuition assistance for a member of the national guard shall be 50% of tuition costs. Limits the length of time a member can receive tuition assistance to 8 years. States that, in order to qualify for tuition assistance, a member of the national guard may not be drawing tuition from any other tuition assistance program funded by a private employer and may not be a recipient of a full scholarship for tuition and fees to any designated institution. Encourages the department of military affairs to consider providing tuition assistance to first-term enlisted members. Expands the definition of "designated institution of higher education" to include all schools of the university of Colorado.

**APPROVED** by Governor April 17, 1996  
**EFFECTIVE** April 17, 1996

**S.B. 96-24** Enterprise auxiliary facilities - internal revenues - student fees for repayment of bonds - audit. Allows an institution of higher education to pledge only those internal revenues that meet specified criteria for the repayment of bonds issued on behalf of enterprise auxiliary facilities. Defines "internal revenues" as revenues received for goods and services provided to the institution of higher education.

Deletes certain auxiliary facilities from the list of auxiliary facilities that are designated as enterprises. Adds the Lowry enterprise to the list of auxiliary facilities designated as enterprises by the Colorado community college and occupational education system.

Requires the Colorado commission on higher education ("CCHE") to adopt student fee policies concerning fees assessed for the repayment of bonds, including:

- Prohibiting collection of a fee after the original bond or obligation is repaid, except under

specified circumstances;

- Requiring student approval of any new fee or increase in an existing fee and limiting the use of the fee;
- Limiting the length of time that a fee related to an enterprise auxiliary facility may be pledged for repayment of bonds on another facility without further student approval;
- Requiring fees to be separately itemized on student billing statements.

Instructs the CCHE to audit collections of student fees and submit the audit results to the state auditor and specified members of the general assembly. Specifies the issues to be addressed in the audit.

Authorizes the university of Colorado board of regents to pledge revenues from enterprise auxiliary facilities for the repayment of bonds secured by the university of Colorado research building revolving fund. Also authorizes the university to pledge the research building revolving fund, and user revenues accruing to the fund, for the repayment of bonds issued on behalf of enterprise auxiliary facilities.

**VETOED** by Governor June 6, 1996

**S.B. 96-172** Student obligation bond authority - Colorado postsecondary education expense program - creation. Creates the Colorado postsecondary education expense program under the administration of the Colorado student obligation bond authority through which all or part of the cost of in-state tuition, or other costs approved by the authority, may be paid or accumulated in advance of enrollment in state institutions of higher education and such other institutions of higher education and graduate schools as may be approved by the authority. Authorizes the authority to establish a prepaid expense program, a savings program, or both.

Creates the Colorado prepaid postsecondary education expense trust fund and the Colorado postsecondary education expense savings trust fund. Authorizes the disposition by the authority of prepaid expense trust fund or savings trust fund assets in the event that a trust fund is not actuarially sound. Authorizes reimbursement of expenditures incurred in developing and administering the education expense program from the prepaid expense and the savings trust funds. Establishes requirements for advance payment contracts in connection with any prepaid expense program and for savings contracts in connection with any savings program. Provides that execution of an advance payment contract or a savings contract does not establish residency and is not a promise or guarantee of admission to, continued enrollment at, or graduation from any

state institution or other institution of higher education.

Provides for additional powers of the authority. Requires an annual financial analysis of the actuarial soundness of the prepaid expense trust fund and the savings trust fund. Requires the board of directors of the authority to adopt and publish policies and procedures setting forth the specific terms of any education expense program.

Requires the authority to conduct a feasibility study of a prepaid expense program and a savings program and to report to the general assembly regarding the findings of such a study. Authorizes the authority to invest moneys in the prepaid expense and savings trust funds in certain investments. Exempts moneys in the trust funds from creditors' claims.

**APPROVED** by Governor April 22, 1996

**EFFECTIVE** April 22, 1996

**S.B. 96-179** Institutions of higher education - olympic athletes - resident student counts. Allows students who are olympic athletes and who are classified as in-state students to be counted as resident students for any purpose other than state financial aid. Authorizes institutions of higher education that are not located in El Paso or Pueblo county to classify olympic athletes who otherwise would not be classified as in-state students as in-state students for purposes of tuition.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** July 1, 1996

**S.B. 96-206** Student fee policies - high school achievement award - merit-based scholarship. Requires the Colorado commission on higher education to adopt separate fee policies for student fees relating to:

- The repayment of bonds or other obligations;
  
- Administrative costs relating to a specific academic course;
  
- Administrative costs unrelated to a specific academic course;
  
- Optional student purpose fees;

- Permanent student purpose fees; and
- Student purpose fees other than permanent student purpose fees.

Specifies when new fees and fee increases must be approved by an affirmative vote of the student body at a regularly scheduled election and when such fees and increases must contain an expiration date. Requires all student fees to be separately itemized on the student's billing statement and optional fees to be refunded upon request at any time during the semester that the fee was paid.

For student fees relating to the repayment of bonds or other obligations:

- Prohibits their collection after the bond is repaid unless the original purpose included operation or maintenance or the fee was pledged for other bonds;
- Permits fees to be cross pledged for other bonds, but such pledge agreement shall only be valid during the term of the original bonds unless an extension of up to 5 years is approved by an affirmative vote of the student body within one year of the expiration of the term of the original bonds or the 5-year extension; and
- Permits an increase in such fee without a vote if the original covenant necessitated such an increase.

Establishes the Colorado high school achievement award program that grants a \$1,000-per-year grant for all persons who graduate after January 1, 1996, from a Colorado public high school in the top 10% of their class and attend an in-state institution of higher education. Specifies additional requirements and that the grants come from the current appropriation for merit-based grants.

Requires the state auditor to audit the program every other year.

**VETOED** by Governor June 6, 1996

**S.B. 96-215** Athlete agents - agent contracts - penalties. Recognizes that certain practices by athlete agents who solicit representation of student athletes may cause significant harm to student athletes and to the institutions for which they play and should, therefore, be subject to statutory requirements. Defines "institution" to include state-supported and nonpublic institutions of

higher education.

Except as specifically allowed, prohibits athlete agents from:

- Entering into agreements with institution employees for referrals of student athletes;
- Inducing a student athlete to enter into an agreement for representation by the athlete agent.
- Prohibits any person from aiding an athlete agent in performing any of the prohibited acts.
- Requires agent contracts to:
  - Specify the fees, expenses, and percentages charged;
  - Describe the services to be rendered;
  - Specify any guarantees made by the agent to the student athlete;
  - Specify warnings and notice requirements with regard to signing the contract and specify the right to rescind.

Requires the student athlete to notify the institution and provide a copy of the signed contract within 72 hours after signing, or, if the student athlete signs the contract prior to enrollment, within 72 hours after enrollment. Allows the student athlete to rescind the contract within 15 business days after signing. Requires the student athlete to provide notice to the institution of any rescission. Prohibits waiver of the right to rescind. Allows the student athlete to rescind an agent contract at any time if the agent contract does not contain specific warnings.

Allows an athlete agent to send written materials to a student athlete so long as copies of the materials are also sent to the institution. Allows the athlete agent to have contact with a student athlete so long as the contact is only for providing information.

Authorizes each institution that participates in intercollegiate athletics to sponsor on-campus athletic interviews. Allows the institution, or the governing board for the institution, to adopt rules concerning time, place, and manner restrictions for the interviews. Instructs each institution to appoint a compliance coordinator to oversee compliance with the provisions of the article and to organize any on-campus athletic interviews.

Allows a student athlete to void any contract that violates any of the limitations on athlete agents. If a student athlete voids an agent contract, prohibits the athlete agent from recovering any consideration paid as an inducement to enter the agent contract. Authorizes the attorney general or a district attorney to bring an action against any individual, other than a student, who violates certain of the limitations to obtain a temporary restraining order, preliminary injunction, or permanent injunction and for imposition of a civil penalty of up to \$10,000. Requires any action be brought within 4 years after the occurrence of a violation.

Allows an institution to sue any individual, other than the student athlete, for damages for the violation of certain of the limitations on athlete agents. Specifies what constitutes damages and the relief to which the institution may be entitled.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** July 1, 1996

**S.B. 96-226** Northeastern junior college - approval of plan of dissolution of district - acceptance into state system - appropriation estimate. Approves the plan of dissolution of the Northeastern junior college district. Contingent on passage of the plan at a special election and appropriation of funds for Northeastern junior college, approves entry of Northeastern junior college into the state system of community and technical colleges. Specifies the ballot question for the special election on approval of the plan. Establishes the effective date of the appropriation as the date that Northeastern junior college will join the state system of community and technical colleges if the plan is approved by the district electors. Establishes the date of dissolution of the district 3 years after the date that Northeastern junior college enters the state system of community and technical colleges. Allows the Northeastern junior college district to continue collecting property taxes until that date. Limits the mill levy to the amount of the levy in the tax year that the plan is approved or less. Requires the district to use property tax moneys to establish an endowment fund to assist residents of the district in defraying any tuition increases that result from joining the state system of community and technical colleges and to build a new physical education and events center on the Northeastern junior college campus.

Estimates the act will require future appropriations in the amount of \$3,600,000 annually.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1035** National guard - tuition assistance - definition of "designated institution of higher education". For purposes of tuition assistance to members of the national guard, expands the definition of "designated institution of higher education" to include the entire university of Colorado health sciences center.

**APPROVED** by Governor February 22, 1996  
**EFFECTIVE** See Note

**NOTE:** This act was passed without a safety clause. It will take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly unless a referendum petition is filed pursuant to section 1 (3) of the state constitution. In that event, the act will take effect on the date of the official proclamation of the governor, if it is approved by the voters at the 1996 election.

**H.B. 96-1083** Institutions of higher education - classification of students as in-state students. Changes the definitions of "minor" and "qualified person", as used in determining domicile for tuition purposes, by raising the age from 21 to 22 years of age.

Provides that an unemancipated minor whose parent or legal guardian was domiciled in Colorado for at least the 4 immediately preceding years and whose parent or legal guardian moves from the state shall be classified as an in-state student if:

- The parent or legal guardian leaves the state after the minor completes his or her junior year of high school and the minor matriculates at a Colorado institution of higher education within 3-1/2 years after the time the parent or legal guardian leaves the state; or
- The minor maintains continuous Colorado domicile, notwithstanding his or her unemancipated status.

Authorizes the commission on higher education to designate nonimmigrant classifications under which a foreign national shall be eligible for classification as an in-state student, if the primary purpose of the foreign national's residence is other than for his or her education or the education of a family member.

**APPROVED** by Governor May 22, 1996  
**EFFECTIVE** May 22, 1996

**H.B. 96-1088** Higher education finance - five policy areas. Establishes the following 5 policy areas as the areas under which state-supported institutions of higher education may receive additional appropriations for the 1996-97 and 1997-98 fiscal years:

- Providing students with a high quality, efficient, and expeditious undergraduate education;
- Providing a linkage between the elementary and secondary education system and higher education;
- Work force preparation and training;
- Use of technology to lower costs and improve the quality and delivery of education; and
- Demonstrating high or increased operational productivity.

Instructs the Colorado commission on higher education (CCHE) to create distribution formulas and grant programs that will reward institutions' demonstrated performance in achieving the state goals.

Instructs CCHE to consider the local district colleges and area vocational schools in distributing any moneys appropriated to the policy areas.

Specifies the state goals that are applicable to each policy area.

Beginning with the 1996-97 fiscal year, specifies that any moneys received under any of the policy areas except technology shall be included in the governing board's base funding for future fiscal years. Provides that any moneys received under the technology area that are not used for ongoing expenses shall not be included in the governing board's base funding, unless otherwise recommended by CCHE.

**APPROVED** by Governor March 20, 1996

**EFFECTIVE** March 20, 1996

**H.B. 96-1153** Financial allotments requested by appropriation - combined spending authority.

Directs institutions of higher education to submit quarterly allotments of their appropriations for the ensuing fiscal year for each governing board appropriation, rather than by separate agency number.

Combines the annual spending authority of the governing boards of institutions of higher education for cash funds and cash funds received as tuition income into a single amount.

Repeals the higher education accountability program if House Bill 96-1219 does not become law.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1219** Institutions of higher education - quality assurance - statewide goals - quality indicator system - consumer guide - funding incentives. Creates the "Higher Education Quality Assurance Act". Identifies the Colorado commission on higher education (CCHE), the governor, the speaker of the house of representatives, the president of the senate, the majority and minority leaders of the house of representatives and the senate, the chairpersons of the education committees for the house of representatives and the senate, and the joint budget committee as the group to which CCHE reports under the act.

Establishes the following statewide expectations and goals for higher education:

- Providing students with a high quality, efficient, and expeditious undergraduate education;
- Assisting systemic reform in elementary and secondary education and forming appropriate linkages between elementary and secondary education and higher education;
- Work force preparation and training;
- Use of technology to lower costs and improve the quality and delivery of education; and
- Operational productivity and effectiveness.

Instructs CCHE and the governing boards to ensure that the expectations for each institution are in accordance with the institution's role and mission. Requires CCHE, the governing boards, and the state institutions of higher education to adopt policies and procedures and to achieve or make significant progress toward achieving the statewide expectations and goals by fall semester 1999.

Requires CCHE to annually review the statewide expectations and goals and recommend any appropriate changes. Instructs CCHE and the governing boards to consider the appropriate balance of duties for the faculty at each institution of higher education.

Instructs CCHE and the governing boards to develop a quality indicator system to obtain information for measuring, on systemwide and institutional levels, institutional performance, student satisfaction and success, employer satisfaction, and systemwide performance. Allows CCHE and the governing boards to gather the necessary information from the institutions and from students, graduates, and employers either by request or through development and implementation of surveys. Requires CCHE to submit an annual report of the information obtained through the quality indicator system to the governor and specified members of the general assembly. Specifies that the governing boards and institutions are expected to use the information provided through the quality indicator system to improve the quality of higher education. Requires CCHE and the governing boards to report annually to the education committees of the senate and the house of representatives concerning actions being taken in response to information received through the quality indicator system.

Directs CCHE to publish an annual consumer guide to state institutions of higher education for students and their families using the information obtained from the quality indicator system. Instructs CCHE to provide copies of the guide to the public upon request, to disseminate copies to all public libraries and secondary schools in the state, and to make the guide available on-line. Authorizes CCHE to charge a fee to offset the costs of producing the consumer guide. Allows CCHE to include in the consumer guide information concerning private and proprietary institutions to the extent the institutions provide similar and accurate information. Authorizes CCHE to contract with a private or public entity for preparation and publication of the consumer guide.

Allows CCHE to recommend to the joint budget committee that a governing board be required to set aside a specified percentage of its general fund appropriation for use in improving its performance in a specific area. Allows CCHE to recommend to the JBC that a governing board or institution receive additional appropriations as a reward for outstanding achievement of the statewide expectations and goals and the 5 policy areas. Instructs the governing boards to consider performance on the statewide expectations and goals in allocating funds to the institutions and to set aside any amount that may be required by the JBC. Requires the institutions to use any moneys received under a specific policy area to improve or maintain its performance in that area. Instructs CCHE to consider the governing boards' and institutions' performance on the statewide expectations and goals in making its funding recommendations and allocating funds to the governing boards.

Requires CCHE to adopt a statewide enrollment plan that includes specific plans for each type of institution of higher education.

Adds the chairpersons of the house and senate education committees to the group of persons authorized to choose the higher education policy areas. Authorizes said group of persons to recommend that the general assembly appropriate funds to provide incentives for achieving the

statewide expectations and goals. Requires any amount so appropriated to be indicated in a lettered note explanation to each governing board's line item. Instructs CCHE to recommend whether any amount appropriated as incentives for achieving the statewide expectations and goals should be included in base funding for subsequent fiscal years.

Requires the Colorado commission for achievement in education to study and make recommendations concerning graduate education, and specifies the parameters of the study.

Makes the following amendments or repeals to provide a cost-savings to CCHE:

- Repeals the higher education accountability program;
  
- Changes the review time for new program approvals from 120 days to a reasonable time period;
  
- Eliminates the annual study of administrative expenses and the annual reports on unfair competition complaints and the incentives for improvement program;
  
- Eliminates the requirement that the commission meet at least once a month;
  
- Eliminates the requirement that the executive director of the commission make budget recommendations for the state historical society, the state council on the arts, and the Colorado advanced technology institute and requires these entities to make budget recommendations on their own behalf; and
  
- Eliminates the commission's role in the residency appeal process.

**APPROVED** by Governor June 5, 1996

**EFFECTIVE** June 5, 1996

## ELECTIONS

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**S.B. 96-82** Campaign reform act - reporting of independent expenditures - contribution limits on persons, political committees, political parties, and authorized committees - adjustment for inflation - prohibition on earmarking. Deletes political parties and committees thereof from the definition of "political committee". Includes a major political party, a minor political party, and a political party within the definition of "political party". Defines "election cycle" and "two-year election cycle".

Changes when a report of an independent expenditure of \$500 or more must be filed by requiring a report to be filed within 24 hours of the expenditure, regardless of when such an expenditure is made. Specifies that a copy of this report must be provided within 24 hours of when the expenditure was made to the candidate running in the election or to the political committee supporting or opposing an issue to be submitted in the election for which the independent expenditure was made.

Limits the combined total of contributions and contributions in kind that a person, political committee, political party, or an authorized committee of a federal candidate may make to certain candidates in an election cycle and that a person, other than a political party or authorized committee, may make to a political party during a 2-year election cycle. Increases the limits on contributions from a person, political committee, or authorized committee to a candidate who is involved in a contested primary election. Requires a candidate who receives a contribution in excess of the limits to remit the excess to the contributor.

Requires that the contribution limits for candidates be adjusted for inflation every 5 years commencing January 1, 2002.

Prohibits persons from making and political parties from accepting any contribution to be passed through the party to a specific candidate. Prohibits a professional lobbyist from disbursing political party moneys to candidates of the party.

Limits the contributions a candidate's political committee may make to another candidate or candidate's political committees. Prohibits a candidate from using unexpended campaign contributions for private purposes.

Makes the contribution limits applicable during election cycles for candidates that commence on or after January 1, 1997.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** July 1, 1996 **H.B. 96-1061** 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. Replaces references to "legally qualified electors" with "eligible electors" and makes substantial compliance with the Code sufficient for properly conducting an election. Adds definitions for "authorizing legislation" and "self-affirmation", deletes the definition of "resident taxpaying elector", and conforms the definition of "taxpaying elector" to the definition in the special district law.

Modifies the requirements for providing the election laws to county clerks and recorders and to political subdivisions. Relocates the penalty for failure to comply with the secretary of state's requirements to the Code's election offenses. Makes the secretary of state's provision of election forms discretionary rather than mandatory. Eliminates certification of the ballot to the county clerk and recorder 55 days before an election where a political subdivision requests a coordinated election. Specifies that political subdivisions are authorized to cooperate and contract to perform a coordinated election.

Eliminates different residency requirements for nonpartisan elections. Provides that the mailing address of a homeless individual constitutes that individual's residence for purposes of voter registration. Replaces the additional qualifications to become an eligible elector with a general provision permitting authorizing legislation to provide such qualifications. Permits the county clerk and recorder to assist with the registration of an elector who is unable to write and adds the relocated provision on the voter registration deadline.

Deletes the separate dating and signing requirement on a declaration of party affiliation. Specifies that applicants declining to register at a driver's license facility will be used for voter registration statistics purposes. Eliminates the election judge's duty to read the printed statement of penalty on a change of residence form. Clarifies certain declarations an elector must make in an emergency registration affidavit. Describes the procedure for a county clerk and recorder where a mail ballot is returned as undeliverable.

Requires that the bylaws or rules of the two major political parties establish a procedure for selecting delegates to any party assembly. Provides that any method for choosing delegates based on the number of votes for a particular candidate must be uniform among the counties.

Specifies that the petition process for unaffiliated candidates is the same as for a partisan office. Adds a requirement for a nominating petition for a special district director. Makes the Code's provisions on write-in candidates applicable to municipal candidates in a coordinated or mail ballot election. Deletes the requirement that a nominating petition designate a committee. Clarifies that either the secretary of state or relevant official approves petitions as to form. Allows a vacancy in a nomination to be filled by the person or persons named in a statement of intent. Specifies that a write-in candidate affidavit of intent must be filed for a "district office of state concern", instead of "any other office greater than a county office". Specifies the time for filing an affidavit of intent in partisan and nonpartisan elections.

Modifies the time when precincts and polling places are established prior to a nonpartisan election other than a coordinated election. Reduces specified time periods prior to a nonpartisan election for changing precinct boundaries, for filing a petition to change a polling place, and for

changing a polling place. Clarifies the notice of a primary election given by a county clerk and recorder. Eliminates notice of a call for nominations for nonpartisan elections. Adds coordinated election officials to those providing notice of an election. Requires that ballot issues and questions be as close as possible to the form in which they will appear on the ballot. Permits the designated election official to incorporate certain items by reference in the notice of election.

Modifies the time for cancelling an election for lack of candidates and designates that date for a coordinated or nonpartisan election. Specifies that no blank spaces are required on a ballot if no write-in candidates have filed. Lists the items to be posted at a polling place. Excepts certain election officials from the prohibition on having a financial interest in voting equipment. Relocates the penalty for violating the prohibition on elected officials handling of voting machines to the part of the election code containing election offenses.

Modifies certain requirements related to certification of and qualifications for election judges.

Modifies the requirements in connection with an oath to register. Deletes the provisions on the availability of affidavits of eligibility for coordinated elections. Requires a designated election official to make a list of eligible write-in candidates. Makes certain tasks discretionary rather than mandatory in connection with test ballots.

Requires the election official to "deliver", rather than "transmit", the text of the ballot issue notice. Imposes requirements on election officials of overlapping political subdivisions in connection with the ballot issue notice for an election other than one in November. Specifies the form of the ballot issue notice. Specifies that ballot issue notice packets are mailed to electors in portions of the county where districts with ballot issues overlap. Requires that the ballot issue notice be in substantial compliance, rather than "in accordance", with section 20 of article X of the state constitution. Modifies the requirements in connection with a preliminary list for a mail ballot election.

Separates the statutes governing early voting from the statutes governing absentee voting and relocates the early voting provisions to a new part in the Code. Separates the statutes on counting absentee and early voters' ballots from the statutes governing absentee voting and relocates those provisions to a new part in the Code.

Amends the provisions on absentee voting as follows: Separates provisions on when an absentee eligible elector may vote and the effect of the federal "Uniform and Overseas Citizens Absentee Voting Act" and permits the secretary of state to prescribe emergency rules when substantial, rather than strict, compliance with absentee voting provisions are impossible; permits poll watchers at absentee polling places; and clarifies that a person's right to vote, rather than their vote, may be challenged.

Amends the relocated provisions on early voting as follows: Requires every county clerk and recorder, not just those conducting a coordinated election, to provide an early voters' polling place and replaces the county clerk and recorder with the early voters' polling place as the location of early voting.

Modifies the oath administered to a challenged elector.

Modifies the election offense provision on defacing of petitions. Creates the offense of knowingly giving false information regarding the elector's residence and makes the offense a class 6 felony. Eliminates the prohibition on polling places being within 50 feet of an establishment selling liquor for purposes of making the law consistent with a prior amendment to the restrictions on polling places.

Adds municipal clerks to those officials who send a notice of disqualification under the Campaign Reform Act.

Modifies the time a vacancy must occur before a regular biennial school election in order for certain actions to be taken in connection with that vacancy.

Specifies that the procedures pertaining to municipal initiatives and referred measures apply to ballot issues authorized for counties and for school elections, to the extent such procedures are not otherwise prescribed.

Modifies the residency requirements for electors of a law enforcement authority or a county public improvement district.

Changes the time for filing a petition to amend a municipal charter. Describes the procedure when the petition is submitted for a coordinated election. Deletes obsolete language prohibiting the payment of petition circulators.

Provides when reasons for and against the recall of an officer must be submitted for inclusion on the ballot. Changes the time for filing nominating petitions for an office in a recall election. Conforms the municipal election code provisions on computation of time with the Code's provisions.

Deletes the requirement that the secretary of state prescribe the forms for a municipal election. Eliminates the date on which the clerk issues a statement of sufficiency from those dates upon which a final determination of petition of sufficiency is made. Provides that a legislative body may, rather than shall, adopt a proposed ordinance that is submitted by petition.

Provides that a municipality's execution of a power of attorney for annexation of an unincorporated area does not comply with the election provisions for annexing that area.

Specifies the electors who may vote on the establishment of a special improvement district. Replaces certain requirements regarding the officers conducting an election on a resolution referred by the board of a business improvement district with the directive that the resolution appoint a designated election official.

Specifies, under the definition of "eligible elector" in the special district law, that if the special district board ends business personal property taxation pursuant to section 20 of article X of the

state constitution, persons owning such property shall not be eligible electors of the district. Modifies the definition of "property owners list". Requires a person desiring to vote in a special district election to sign a self-affirming oath or affirmation instead of an affidavit; requires such persons to be residents of the district for 30 days, instead of 25 days; and specifies the person's right to vote unless challenged. Requires that the results of a special district election to incur general obligation debt be provided to the appropriate county commissioners or municipal governing body by certified, rather than registered, mail.

**APPROVED** by Governor June 3, 1996

**EFFECTIVE** July 1, 1996

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## **FINANCIAL INSTITUTIONS**

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**S.B. 96-56** Credit unions - copies of articles of incorporation to commissioner - payment on deposits - repeal of 1991/1992 general fund advance repayment - date of dissolution. Changes the number of duplicate copies of articles of incorporation, bylaws, and certificates of approval that must be prepared for credit union organization from triplicate to a number specified by the state bank commissioner.

Expands a Colorado credit union's ability to receive payment on deposits from nonmember financial institutions to include those supervised under the laws of another state or territory of the United States.

Deletes a provision that required the state commissioner of financial services to collect the semiannual repayment of 1991/1992 fiscal year general fund advance until January 31, 1995.

Alters the credit union dissolution procedures by having the credit union dissolve on the date the certificate of dissolution is executed.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** April 8, 1996

**H.B. 96-1047** Reporting requirements - annual reports of loans - repeal. Repeals provisions, partially overlapping or conflicting with provisions of more recent legislation, that require financial institutions to report the aggregate dollar amount of loans made in various geographical areas during the preceding year.

**APPROVED** by Governor March 13, 1996

**EFFECTIVE** March 13, 1996

**H.B. 96-1347** Savings and loans and savings banks - federally chartered entities - exemption from reporting requirements. Exempts federally chartered savings and loan associations and savings banks that are under the supervision of the federal office of thrift supervision from the requirements for reports on deposits and Colorado loan activities if such institutions agree to be examined by the financial services board to confirm the accuracy of such reports.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** April 8, 1996

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## **GENERAL ASSEMBLY**

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**H.B. 96-1159** Sunrise and sunset review - legislative committees of reference to conduct - reviews - appropriation. Eliminates the joint legislative sunrise and sunset review committee. Transfers the responsibility for sunset review to one or more house committees of reference designated by the speaker of the house in even numbered years and to one or more senate committees of reference designated by the president of the senate in odd numbered years. Allows those committees to meet in the interim and provides for per diem expenses for members who attend such meetings. Allows the committee to request staff assistance from the legislative council.

Mandates that the committee conduct hearings for each advisory committee and determine whether such advisory committee should be terminated, continued, or reestablished.

Requires the department of regulatory agencies to conduct an analysis and evaluation of an agency approaching its termination date and report the results to the office of legislative legal services for preparation of draft legislation by October 15 of the year preceding the date established for termination. Allows the chair of the committee to assign a bill recommended for consideration to a member of the general assembly for introduction. Specifies that such bills do not count against any bill introduction limit.

Requires a professional or occupational group seeking regulation to submit to the department of regulatory agencies the information formerly required for submittal to the sunrise/sunset review committee. Requires the department to conduct a review of the proposed regulation of the profession or occupation and to report the information to the proponents of regulation and the general assembly. Once the report has been submitted, allows the proponents of regulation to request a member of the general assembly to introduce a bill to provide for such regulation.

Requires the office of legislative legal services to report to the legislative committee of reference, instead of the sunrise/sunset review committee, any proposed rules that the office believes are unnecessary for the administrative functions of an agency.

Decreases the general fund appropriation to the general assembly made in Senate Bill 96-195 by \$5,811.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1167** Annual reports to general assembly - termination of requirements - periodic review. Declares a policy that a need must be established for continued periodic reports by executive agencies and the judicial branch to the general assembly. Establishes a 3-year sunset for all future reporting requirements and calls for an inventory and review of existing reporting requirements by legislative committees during the 1996 through 2001 interim periods. Incorporates periodic reporting requirements into the existing review process for regulatory agencies and functions.

Directly repeals approximately 200 selected reporting requirements within the jurisdiction of the several committees of reference of the general assembly.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** See Note

**NOTE:** This act was passed without a safety clause. It will take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly unless a referendum petition is filed pursuant to section 1 (3) of the state constitution. In that event, the act will take effect on the date of the official proclamation of the governor, if it is approved by the voters at the 1996 election.

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## **GOVERNMENT — COUNTY**

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**S.B. 96-61** County planning - review of plats, plans, agreements, and planned unit developments - limitations. When reviewing or considering the approval of plats and plans for the subdivision of land, agreements made in connection with the subdivision of land to construct public improvements, and certain plans concerning the buildings, structures, and other equipment of public utilities, specifies that counties: Conduct the review pursuant to duly adopted county resolutions, ordinances, or regulations; base denials of plats, plans, or agreements on a failure to

conform with a resolution, ordinance, or regulation and support any denial with written findings; and appraise applicants of deficiencies or nonconformities in plats, plans, and agreements before any required public hearings. States that an applicant may request that state employees make recommendations to resolve disputes between licensed or registered professionals of the applicant and the county.

In addition, when the approval of plats, plans, agreements, and planned unit developments is being reviewed or considered: Limits redesigns that may be required by the county; and deems plans, plats, agreements, and planned unit developments to be approved if not approved, conditionally approved, or denied within a time period agreed to by the county and the applicant at the time of filing and allows such time period to be extended in order for the county to receive a recommendation from a state agency.

Allows applicants to waive any of these requirements in writing. Imposes guidelines for conducting public hearings on the approval of plats, plans, agreements, and planned unit developments.

**APPROVED** by Governor June 5, 1996

**EFFECTIVE** June 5, 1996

**S.B. 96-104** County subdivision regulations - school site dedications - right of first refusal.

Provides that county subdivision regulations may allow sites and land areas dedicated for schools to be conveyed directly to a school district. Grants boards of county commissioners the authority to have moneys provided in lieu of site dedications paid directly to school districts. Grants subdividers a 20-year right of first refusal to repurchase dedicated sites.

Provides for the periodic transfer of dedicated land areas and moneys paid in lieu of such land dedications to school districts or local government entities in certain circumstances. Requires such transferred lands and moneys to be used only for specified purposes. States that moneys paid in lieu of land dedications that are received by boards of county commissioners and transferred to school districts and local governmental entities shall not be considered county revenue for purposes of section 20 (7) (d) of article X of the state constitution.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1064** Entities eligible to receive compensation for fighting wild fires - limitation on amount of property tax levied - appropriation.

Adds municipal and county fire departments and fire authorities to the list of entities that may receive compensation for assisting in controlling and extinguishing forest or prairie fires. Changes the current limitation on the power of a board of county commissioners, subject to approval of the voters, to levy a property tax to pay the costs of controlling and preventing wild fires from \$10,000 to the amount raised by one mill or \$500,000, whichever is less. Prior to the appropriation of the property tax revenues, requires the board of county commissioners to consult with representatives of fire fighting entities in the county.

**APPROVED** by Governor May 2, 1996  
**EFFECTIVE** May 2, 1996

**H.B. 96-1117** County ordinance violations - fines. Increases the maximum fine for violating a county ordinance from \$300 to \$600.

Applies to offenses committed on and after July 1, 1996.

**APPROVED** by Governor April 16, 1996  
**EFFECTIVE** July 1, 1996

**H.B. 96-1231** Sheriffs - fees for civil process. Increases the maximum amount that may be collected by sheriffs for various civil process fees as follows:

- For service of summons and subpoenas, from \$15.00 to \$30.00;
- For attempted service of summons and subpoenas, from \$5.00 to \$8.00;
- For service of garnishments, from \$7.50 to \$15.00;
- For levying execution, writs of attachment, and writs of replevin, from either \$7.50 or \$10.00 to \$50.00; and
- For advertising property for sale, making and recording a certificate of levy, and making certificates of sale, from \$7.50 to \$15.00.

Increases mileage allowances from 12¢ or the maximum allowed for state employees to 31¢ per mile. Increases the percentages charged and maximum amount of a commission collected on sheriffs' sales. Increases other miscellaneous fees. Requires the court to assess as costs against parties to the action the fees of the sheriff when the judicial department delivers to a sheriff civil process for service, and prohibits the court from dismissing the action until the costs have been paid to the court.

**APPROVED** by Governor May 22, 1996  
**EFFECTIVE** July 1, 1996

**H.B. 96-1245** Counties - fire safety standards - prohibition against banning sale of permissible fireworks. Authorizes all counties to adopt fire safety standards by eliminating the current limitation that only counties with a population of 15,000 or more can adopt fire safety standards. Eliminates the requirement that fire safety standards shall be modeled upon the 1982 edition of the uniform fire code. Adds the international fire code institute to the list of organizations promulgating the uniform fire code.

Prohibits counties, fire protection districts, and public improvement districts providing fire protection services from banning the sale of permissible fireworks within their jurisdictions.

**APPROVED** by Governor April 11, 1996

**EFFECTIVE** April 11, 1996

**H.B. 96-1287** County personnel other than sheriff's officers - enforcement of county regulations - county recreation lands and facilities. Authorizes county commissioners to designate county enforcement personnel other than a county sheriff, undersheriff, or deputy sheriff to enforce county rules and regulations on county recreation lands and facilities. Provides that designated enforcement personnel: 1) Are not required to be certified peace officers; 2) Are prohibited from making arrests and executing warrants; and 3) Are defined as "peace officers" for the purpose of the criminal assault statute.

**APPROVED** by Governor May 1, 1996

**EFFECTIVE** May 1, 1996

**H.B. 96-1364** Rural land use process - cluster developments - well permits. Provides that cluster developments are not "subdivisions" or "subdivided land" for purposes of county subdivision regulations. Declares the public interest in permitting cluster developments as a means of preserving open space, protecting wildlife habitat and critical areas, enhancing the rural character of areas that are contiguous to agricultural lands, and reducing the need for development of roads and utilities to serve new residential improvements.

Defines "rural land use process" as a county planning process designed to offer development alternatives for single family residential purposes to traditional 35-acre parcels. Defines "cluster developments" as divisions of land that create parcels that contain less than 35 acres each, but no more than 2 residential units per 35-acre increment, and that reserve at least two-thirds of the total area of the tract for preservation of open space. Requires that a cluster development plan not permit development of the reserved open space for at least 40 years.

Limits cluster developments to one well permit per residential lot within the development. Except in areas where ample water is available, requires a court-approved plan for augmentation for any cluster development in which the water usage would exceed an annual withdrawal rate of one acre-foot of water for each 35 acres within the development. Requires the board of county commissioners of any county that has approved a cluster development to notify the state engineer and provide to the state engineer a copy of the county's rural land use plan.

Establishes a presumption of noninjury for wells that are requested for cluster development lots to serve one residential unit when the well will be the only well on the lot and water usage in the cluster development will not exceed one acre-foot per year for each 35 acres in the development. Expressly provides that these provisions do not limit the authority of the state engineer to require metering, periodic reporting, and cessation of water withdrawals in appropriate circumstances.

**APPROVED** by Governor June 6, 1996

**EFFECTIVE** June 6, 1996

**H.B. 96-1369** Clerk and recorders - procedures - abuse of public records - reverse mortgages.

Clarifies race-notice recording language on the effects of unrecorded documents. Deems documents to be recorded when accepted by the clerk and recorder for filing and the fee has been paid. Extends liability and penalties for filing fraudulent liens to recording documents that purport to convey, encumber, or otherwise affect title to real property. Expands the crime of abuse of public records to include the unauthorized alteration of a public record.

Allows clerk and recorders, in lieu of allowing access to all books and records, to provide bulk copies of all documents recorded by annual subscription. Eliminates provisions for fees on documents no longer filed and repeals obsolete provisions. Provides for additional fees for recording instruments that require multiple entries in indices. Changes the name of the "general index" to the "grantor index", the "general index inverted" to the "grantee index", and the "receiving book" to the "reception book". Requires clerk and recorders to maintain files of subdivision plats and common interest community plats or maps and specifies how such plats or maps are entered in the indices.

For reverse mortgages, provides that separate projected total loan cost disclosure statements are not required for loans subject to federal truth in lending disclosure statements. Formerly, such cost disclosure statements were not required for loans subject to federal housing and urban development disclosure requirements.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** July 1, 1996

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**GOVERNMENT — LOCAL**

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**S.B. 96-69** Private property rights - regulatory impairment - limits on local government action - claims procedure. Declares legislative support for the right to own and use private property, citing constitutional provisions and disapproving the placement of burdens on individual property

owners to achieve general public purposes. Declares the issue a matter of statewide concern.

Prohibits a local government from requiring a private property owner to dedicate real property or pay an individually determined fee, as a condition on the approval of a land use permit, unless:

- There is an essential nexus between the dedication or payment and a legitimate local government interest; and
- The dedication or payment is roughly proportional to the impact of the proposed use or development of the property.

Requires a local government to support the existence of the 2 conditions above by substantial evidence. Gives property owners the right to claim compensation for any devaluation of their property resulting from violation of the act by giving notice to the local government and, if an amicable settlement is not reached, by proceeding in district court. Allows a property owner to waive such relief, but requires that a waiver be written and recorded in the land records before it is enforceable against a subsequent owner of the property.

**VETOED** by Governor June 5, 1996

**H.B. 96-1029** Financed entity - public records - public inspection. Defines "local government-financed entity" as an entity whose membership consists of political subdivisions and that receives any of its annual budget from political subdivisions. Requires such an entity to make information available to the public regarding the membership of the entity, the compensation paid by the entity, the budget of the entity, the names of persons lobbying on behalf of the entity, and amounts expended by the entity for lobbying. Specifies that all writings containing such information are subject to the public records law.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** April 8, 1996

**H.B. 96-1062** Colorado travel and tourism authority - board of directors - selection - vacancies - terms - qualifications - expenditures. Establishes March 1 following the date of appointment or election as the date that the term of all regularly appointed and elected board members of the Colorado travel and tourism authority commences.

Provides that the nominees submitted to the governor to fill a vacated, appointed board position shall be the individuals in the same business category who received the next highest number of votes in the preceding election for nominees to said position. In the event there are not two individuals in the same business category who received votes, provides that the nominees submitted to the governor shall be selected by the remaining board members representing that

business category. States that such board members shall serve from the date of appointment for the balance of the unexpired term unless and until the appointment is rejected by the senate.

At the election held for terms beginning March 1, 1997, provides that two at-large board members shall be elected for one-year, 2-year, and 3-year terms respectively and that, thereafter, the term of all at-large board members shall be 3 years. Commencing with terms beginning March 1, 1997, limits at-large board members to two consecutive terms.

Provides that all officers of the authority shall be elected from among the members of the executive committee of the authority and provides for the election of the secretary and treasurer or secretary-treasurer.

With respect to the requirement that a business must have made contributions to the authority during a specified time period in order to participate in nominating and voting on board members and hold a board seat, changes the time period from the same calendar year as the election to the preceding 12-month period.

Deletes the prohibition against the expenditure of the authority's funds to advance any position on a political issue and substitutes a prohibition against using funds of the authority to urge electors to vote in favor of or against any ballot issue, recall measure, or referred measure.

**APPROVED** by Governor April 16, 1996

**EFFECTIVE** April 16, 1996

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## **GOVERNMENT — MUNICIPAL**

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**S.B. 96-11** Fire and police pension law - recodification. Relocates the law governing "old hire" and "new hire" fire and police pension plans to newly-created articles, with amendments.

### **Old hire pension plans.**

Relocates, with amendments, the provisions on old hire pension plans for police officers and firefighters hired before April 8, 1978, and, specifically, the provisions of the four types of such plans: Police officers' old hire pension funds in cities under 100,000 in population; firefighters' old hire pension funds in cities under 100,000; firefighters' old hire pension funds in cities over 100,000 in population; and police officers' old hire pension funds in cities over 100,000.

Incorporates *general provisions* requiring employers to provide applicable pension benefits to

members hired on or before April 7, 1978, and to certain members hired after that date but before January 1, 1980, and exempting certain members from coverage who are covered by an exempt pension plan, the statewide defined benefit plan, or social security.

Combines the provisions establishing firefighters' old hire pension funds in cities under 100,000 and in cities over 100,000 and renames that type of fund a "firefighters' old hire pension fund". Combines the provisions establishing police officers' old hire pension funds in cities under 100,000 and in cities over 100,000 and renames that type of fund a "police officers' old hire pension fund".

Merges similar provisions on *administration* of the four types of old hire pension funds into a single provision on each of the following:

- The composition of a board of trustees for firefighters' old hire pension funds in cities under 100,000, in cities over 100,000, in fire protection districts, and in county improvement districts.
- The composition of a board of trustees for police officers' old hire pension funds in cities under 100,000 and in cities over 100,000.
- The powers of a board of trustees for an old hire pension fund. Requires annual reporting to the governing body by a board, including firefighters' and police officers' boards in cities under 100,000 that previously were required to report semiannually.
- The requirement that attorneys for municipalities, fire protection districts, and county improvement districts advise boards of trustees for an old hire pension fund.
- The duty of certain officers to draw warrants on and the method of payment from an old hire fund.
- The exemption of an old hire pension fund from levy by creditors.

- The authorized use of idle funds held by an old hire pension fund and the notice requirements for such use by a governing body.
- The requirements for amending an old hire pension plan. Eliminates obsolete language regarding employer contributions to plans in 1982.
- The requirements for an employer's election to affiliate with the fire and police pension association.
- The qualification requirements for an old hire pension fund under the internal revenue code.
- Relocates the provision on dissolution of fire departments.

Relocates, with amendments, the former "Policemen's and Firemen's Pension Reform Act" pertaining to the *funding of state-assisted old hire police officers' and firefighters' pension plans*. Includes the following changes and provisions:

- The elimination of an obsolete provision on a transfer from the state general fund to such plans.
- The requirements for state assistance to such plans on and after July 1, 1981.
- The financing and funding standards of such plans on and after January 1, 1982.
- The requirements for employer filing of actuarial studies.

- The state contribution to the fire and police members' benefit fund. Deletes obsolete provisions on state contributions to such fund.

Conforms the amount of the annual transfer to the fund with section 5 of Senate Bill 95-228 by changing the amount from \$26,000,600 to \$26,600,000.

Consolidates and relocates the provisions on *funding nonstate assisted plans*, including the following:

- The limit on contributions to old hire police officers' pension plans by municipalities under 50,000 in population. Specifies the maximum contribution.

- The limit on contributions to old hire firefighters' pension plans by municipalities, fire protection districts, or county improvement districts under 100,000 in population.

Specifies that an employer that has affiliated its old hire police officers' or firefighters' pension fund with the fire and police pension association and that is not receiving state contributions shall annually contribute a specified amount approved by the board of the association.

Relocates, with amendments, the following provisions on *investments and insurance*:

- The investment and insurance requirements for old hire police officers' pension funds and old hire firefighters' pension funds.

- The authority for alternative investments by old hire pension plans that are not affiliated with the fire and police pension association. Specifies that the investments must meet actuarial assumptions on interest rates established by the fire and police pension board of directors.

- Consolidates and relocates the following provisions on *retirement benefits*:

- Retirement benefits for old hire police officers in municipalities under 100,000 that make a contribution into the police officers' old hire pension fund and in such municipalities

that do not make a contribution into such fund.

- Retirement benefits for old hire firefighters in municipalities, fire protection districts, and county improvement districts under 100,000.
- Retirement benefits for old hire police officers in municipalities of at least 100,000. Deletes language regarding mandatory retirement.
- Retirement benefits for old hire firefighters in municipalities over 100,000.

Consolidates and relocates provisions on *disability and survivor benefits* for old hire members who died or became disabled prior to January 1, 1980, as follows:

- Benefits for old hire police officers in municipalities under 100,000.
- Benefits for old hire firefighters in municipalities, fire protection districts, or county improvement districts under 100,000.
- Benefits for old hire police officers in municipalities of at least 100,000.
- Benefits for old hire firefighters in municipalities of at least 100,000.
- Benefits for old hire police officers in municipalities making contributions from general funds.

Deletes obsolete language on certain employees applying for a disability benefit prior to April 5, 1945.

Relocates and combines similar provisions on *exempt alternative programs* for old hire pension

plans established prior to January 1, 1980, thereby covering all plans, regardless of the size of the municipality or district. Authorizes employers of new hire firefighters and police officers to withdraw from the statewide defined benefit plan upon establishment of a money purchase plan and provides that old hire members may join such a plan. Relocates provisions covering the exempt money purchase plan option for old hire members and on the investment authority for exempt alternative plans that are not affiliated with the fire and police pension association. Specifies the standard for investments for such plans.

### **New hire pension plans.**

Incorporates ***general provisions*** by relocating certain definitions previously contained in the law relating to benefits provided under the pension plans for police officers and firefighters. Defines "retired member".

Relocates, with amendments, the following provisions on ***administration***:

- The powers and duties of the board of directors of the fire and police pension association. Eliminates the board's authority to permit the modification of any provision of a nonexempt pension plan under certain circumstances.
- The exemption of the fire and police members' benefit fund, the statewide money purchase plan benefit fund, and the money purchase plan benefit fund from levy or execution.

Relocates the provisions on the creation and organization of the fire and police pension association and specifies that all board members are appointed for a 4-year term.

Combines the provisions on the creation of the ***fire and police members' benefit fund*** and the establishment of accounts therein, including the new hire benefits account, with the provisions relating to the creation of two subaccounts within the new hire benefits account. Specifies that the fund must consist of assets from particular benefit plans. Consolidates into a single section the provisions relating to the management and investment of the fire and police members' benefit fund.

Relocates the following provisions on the ***statewide defined benefit plan***:

- Employer and member contributions.

- The normal and early retirement pension benefits under the state plan.
- The requirements for vested retirement and for refund or transfer of contributions upon termination or restoration of service.
- The creation and allocation requirements of separate retirement accounts that are covered under the state plan.
- The administration of such separate accounts.
- The annual redetermination of benefits payable under the state plan.
- The modification of the state plan by the board.
- The qualification requirements of the state plan under the federal internal revenue code.

Relocates the provisions on the applicability of the statewide defined benefit plan, with amendments, and clarifies which employers are exempt from providing such plan.

Relocates the following provisions on the *statewide money purchase plan*:

- Employer participation in the statewide money purchase plan and withdrawal from the statewide defined benefit plan.
- The creation and management of the statewide money purchase plan.

Relocates the provisions on *withdrawn local alternative pension plans* concerning the withdrawal from and reentry into the statewide defined benefit plan. Specifies the investment authority for local alternative pension plans.

Relocates the following provisions on *affiliation of plans with the fire and police pension association*:

- Employer affiliation by certain money purchase plans.
- The creation and management of the fire and police members' money purchase plan benefit fund.
- Employer affiliation by volunteer pension plans.

Relocates, with amendments, the provisions on employer affiliation with the association by an old hire fire or police pension plan and changes the reference of a "local" plan to an "old hire" plan. Relocates the provisions on affiliation by employers covering members under the federal "Social Security Act". Eliminates the eligibility of an affiliating social security employer for state contributions on the basis of accrued unfunded liabilities. Authorizes employer affiliation by exempt defined benefit pension plans.

Relocates the following provisions on *disability and survivor benefits*:

- Certain definitions previously contained in the law relating to benefits provided under the pension plans for police officers and firefighters.
- Portions of the former coverage provisions under the statewide defined benefit plan, with amendments.
- Reduction of disability benefits due to other income.
- Change in disability status.

- Disqualification of disability award upon reemployment.
- Survivor benefits upon death of member.
- Reduction of survivor benefits.
- Termination of survivor benefits.

Relocates the provisions on disability benefits for total and occupational disabilities and specifies the options available to a member who subsequently marries. Establishes that disability benefits are eligible for cost of living adjustments. Combines the provisions relating to employer liability for disability benefits and for survivor benefits into a single section. Combines the provisions pertaining to state funding of death and disability benefits into a single section, with amendments, and eliminates the transfer of certain moneys to fund such benefits and to assist local pension funds. Prohibits the use of state funds to pay for death and disability benefits.

Relocates the provisions on *supplemental programs*, including deferred compensation plans and group life insurance plans. Relocates the provisions on group health insurance plans and prohibits the association from paying premium subsidies under such plans.

Relocates the provisions governing the *police officers' and firefighters' pension reform commission*.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1016** Fire and police pensions - statewide death and disability plan - separation of on-duty and off-duty disability retirement. In making a determination of disability, authorizes the board of directors of the fire and police pension association to:

- Determine whether a member's disability is the result of an injury received while performing official duties or of an occupational disease arising out of and in the course of employment;
- Consider relevant evidence, including medical evidence, in making such determination;

- Request an opinion from the 3 board-appointed physicians as to whether an injury resulted from performing official duties or whether an occupational disease arose out of and in the course of employment; and
- Appoint hearing officers.

Requires the board to promulgate rules establishing standards for determining whether a disability is on-duty and designating methods of reviewing existing disability awards. Specifies the on-duty disability benefits for both total and occupational disabilities. Specifies the type of evidence the board must consider in reviewing existing disability awards.

**APPROVED** by Governor April 16, 1996

**EFFECTIVE** See Note

**NOTE:** This act was passed without a safety clause. See section 9 of this act for the possible effective dates.

**H.B. 96-1119** Municipal land use controls - joint participation under intergovernmental agreement with county. Authorizes the governing body of a municipality to enter into an intergovernmental agreement with any county in which it is located to jointly participate in land use planning, subdivision procedures, and zoning for a designated area. Specifies that any action under the intergovernmental agreement pertaining to land within a municipality is subject to approval of the governing body of the municipality.

**APPROVED** by Governor April 25, 1996

**EFFECTIVE** April 25, 1996

**H.B. 96-1358** Annexation - enclaves - signatures for petitions - annexation agreements - flagpole annexations. Specifies that no enclave may be annexed if any part of the territory surrounding the enclave was annexed since December 19, 1980, without an election or petition as required by the constitution. Clarifies that a petition for annexation or for an annexation election must be signed by current landowners and that signatures on such petitions of any person other than a current landowner are invalid.

If an annexation agreement or similar instrument for any area proposed to be annexed was entered into at least 10 years prior to the proposed annexation and if any of the current landowners in the area proposed to be annexed are not the landowners that entered into the agreement or instrument, provides that the signature of an official of the annexing municipality or a compelled signature of a current landowner shall be sufficient only for a petition for an annexation election. Allows the current landowners of the area proposed to be annexed under such annexation agreement or similar instrument to voluntarily waive their right to an annexation

election if the waiver satisfies certain requirements.

For municipalities located in whole or in part in a county with a population of at least 300,000, prohibits the contiguity required for annexation to be established by use of any boundary of a previously annexed area if the area, at the time of its annexation, was not contiguous at any point with the boundary of the municipality and was not otherwise in compliance with statutory requirements or by use of any boundary of territory that is subsequently annexed directly or that is indirectly connected through subsequent annexations to such area.

**VETOED** by Governor June 5, 1996

**H.B. 96-1370** Fire and police pensions - statewide death and disability plan - state funding - final contribution - appropriation. Allows an employer to withdraw from the disability and survivor benefit provisions of the fire and police pension law in order to establish and maintain its own exempt locally financed alternative disability and survivor benefit program. Describes the procedure for such withdrawal and the minimum benefit requirements under the alternative program. Provides for a payment by the fire and police pension association to a withdrawn employer of that employer's share of the state contribution for death and disability benefits made on January 31, 1997, as determined by the rules of the association. Provides for reentry into the disability and survivor benefit plan under certain conditions. Prohibits certain employers from withdrawing from the disability and survivor benefit plan.

Reduces the disability benefits of a member who receives payments from a separate retirement account. Reduces the survivor benefits payable to a surviving spouse and dependent children who receive payments from a separate retirement account.

Specifies the method for computing the redetermination of total disability benefits.

Requires the board to submit an annual actuarial valuation report regarding the disability and survivor benefit plan. Specifies that, through January 1, 1996, the amount of the state contribution to the fire and police members' benefit fund must be based on that valuation. Provides that thereafter, the board shall submit a biennial actuarial valuation report for purposes related to the death and disability account.

Transfers \$39 million on January 31, 1997, for state funding of death and disability benefits for members hired before January 1, 1997, to the fire and police members' benefit fund for allocation to the death and disability account in such fund. Prohibits additional transfers of any amounts for that purpose after January 31, 1997. Requires a contribution in a specified amount based on the member's salary to the death and disability account in the fund for members hired on or after January 1, 1997. Provides for a determination at the local level of whether the contribution is assessed against the employer or member.

Provides for treatment of payments of amounts from a member's separate retirement account in the event the member is retired for disability, returns to work, or dies prior to termination.

Appropriates \$39 million to the department of the treasury for the final contribution of state funding of death and disability benefits.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

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## **GOVERNMENT — SPECIAL DISTRICTS**

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**S.B. 96-140** Fire protection districts - consolidation - civil service committee - membership.

When two or more fire protection districts are consolidated, requires the dissolution of the civil service committee of each district. Requires the board of directors of the consolidated district to appoint at least 3 but not more than 9 members to the district's civil service committee. Specifies the term limits for such members. Allows the board of directors of any district consolidated before July 1, 1996, to expand membership, by appointment, on its established civil service committee to not more than 9 members for a term of 6 years.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** April 8, 1996

**S.B. 96-233** Moffat tunnel improvement district - sale of assets - transfer of powers to the department of local affairs - sunset. Provides that the department of local affairs shall assume the powers of the board of the Moffat tunnel district no later than February 1, 1998. Grants the board of the Moffat tunnel district the authority to sell the property of the district until the department of local affairs assumes the powers of the board. After the department assumes the powers of the board, allows the department to sell the property of the district.

Requires all sales of property of this district to be for fair market value. Excludes from the calculation of fair market value: 1) The value or detriment of any lease, license, or permit granted for the benefit of a party acquiring property of the district; and 2) any improvements or value of any improvements owned or paid for by the user. Grants users the right to purchase real property of the district to the extent of their use. Grants users a commercially reasonable right of first refusal to purchase, to the extent of their use, any real property interest offered for conveyance. States that anyone who purchases property takes it subject to existing licenses, leases, contracts for use, or other encumbrances.

Allows costs incurred in connection with the sale of district property to be paid from the proceeds of the sale, as long as the costs do not exceed a specified percentage of the value of the property. Requires the remainder of proceeds from property sales to be distributed immediately

to counties comprising the district in proportion to the taxes paid by each county and the city and county of Denver.

Upon assuming the powers of the board, authorizes the department of local affairs to enter into and modify contracts for the use of the tunnel and to adopt reasonable rules relating to the tunnel, its approaches, and equipment. Authorizes users of the tunnel to construct and repair betterments and improvements at their own costs, so long as other uses are not impaired.

Provides that, after the expiration of the terms of existing elected members of the board, the governor shall appoint members to serve until the department of local affairs assumes the powers of the board.

Requires the board to report on the income and expenditures of the district each year until the department assumes the powers of the board.

Upon the sale of all real property of the district, requires the transfer of any remaining property to the department and dissolves the Moffat tunnel improvement district.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1023** Regional transportation district - Denver metropolitan scientific and cultural facilities district - Denver metropolitan major league baseball stadium district - inclusion of additional areas - areas outside of a sanitation, water and sanitation, or water district - notification requirements prior to formation or expansion of special district. Includes certain areas in Adams county within the boundaries of the regional transportation district (RTD) upon receiving voter approval. Authorizes questions to be submitted at the 1996, 1998, or 2000 general election for the inclusion of certain areas of Adams county within the boundaries of the RTD, the Denver metropolitan scientific and cultural facilities district, and the Denver metropolitan major league baseball stadium district. Imposes election restrictions and requirements.

Prohibits a water and sanitation district or water district from furnishing water service or water supply to any property located outside of the district's boundaries and within the legal boundaries of another special district having the power to furnish water facilities or water services, unless certain requirements are met.

Clarifies that the notification required prior to a hearing on the organization of a special district or on the inclusion of territory within a special district be made by letter rather than by postcard. Specifies that a good faith effort to comply with the notice requirements is also achieved when mailing the notification to all post office box addresses within the required area.

**BECAME LAW** without Governor's signature April 13

**EFFECTIVE** April 13, 1996

**H.B. 96-1250** Special districts - maximum compensation for directors. Increases the maximum amount of compensation that can be paid to directors of special districts organized under the "Special District Act" from \$950 to \$1,200 per year and the amount paid per meeting attended from \$50 to \$75. Increases the maximum amount of compensation that can be paid to members of the board of the Three Lakes Water and Sanitation District from \$960 to \$1,200 per year and the rate paid per meeting from \$35 to \$75. Increases the maximum amount of compensation for directors of the board of the Urban Drainage and Flood Control District from \$240 to \$1,200 per year and establishes a maximum amount of \$75 that may be paid per meeting attended.

**APPROVED** by Governor April 24, 1996

**EFFECTIVE** April 24, 1996

**H.B. 96-1275** Health service districts - licensed or certified facilities - provision of services. For purposes of the "Special District Act": 1) Substitutes the phrase "health service district" for the phrase "hospital district"; 2) Allows health service districts to provide services, including community clinics and nursing care facilities, without also providing hospital services; 3) Allows health service districts to provide services directly or indirectly, through leases or other arrangements; 4) Requires all health service district facilities to be licensed or certified; 5) Allows a hospital district established prior to June 30, 1996, to continue to use its current name; and 6) Provides that the specified powers of a health service district shall not be construed to limit the powers of a hospital district established prior to the effective date of the act.

**APPROVED** by Governor April 23, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1360** Regional transportation district - bus service - private providers - contracts awarded. Specifies that if the regional transportation district does not receive a sufficient number of proposals from technically qualified providers to award to more than one provider up to 50% of the vehicle hours contracted by the district to provide bus service within the district or if all bids received other than that received from the lowest bidder are 5% or more than the amount bid by the lowest bidder, the district may:

- Award a contract to the technically qualified lowest bidder for up to 50% of the total number of hours to be contracted by the district and rebid the remaining hours; or
- Award a contract to the technically qualified lowest bidder for up to 50% of the total number of hours to be contracted by the district that includes an addendum awarding all or an additional percentage of the remaining number of hours to that bidder on the terms and conditions agreed to by the district and the bidder and rebid the remaining hours, if any.

With respect to awards made by the district on and after the effective date of this act, prohibits the district from accepting proposals covering 50% or more of the vehicle hours contracted by the district, instead of proposals from a provider providing 50% or more of the vehicle hours contracted by the district.

**BECAME LAW** without Governor's signature June 8, 1996  
**EFFECTIVE** June 8, 1996

**H.B. 96-1374** Metropolitan Football Stadium District Act - creation of district - board of directors - voter approval of sales tax levy and issuance of special obligation bonds - use of revenues - creation of stadium site selection commission. Creates the "Metropolitan Football Stadium District Act". Defines terms. Creates the metropolitan football stadium district with boundaries coterminous with the boundaries of the regional transportation district. Creates a board of directors to govern the district. Specifies the powers and duties of the board. Specifies that certain records of the board are public records. Authorizes the state auditor to audit the records of the board in certain circumstances.

Upon the board's determination that a new stadium is needed, the satisfaction of additional requirements, the board's passage of a resolution with certain declarations, and the notification that a valid petition to place the question on the ballot has been filed with the secretary of state, authorizes the board to place the question of whether the district may levy and collect a sales tax not to exceed 0.1% within the boundaries of the district for a period not to extend beyond January 1, 2012, and whether the district may issue special obligation bonds in a maximum amount of \$180,000,000 payable from the sales tax revenue in order to construct a new football stadium within the district. Establishes the requirements for petitions.

Creates the football stadium site selection commission. Requires the commission to study and select a site for construction of a new stadium utilizing stadium site criteria established by the commission. Specifies additional powers and duties of the commission.

Establishes procedures for the levy and collection of any sales tax imposed and the discontinuance of said levy and collection. Specifies the permissible uses of the sales tax revenues and net operating revenues by the board. Requires the board to make annual reports to the general assembly regarding sales tax collections, operating revenues, and other revenues received by the district. Authorizes the district to issue special obligation bonds and to pledge such sales tax revenues and net operating revenues to pay such bonds. Requires the board to study and pursue opportunities to minimize the amount of public moneys needed for the purposes of the act. Requires the board to enter into a management agreement for operation of the stadium. Specifies certain terms to be included in any lease of the stadium. Requires the board to make good faith efforts to sell the stadium after construction is completed.

Provides for the repeal of the act upon the occurrence of specified events.

**APPROVED** by Governor May 23, 1996  
**EFFECTIVE** May 23, 1996

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## GOVERNMENT — STATE

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**S.B. 96-21** State employees - personnel system - penalty for failure to conduct performance evaluations. Changes the penalty assessed against a supervisor within the state personnel system for failure to evaluate his or her subordinates on an annual basis from a fine of not less than three days' salary to a suspension from work without pay for a period of at least one workweek.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** April 8, 1996

**S.B. 96-42** Colorado civil rights division - continuation of subpoena power under sunset law. Extends the automatic termination date of the authority of the director of the Colorado civil rights division to subpoena witnesses in unfair employment practice cases to July 1, 2002, pursuant to the provisions of the sunset law. Restricts the division's use of its subpoena powers as follows:

- The items sought to be produced must directly relate to the charge; and
  
- Such power may be used only if the person or entity to be subpoenaed has refused or failed to provide the information after a proper request has been made by the director of the division.

**APPROVED** by Governor April 16, 1996

**EFFECTIVE** April 16, 1996

**S.B. 96-81** Intrastate air service - study - intrastate air carrier reports -appropriation. Provides for the director of research of the legislative council to contract for a study to be conducted to evaluate intrastate air service in Colorado and to make recommendations as to actions to encourage the expansion and improvement of such air service. Specifies what is to be included in the study. Sets forth deadlines for the contracting for and the completion of the study. Creates the Colorado intrastate air carrier assistance fund and provides for certain moneys to be credited to the fund to be used for the study's cost.

Requires air carriers providing intrastate air service in Colorado to file semi-annual reports

regarding on-time performance and oversales. Specifies that such reports be filed with the aeronautics division of the department of transportation and that such reports contain certain information.

Appropriates \$100,000 from the Colorado intrastate air carrier assistance fund to the General Assembly for allocation to the legislative council to fund the study.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**S.B. 96-83** Pesticide and pesticide use advisory committee - continuation. Continues the pesticide and pesticide use advisory committee scheduled for repeal July 1, 1996.

**APPROVED** by Governor March 18, 1996

**EFFECTIVE** March 18, 1996

**S.B. 96-102** Statewide information infrastructure - duties of commission on information management. Instructs the commission on information management to implement the statewide information infrastructure ("SII") to provide connections between and among governments, educators, public libraries, health care providers, businesses, and citizens.

Specifically requires the commission to:

- Develop requirements for the SII;
- Review existing portions of the SII to determine whether they are adequate and usable;
- Define and initiate a partnership between the public and private sectors for funding and building the SII;
- Initiate a system to manage the use of the SII, including designating a system usage manager;
- Oversee ongoing use of the SII; and

- Recommend any necessary further legislation and budget appropriations for ongoing implementation of the SII.

**APPROVED** by Governor June 6, 1996

**EFFECTIVE** July 1, 1996

**S.B. 96-122** Colorado state insect - Colorado hairstreak. Declares the Colorado hairstreak, a butterfly, to be the state insect.

**APPROVED** by Governor April 17, 1996

**EFFECTIVE** See Note

**NOTE:** This act was passed without a safety clause. It will take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly unless a referendum petition is filed pursuant to section 1 (3) of the state constitution. In that event, the act will take effect on the date of the official proclamation of the governor, if it is approved by the voters at the 1996 election.

**S.B. 96-143** Public utilities commission - commissioner salaries - state auditor review. Sets the salary for commissioners of the public utilities commission at an amount based on a one-time occupational classification and salary survey conducted by the state auditor. Requires the state auditor to certify and transmit the results of the survey and the salary level established pursuant to the survey to the director of research of legislative council and the executive director of the department of regulatory agencies. Provides for incremental implementation of a salary increase that is more than 30% of a commissioner's current salary over a two-year period.

Requires the state auditor to review the commissioner salary level whenever conditions indicate a change in the salary is necessary and requires the audit committee to confirm any change before implementation.

**APPROVED** by Governor May 1, 1996

**EFFECTIVE** May 1, 1996

**S.B. 96-181** Department of state - elections - appropriations to cover costs relating to the conduct of elections. Authorizes the general assembly to appropriate general fund moneys to the department of state for the costs incurred by county clerk and recorders in conducting elections. Provides that the intent of the general assembly in appropriating such moneys is to offset some of the costs associated with the additional election requirements resulting from the passage of section 20 of article X of the state constitution, from the conduct of presidential primary elections, and from the increased number of initiatives filed. Specifies that such appropriations shall not be used in calculating the fees charged by the secretary of state.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**S.B. 96-197** Capital construction fund - highway projects - technology learning grant and revolving loan program - controlled maintenance trust fund - appropriations. Changes the amounts transferred to the capital construction fund from the general fund on July 1, 1995, from \$125,000,000 to \$131,958,273 and on July 1, 1996, from \$50,000,000 to \$210,936,099. Of the amount transferred on July 1, 1996, designates \$115,000,000 to be available for appropriation to the department of transportation only for state highway reconstruction, repair, maintenance, and capacity expansion projects. For the 1996-97 fiscal year, requires the prioritized list of highway projects to consist only of state highway reconstruction, repair, maintenance, and capacity expansion projects. Specifies that the state controller is authorized to grant special authority for the department of transportation to enter into contracts for such projects in anticipation of appropriations made for the next fiscal year.

Of the amount transferred to the capital construction fund on July 1, 1996, designates \$20,000,000 to be available for appropriation to the department of higher education only for the technology learning grant and revolving loan program. Establishes the technology learning grant and revolving loan program to provide funding for the development of distance and technology-assisted learning programs for K-12 schools, public libraries, and institutions of higher education. Establishes criteria for awarding funds under the program. Requires any school that applies for such funds to have in place a long-range technology utilization plan that includes certain elements. Requires each fund recipient to use a portion of its funds to purchase educational computer system equipment. Prohibits a fund recipient from using any portion of its funds for the payment of salaries.

Requires the department of higher education to select one or more multiple-use networks to connect K-12 schools, public libraries, and institutions of higher education. Specifies that schools, institutions of higher education, and public libraries connected to such network shall use the most appropriate available technology. Specifies that the access Colorado library information network shall be integrated into any multiple-use network.

Creates the technology learning committee to administer the grant and revolving loan program, select fund recipients, distribute funds, and to determine those programs that may be connected to any multiple-use network. Specifies the membership of the committee. Requires staff members from the departments of education and higher education to assist the committee in its duties. Requires fund recipients to submit an annual report and requires the committee to provide a summary of the annual reports to the general assembly on or before January 30, 1998, and January 30 of each year thereafter.

For the 1995-96 fiscal year, transfers \$20,000,000 from the general fund to the capital construction fund and appropriates this amount from the capital construction fund to the controlled maintenance trust fund. Appropriates \$20,000,000 to the department of higher education for the technology learning grant and revolving loan program. Appropriates \$115,000,000 to the department of transportation for state highway reconstruction, repair, maintenance, and capacity expansion projects included in the prioritized list of projects.

**APPROVED** by Governor June 6, 1996  
**EFFECTIVE** June 6, 1996

**S.B. 96-202** State employees - group benefit plans - state personnel director - annual review for joint budget committee. Requires the state personnel director, before releasing final benefit information to state employees, to present an annual review to the joint budget committee on the structure and funding of employee benefit plans. Specifies the information to be included in that report.

**VETOED** by Governor June 6, 1996

**S.B. 96-212** Public records - open meetings - use of electronic mail - privacy interests - retention of records - requests for public access. Declares that the use of electronic mail by government agencies creates unique circumstances that require a balancing of the privacy interests and practical limitations of public officials and employees with the public policy interests in access to government information.

Defines as "work product" not subject to public disclosure certain advisory or deliberative materials assembled for the benefit of elected officials, including notes and memoranda representing background material for decisions, preliminary drafts and discussion copies of documents that express decisions, and drafts, some reports, and some other materials relating to legislative bills or amendments not yet introduced.

If elected officials use e-mail to discuss pending legislation or other public business among themselves, makes such e-mail subject to existing open meetings laws. States that e-mail communication among elected officials that does not relate to pending legislation or other public business shall not be construed to be a "meeting".

Includes the correspondence of elected officials in the definition of a "public record," subject to exceptions for items not connected to the exercise of public functions or the expenditure of public money and for communications to or from constituents that are clearly intended to remain confidential. States that the acceptance of public funds as compensation, or the use of publicly owned equipment, does not convert an otherwise non-public writing into a "public record".

Where public records are kept only in miniaturized or digital form, requires the official custodian of such records to adopt a policy regarding the retention of the records and to take measures to assist the public in locating and gaining access to identified records. Creates limited exceptions to the existing 3-day limit on the time within which records must be produced after they are requested. Clearly expresses the right of a custodian of public records to invoke the general "public interest" exception to disclosure in response to a lawsuit seeking a court order of disclosure, rather than having to seek a protective order before such a suit is filed.

Requires each state agency to adopt, on or before July 1, 1997, a written policy regarding the monitoring of electronic mail communication of employees and notifying employees that such communication may be a public record under the public records law.

Relieves state officials and employees of the obligation to preserve e-mail messages for archival purposes unless the recipient has previously segregated and stored them because of their historical or evidentiary value.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**S.B. 96-216** Department of personnel - lease-purchase agreement for department of revenue facility - appropriations. Authorizes the department of personnel to execute a 10-year lease-purchase agreement for the acquisition of the facility located at 1881 Pierce Street in Lakewood. Requires that the lease-purchase agreement provide that all obligations of the state under the agreement are subject to annual action by the general assembly and the department of personnel in making moneys available for payment. Provides that the lease-purchase agreement may contain such other provisions as the department of personnel and the department of revenue deem appropriate. Provides that any title acquired by the state pursuant to the agreement shall be held for the benefit and use of the department of revenue. Authorizes the department of personnel and the department of revenue to enter into such ancillary agreements and instruments as are necessary or appropriate.

Appropriates to the department of personnel \$13,991,825 from cash funds exempt for acquisition of the facility and \$301,901 from the capital construction fund and various cash funds for the implementation of this act. Appropriates to the department of revenue from the general fund, the highway users tax fund, and various cash funds \$318,812 and 1.5 FTE for the maintenance and utilities costs of the facility and \$35,953 for the lease-purchase of the phone system at the facility.

Adjusts appropriations for the 1996-97 budget year as follows:

- Decreases the appropriation to the executive director's office by \$602,965.
- Decreases the cash funds appropriation to the limited gaming division by \$40,138.
- Increases the general fund appropriation to the capital construction fund by \$165,985.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**S.B. 96-217** Department of human services - office of youth services - juvenile facilities - allocation for art requirement. Reduces the required allocations for acquisition of works of art

from 1% to 0.1% for the juvenile detention and juvenile commitment beds authorized in the 1994 and 1995 prison construction bills. Declares the intent of the general assembly that the allocations be used to acquire artworks produced by residents of the state's juvenile facilities.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**S.B. 96-220** Tax compact with the Southern Ute Indian tribe - establishment of impact mitigation fund. Declares the intent of this act to provide a mechanism for mitigating local government property tax revenue impacts caused by acquisitions of real and personal property located within the Southern Ute Indian Reservation by the Southern Ute Indian tribe.

Provides for the creation of an impact fund to be used to alleviate the impacts of property tax revenue losses that result from the acquisition of property and property interests by the Southern Ute Indian tribe. Provides that the fund will be under the control of a three-member board composed of the chairman of the La Plata county board of county commissioners, the chairman of the Southern Ute Indian tribal council, and the governor, or their designees.

Provides that this act will be effective only upon approval of the taxation compact between the Southern Ute Indian tribe, La Plata county, and the state of Colorado.

**APPROVED** by Governor June 3, 1996

**EFFECTIVE** June 3, 1996

**S.B. 96-228** Department of personnel - reorganization. Eliminates all statutorily created divisions and division directors within the department of personnel; except for the division of administrative hearings, the director of that division, and the state controller. Provides that the duties of the eliminated divisions shall become duties of the department. Requires the executive director of the department of personnel to carry out the duties of the eliminated division directors.

Authorizes the executive director of the department of personnel to establish divisions, sections, and units within the department as are necessary to accomplish the powers, duties, and functions of the department. Transfers the payroll duties of the state controller to the executive director of the department.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**S.B. 96-234** Peace officers - P.O.S.T. board - level IIIa - appropriation. Authorizes the peace officers standards and training board ("P.O.S.T. board") to certify persons who successfully complete comparable certification requirements in another jurisdiction and successfully complete skills examinations, rather than formal training. Increases the amount that may be charged for each certification and skills examination from \$50 to \$100. Deletes the prohibition against serving as a peace officer for anyone convicted of a nonfelony crime of moral turpitude. Requires

current first aid and cardiopulmonary resuscitation certificates or equivalents for peace officers and reserve peace officers.

Authorizes the P.O.S.T. board to waive the basic training requirement for persons appointed as part-time, level I peace officers between March 6, 1992, and January 1, 1995, provided such persons successfully complete skills examinations or a training program approved by the P.O.S.T. board. Repeals the waiver authority, effective January 1, 1997.

Clarifies that unless revoked, a certificate is valid as long as the holder is continuously serving as a peace officer or reserve peace officer. Requires automatic expiration of the certificate at the end of any 3-year period if the certificate holder is not serving as a peace officer or reserve peace officer and has not served for at least 6 months during the 3-year period. Authorizes the P.O.S.T. board to promulgate rules for the renewal of an expired certificate, but prohibits renewal of an expired certificate if the holder has not served as a peace officer or reserve peace officer within the previous 10 years. Requires the P.O.S.T. board to revoke or suspend a certificate if a holder is convicted of a felony or otherwise fails to meet P.O.S.T. board requirements.

Requires a jurisdiction to adequately train a peace officer, level IIIa, for any assigned duties for which training is not provided by the P.O.S.T. board.

Clarifies that "peace officer" means a person who is certified and authorized under the law to carry a firearm, conduct arrests, and enforce the laws of the state. Excludes from the definition of "peace officer" a person serving as a citizen auxiliary, and prohibits the P.O.S.T. board from requiring such persons to be certified.

Relocates other provisions relating to the P.O.S.T. board and peace officers, level IIIa.

Adjusts the appropriation included in the long bill to the department of law, special purpose, peace officers standards and training board support, by reducing the general fund appropriation by \$98,400 and increasing the cash fund appropriation by \$120,000.

**APPROVED** by Governor June 3, 1996

**EFFECTIVE** June 3, 1996

**H.B. 96-1097** Regulation of lobbyists - disclosure statements - who must file - gross income for lobbying - verification of income - notification of lobbying agreements - penalty - revocation of registration. Effective January 1, 1997, makes the following changes to the lobbyist regulation provisions of the Colorado Sunshine Law:

Deletes certain expenditures of \$50 or more from those items required to be reported in the lobbyist's disclosure statement. Defines "gross income for lobbying".

Specifies that a registered professional lobbyist and any firm organized for professional lobbying purposes must file monthly disclosure statements. Prescribes the contents of the disclosure statement. Exempts certain persons from this filing requirement.

Requires monthly filing of disclosure statements for calendar months in which gross income for lobbying is received and deletes reporting of receivables. Specifies that the annual cumulative disclosure statement must contain the name of and total gross income for lobbying received from each person for the previous calendar year. Requires persons named in the disclosure statement to provide written verification of such income.

Requires lobbyists to give written notification to the secretary of state of an agreement to lobby for any person not named in the annual registration statement and to disclose additional information regarding such an agreement concurrent with the next monthly disclosure statement.

Creates a civil penalty of \$10 per day for each day that a disclosure statement is not filed. Permits the secretary of state to excuse such penalty under certain circumstances.

Adds annual estimates of gross income for lobbying to those items required in the lobbyist's annual registration statement.

Directs the secretary of state to implement certain computer information system capabilities in connection with reviewing the disclosure statements, registration statements, and any other written statements of lobbyists.

Reduces the period of time before a certificate of registration is revoked from 90 days after the failure to file a required report to 30 days after such failure, where the person required to report has informed the secretary of state in writing of extenuating circumstances justifying the failure.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** See Note

**NOTE:** This act was passed without a safety clause. Section 6 of the act establishes an effective date of January 1, 1997. It will take effect on that date unless a referendum petition is filed pursuant to section 1 (3) of the state constitution. In that event, the act will take effect on the date of the official proclamation of the governor or January 1, 1997, whichever is later, if it is approved by the voters at the 1996 election.

**H.B. 96-1099** Department of revenue - state lottery division - contracts. Allows the state lottery commission to set the amount of the performance bond required of persons entering into contracts for materials, equipment, or supplies used in the operation of the lottery or for installation of games or lotteries. Requires corporate contractors supplying gaming materials or equipment to submit background information on the directors of the corporation. Requires contracts for the supply of gaming materials or equipment to require the director of the lottery division to exclude an employee of the contractor who has been convicted of a felony from lottery facilities and to exclude employees of the contractor from participating in gaming activities involving the materials or equipment supplied pursuant to the contract.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** April 8, 1996

**H.B. 96-1142** State employees - state deferred compensation committee. Increases the membership on the state deferred compensation committee by one additional employee who is a participant in the plan. Staggers the term of the new employee member and the employee member up for election in June, 1996. Eliminates obsolete language regarding procedures for election of employee members. Clarifies that vacancies of employee members are to be filled by election for the unexpired term.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** See Note

**NOTE:** This act was passed without a safety clause. It will take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly unless a referendum petition is filed pursuant to section 1 (3) of the state constitution. In that event, the act will take effect on the date of the official proclamation of the governor, if it is approved by the voters at the 1996 election.

**H.B. 96-1155** State employees - leave of absence - disaster relief services. Authorizes a paid leave of absence for state employees to participate in specialized disaster relief services for the American red cross. Specifies the duration of the leave for Colorado and national disasters. Maintains an employee's compensation rate and benefits during the period of leave. Provides that an employee on such leave is not an employee for workers' compensation purposes.

**APPROVED** by Governor June 3, 1996

**EFFECTIVE** June 3, 1996

**H.B. 96-1225** State contracts - competitive sealed proposals - protests - debarment - appeal decisions. Specifies that the resolution of any protest in connection with a competitive sealed proposal is a precondition to awarding a contract resulting from that proposal and eliminates the lapse of the appeal period or the completion of the appeals process as such a precondition. Specifies the basis and content of a written decision on a protest by an aggrieved bidder, offeror, or contractor.

Replaces failure without good cause to perform in accordance with the terms of any contract as grounds for debarring a person with willful material failure to perform one or more contracts or a history of material failure to perform or of materially unsatisfactory performance of one or more contracts.

Imposes time limits within which a decision of the executive director must be issued on appeals of protested solicitations or awards, debarments or suspensions, and contract controversies.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** April 8, 1996

**H.B. 96-1262** State employees - compensation - implementation of performance-based pay - commission on the privatization of personal services by classified state employees -

appropriation. Extends the current system for determining periodic salary increases for state employees to July 1, 2000. Extends the date on which performance-based pay is implemented to July 1, 1998. Requires the state personnel director to submit a performance-based pay plan by October 15, 1996. Describes the elements to be included in the plan and requires finalization of the plan by December 30, 1996. Implements performance-based pay over a 3-year period for three segments of state employees.

Creates the commission on the privatization of personal services performed by classified state employees. Describes the commission's membership and duties. Requires the commission to report to the general assembly by September 1, 1997.

Appropriates \$56,696 and 1.0 FTE to the department of personnel, \$10,000 of such amount and 0.1 FTE to the department of law, and \$4,752 to the legislative council for implementation of the act. Estimates future appropriations of \$579,924 and 2.2 FTE to the department of personnel, \$29,910 of such amount and 0.5 FTE to the department of law, and \$1,188 to the legislative department.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** See Note

**NOTE:** This act was passed without a safety clause. It will take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly unless a referendum petition is filed pursuant to section 1 (3) of the state constitution. In that event, the act will take effect on the date of the official proclamation of the governor, if it is approved by the voters at the 1996 election.

**H.B. 96-1301** State contracts - competitive sealed best value bidding - criteria. Provides that the state purchasing director or the head of a purchasing agency may allow a contract to be entered into by competitive sealed best value bidding if such bidding is advantageous to the state. Describes when prices for enhancements, options, or alternatives to the base bid may be submitted and what the invitation for competitive sealed best value bidding must contain. Requires an evaluation of the prices for enhancements, options, or alternatives pursuant to the rules of the executive director of the department of personnel.

Permits a contract to be awarded where the total amount of a bid price and the prices for enhancements, options, or alternatives exceeds the total amount of another bidder if the higher amount provides the best value at the lowest cost to the state.

Requires the executive director to promulgate rules and prescribes the contents of such rules.

**APPROVED** by Governor May 22, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1303** Vested property rights - site specific development plans - protection of property development rights - vesting periods. Includes a final subdivision plat, conditional use permit,

and site plan within the definition of a "site specific development plan". Eliminates a specially planned area, general submission plan, and conditional or special use plan from this definition. Requires local governments to determine the specific elements, level of detail, and objective information to be shown on a site specific development plan in accordance with the applicable local ordinance or regulation. Eliminates the ability of a local government and a landowner to enter into an agreement to determine what constitutes a site specific development plan. Specifies that a site specific development plan does not include a business license, a floodway or floodplain permit, a franchise, a temporary use permit, a comprehensive master plan element, a designation of an area of state interest, or the creation of a local improvement district.

Specifies that local government approval of a site specific development plan:

- Automatically creates a vested property right if approved at a public meeting;
- Results in the vesting of a certain zoning classification; and
- Supersedes any previously approved site specific development plan for that property.

Prohibits a local government from requiring a landowner to waive a vested property right or existing zoning classification as a condition of a permit or other approval.

Changes the vesting period from 3 years to a minimum of 5 years for vested property rights relating to a site specific development plan with a gross acreage of 35 acres or more. Establishes when a vested property right terminates and the circumstances under which the right is extended. Specifies that the vesting period for a site specific development plan is tolled during the pendency of a lawsuit, arbitration proceeding, initiative, referendum, or other administrative procedure by a landowner, local government, or a public citizen preventing the finality of or seeking to modify the approval of such plan. Makes these changes regarding vested property rights apply to previously approved site specific development plans with unexpired vested property rights as of the effective date of the act.

Exempts a vested property right from certain subsequent land use restrictions that adversely impact the development or use of property for which the vested property right is established. Specifies that a vested property right does not preclude the application of ordinances or regulations promoting and protecting the public health and safety. Allows reasonable costs and attorney fees to the prevailing party in a legal action involving vested property rights with respect to any parcel of property.

**VETOED** by Governor June 5, 1996

**H.B. 96-1314** Open meetings - state and local public bodies - executive session - search committees - notice of meetings. Adds any gathering that is convened electronically to discuss public business to the definition of a "meeting". Modifies the definition of "state public body" with regard to governing boards of state institutions of higher education.

Specifies that the minutes of an executive session of a state public body or local public body reflect the topic, rather than the general topic, of discussion. Requires that state and local public bodies announce the topic of discussion in the executive session before voting or holding such a session.

Specifies that a conference must be with an attorney representing the public body in order for such conference to occur in an executive session. Limits when an executive session may be held to develop strategy and receive reports on the progress of negotiations to only negotiations with employees or employee organizations. Prescribes open meeting requirements for a search committee of a state public body or local public body, including disclosure of finalists.

Requires a local public body to announce the specific legal authority requiring a matter to be kept confidential before holding an executive session on such basis. Subject to certain exceptions, requires local public bodies to maintain a list of persons who request notification of meetings.

**BECAME LAW** without Governor's signature May 3, 1996  
**EFFECTIVE** July 1, 1996

**H.B. 96-1344** Postemployment compensation - termination from particular employment positions - invalid contracts or agreements - filing of state settlement agreements - enforcement through civil suit. For purposes of the prohibition against payment of postemployment compensation, modifies the definition of "governmental unit" to include any local government. Modifies the definition of "postemployment compensation" to mean compensation after termination from a particular employment position with a governmental unit or government-financed entity, rather than termination from employment from such governmental unit or government-financed entity. Includes within the definition of "postemployment compensation" any payment made pursuant to a settlement agreement after the term of employment in a particular position has ended unless the payment is a part of a bona fide settlement of a legitimate legal dispute.

Provides that any employment contract, employment contract extension, or other agreement between a governmental unit or government-financed entity and a government-supported official or employee that is not substantially in compliance with the prohibition against postemployment compensation is null and void. Requires any payment in violation of such prohibition to be returned to the governmental unit or government-financed entity.

Requires that any state governmental unit entering into a settlement agreement with a government-supported official or employee to settle an employment dispute file a copy of the final settlement agreement with the department of personnel. Declares that such an agreement is

a public record.

Provides that the president of the university of Colorado is an employee-at-will and is subject to the restrictions regarding payment of postemployment compensation.

Authorizes the enforcement of the statutory provisions regarding postemployment compensation through a civil suit filed in a court of competent jurisdiction.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1349** Youth crime prevention and intervention program - designation of funds - board members. Requires that no less than 20% of the appropriation for the youth crime prevention and intervention program be designated and used exclusively for programs designed for children under 9 years of age. Requires that one or more members of the youth crime prevention and intervention board have knowledge and awareness of early childhood care and education.

**APPROVED** by Governor April 16, 1996

**EFFECTIVE** April 16, 1996

**H.B. 96-1350** State employees - clean air transit options. Permits any state agency to offer clean air transit options to state employees, including the use of available mass transit. Requires that the financing of those options be from existing appropriations to the state agency. Specifies that a transit option is a perquisite that is subject to the state controller's rules on perquisites.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1367** Tax compact with the Southern Ute Indian tribe - La Plata County - approval by general assembly - payments in lieu of taxes - resolution of valuation disputes. Declares the interest and authority of the general assembly to act to assist in the resolution of a dispute between the state, La Plata county, and the Southern Ute Indian tribe concerning the taxation of property held by the tribe. Approves the taxation compact between the Southern Ute Indian tribe, La Plata county, and the state of Colorado. Sets forth the provisions of the compact, including provisions requiring the tribe to make payments in lieu of taxes based on the value of property owned by the tribe. Provides that the compact shall be effective upon proper approval by all entities. Authorizes the property tax administrator to resolve valuation disputes as set forth in the compact.

**APPROVED** by Governor June 3, 1996

**EFFECTIVE** June 3, 1996

**H.B. 96-1376** Legislative department - control of legislative spaces in the capitol and legislative services building. Directs that the legislative department, acting through the executive committee of the legislative council, shall have control of legislative spaces in the capitol and legislative

services building and furniture and fixtures thereof, rather than the department of personnel. Clarifies that the department of personnel shall continue to have control of executive spaces in the capitol, capitol grounds, and any other property acquired adjacent to the capitol. Provides that the department of personnel retains responsibility for control of the supervision of the provision of maintenance for the state capitol buildings group.

**VETOED** by Governor June 6, 1996

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## **HEALTH AND ENVIRONMENT**

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**S.B. 96-8** Local emergency medical services - continuance. Deletes the repeal of statutory provisions that authorize and control the delivery of local emergency medical services, thereby extending such provisions beyond the scheduled repeal of July 1, 1997.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** April 8, 1996

**S.B. 96-86** Pesticide applications - licensing of applicators, supervisors, and operators - regulation of pesticides - continuation under sunset law. Authorizes a limited commercial applicator to apply pesticides on property leased by such person or such person's employer in addition to property that is owned by such person or such person's employer. In addition to existing authorized actions, authorizes a pesticide technician to:

- Load general-use pesticides under the supervision of a qualified supervisor;
  
- Mix or load restricted-use pesticides under the supervision of a qualified supervisor; and
  
- Apply restricted-use pesticides under the on-site supervision of a qualified supervisor.

Eliminates the administrative fee that is required to place a pesticide-sensitive person on the registry maintained by the department of agriculture. Requires the proof of medical justification needed to qualify for such registry to be provided by a physician licensed in Colorado and to be

updated every 2 years.

Requires any notice-of-application sign required to be posted when a pesticide is applied by a commercial or limited commercial applicator to include the following information in addition to other required information if the pesticide is applied on a commercial property site and an owner of the site or an agent of an owner is not present at the site:

- The telephone number of the applicator;
- The name of the pesticide applied; and
- The date the pesticide was applied.

Clarifies that any home rule county, home rule city and county, or home rule municipality is included in the statutory provisions governing imposition of additional notification requirements for pesticide applicators. Prohibits any local government from adopting or continuing in effect any provision regarding the use of any pesticide by a regulated person and pertaining to:

- Pesticide labeling or registration requirements;
- Use and application of pesticides;
- Warnings and precautionary statements, notifications, or statements of practical treatment; or
- Licensure, training, or certification requirements.

Provides that the prohibition against local government actions pertaining to pesticides does not limit the authority of a local government to take certain specified actions, including zoning for the sale or storage of pesticides, adoption and enforcement of building and fire codes, actions authorized or required by federal or state law, actions necessary to avoid a fine or other penalty,

regulation of the use of pesticides on local government land, and issuance of general occupational licenses. Requires a local government that promulgates a regulation regarding pesticides to file with the department of agriculture a copy of the ordinance and a map or legal description of the geographic area intended to be regulated.

In addition to existing penalties, authorizes the commissioner of agriculture to discipline a license holder through the restriction or probation of the holder's license.

Authorizes the commissioner of agriculture to establish an examination grading fee for qualified supervisor and certified operator license examinations to pay the actual administrative costs incurred in the grading of examinations. Authorizes the department of agriculture to provide education programs for urban residents and firefighters regarding pesticides.

Requires a hearing regarding a violation to be held within a reasonable period of time rather than immediately. Directs final disciplinary actions to be appealed to the court of appeals rather than the district court. Provides that a person who is the subject of a proceeding has the right to a written notice and an opportunity to present arguments prior to imposition of discipline, rather than being allowed a right to cure, in the following cases:

- Deliberate or willful violations;
  
- Violations of labeling directions or requirements; and
  
- Actions or omissions causing or threatening substantial danger or harm to the public health and safety.

Authorizes any court of competent jurisdiction, in addition to the commissioner of agriculture, to impose civil fines under the "Pesticide Applicators' Act".

Extends the automatic termination date of the authority of the commissioner of agriculture to license commercial applicators of pesticides, qualified supervisors, and certified operators to July 1, 2006.

**APPROVED** by Governor June 1, 1996  
**EFFECTIVE** July 1, 1996

**S.B. 96-168** Solid waste - extension of the collection of the annual site and facility fee. Extends the collection of the annual solid waste site and facility registration fee to July 1, 2001.

**APPROVED** by Governor March 18, 1996  
**EFFECTIVE** March 18, 1996

**S.B. 96-188** Air quality - protection of air quality related values in Class I federal areas - appropriation. Requires the air quality control commission to maintain a state-retained authority program for nonvisibility air quality related values in Class I federal areas in Colorado. Defines terms. Sets forth requirements for the air pollution control division in the administration of the program.

Specifies that federal land managers in Class I federal areas may initiate an assertion to the governor and to the air pollution control division that an air quality related value has been significantly impaired. Sets forth procedures to verify the assertion. If the assertion is not verified, ends the procedure at that point.

If the assertion is verified, requires the division to conduct attribution studies to determine the cause of the impairment and the source thereof. After such studies, provides that the division identify the appropriate control strategies to alleviate the impairment. Requires the division to issue an order to sources and source categories significantly contributing to air quality related value impairment if such sources have not entered into a voluntary enforceable commitment. Provides that such order require submission of a report within a reasonable period of time, the identification of best available retrofit technology by stationary sources of air pollution, and the identification of reasonably available control measures by all other sources. Requires the division to report on such matters to the commission.

Authorizes the air quality control commission to conduct rule-making proceedings to determine appropriate control strategies to alleviate the impairment. Establishes requirements and guidelines for the imposition of such control strategies.

Allows parties to agree to voluntary enforceable commitments to achieve sufficient emission reductions. Allows limited 10-year exemptions from further controls for sources or source categories agreeing to enforceable commitments to adopt control strategies as effective or more effective than best available retrofit technology for stationary sources or reasonably available control measures for nonstationary sources or control strategies determined by the division to assist in making reasonable further progress in reducing air quality related value impairment. Allows similar exemptions for sources that received a permit under the federal or state prevention of significant deterioration program prior to the effective date of this act.

Appropriates \$15,065 and 0.2 FTE from the stationary sources control fund for implementation of this act.

**APPROVED** by Governor June 1, 1996  
**EFFECTIVE** June 1, 1996

**S.B. 96-224** Air quality - ozone maintenance state implementation plan. Postpones to December 31, 2005, the expiration of the ozone maintenance state implementation plan and related rules of

the air quality control commission previously scheduled to expire May 15, 1997.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1030** Disease control - newborn screening - second specimen testing. Eliminates homocystinuria and maple syrup urine disease from among those conditions for which a newborn is screened pursuant to the "Newborn Screening and Genetic Counseling and Education Act". On and after July 1, 1996, requires infants born in the state of Colorado who have received newborn screening to have a second specimen taken to screen for certain health conditions. Authorizes the executive director of the department of public health and environment to promulgate rules, regulations, and standards for the implementation of the second specimen testing procedure. Identifies the subjects that such rules must address. Authorizes the executive director to adjust the newborn screening fee, not to exceed an increase of \$5.75 initially, for such second screening. Allows for an annual increase in the fee to reflect any actual cost increase associated with the administration of the second screening.

**APPROVED** by Governor May 30, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1125** Department of public health and environment - executive director - qualifications - appointment of chief medical officer. Changes the qualifications for the executive director of the department of public health and environment. As an alternative to a degree of doctor of medicine, authorizes the executive director to have a degree of doctor of osteopathy or, at a minimum, experience or education in public administration and public or environmental health. States that, if the executive director has a degree of doctor of medicine or doctor of osteopathy, such person must also meet certain educational or experience requirements.

Requires the executive director to appoint a chief medical officer who has a degree of doctor of medicine or doctor of osteopathy and who meets the educational and experience requirements if the governor appoints an executive director who does not have such qualifications. Requires the appointment of a chief medical officer to be made upon consultation with the governor and with the consent of a majority of the members of the senate. Directs the appointment to be made within 3 months after the executive director's appointment is confirmed by the senate. Specifies the chief medical officer's duties.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1176** Immunization of minors - delegation of authority to immunize. Allows a parent or other person responsible for the care and custody of a minor, other than a licensed child care center employee, to delegate that person's authority to consent to the immunization of a minor to certain persons. Limits the facilities in which a child may be immunized pursuant to a delegation of authority. Identifies those circumstances in which a person may not consent to the immunization of a minor by means of delegated authority.

Directs the person to whom verbal authority has been delegated to confirm the verbal delegation in writing and to relay relevant health history to the administering practitioner so that the practitioner can determine whether the immunization is advisable.

Limits the practitioner's liability for damages resulting from factual errors in health information given when such practitioner reasonably relies upon the information given and exercises reasonable and prudent care in administering the immunization. Similarly limits the liability of the facility at which the immunization is administered.

**APPROVED** by Governor May 1, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1179** Air quality - northern front range air quality study - appropriation. Requires submission of a draft report of the northern front range air quality study to the general assembly and the governor no later than December 31, 1997. Makes the latest date for submission of the final report of the study July 1, 1998. Requires the study to consider past and on-going air quality studies of the region to utilize the information gathered in the current front range air quality study. Declares the intent of the general assembly that the study make use of all publicly funded studies, draft studies, and planning processes addressing air quality within the study area. Strongly urges the governing bodies of such other studies and planning processes to cooperate with the air quality study technical advisory panel. Adds representatives of the motor vehicle and petroleum industries and additional citizen members with technical expertise in air quality studies to the air quality study technical advisory panel. Extends the repeal date for the law authorizing the study to July 1, 1999. Prohibits any state elected official, cabinet member, or division head of a state agency from soliciting funds from the private sector for the study. Prohibits the study from using any method that involves stopping traffic on any public road for purposes of gathering information of a personal nature from motorists.

Appropriates \$100,000 from the stationary sources control fund and \$650,000 from the AIR account in the highway users tax fund to the department of public health and environment for allocation to Colorado state university for implementation of the act. Of such sums, specifies that \$150,000 from the AIR account shall be used by the department of public health and environment to develop an inventory for light duty vehicles for particulates from gasoline and diesel powered vehicles and for testing vehicles in order to evaluate the effectiveness of control programs such as oxygenated fuels, alternative fuels, and inspection/maintenance in the Denver area.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1197** Air quality - rules - economic and risk analyses - multi-media environmental integration issues. Extends current requirements for economic and risk analyses of proposed stationary-source air pollution rules to include rules that apply to mobile sources. In provisions listing the criteria for invoking some analysis requirements, removes the criterion "not required by the federal [Clean Air] act", leaving as the only 2 criteria that the proposed state rule either

"exceeds the requirements of" or "differs from" federal law or rules.

Eliminates current provisions creating an advisory committee to address multi-media environmental integration issues.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**H.B. 96-1271** Air quality - emission fees - exemption for fugitive dust. Clarifies that, for the purpose of assessing fees, fugitive dust is not included in the term "regulated pollutant".

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**H.B. 96-1307** Air quality - stationary source program - ombudsman - stationary source fee - study - appropriation. Effective July 1, 1997, moves the ombudsman duties for the small business stationary source technical and environmental compliance assistance program from the office of regulatory reform in the department of regulatory agencies to the department of public health and environment outside of the air pollution control division.

Instead of requiring both that a stationary source demonstrate compliance with the construction permit for the facility and that the division of administration in the department of public health and environment inspect the project within 180 days after commencement of operation, provides that either the stationary source shall demonstrate such compliance or the division may inspect such project pursuant to rules adopted by the air quality control commission.

Continues the annual stationary source fee of \$14.98 per ton of regulated pollutant through fiscal year 1996-97. Authorizes the executive director of the department of public health and environment to increase such fee for fiscal year 1997-98 and subsequent fiscal years, rather than for fiscal year 1996-97 and subsequent fiscal years.

Extends the repeal date for the efficiency task force that was convened to address the efficiency of the stationary source program from July 1, 1996, to July 1, 1997. Directs the efficiency task force to complete and present a final report on or before July 1, 1997.

Directs the executive director of the department of public health and environment, with the advice and assistance of the efficiency task force, to prepare a request for proposals for a study regarding methods for creating efficiencies in the air pollution control division's inspection and permitting programs. Requires such study to be completed and a report to be made to the governor and the general assembly on or before July 1, 1997.

Appropriates \$275,000 out of the stationary sources control fund to the department of public health and environment administration and support division for implementation of the act. Decreases the appropriation in the general appropriation act air quality control division in to the department of public health and environment by \$35,000 and 0.4 FTE.

**APPROVED** by Governor May 23, 1996  
**PORTIONS EFFECTIVE** July 1, 1996, July 1, 1997

**H.B. 96-1372** CERCLA awards for state general fund litigation costs - portion to be credited to natural resource damage recovery fund. Requires that moneys awarded to reimburse the state general fund for federal "Comprehensive Environmental Response, Compensation, and Liability Act" (CERCLA) litigation costs shall be credited to the natural resource damage recovery fund until \$3,361,451, plus accrued interest, has been so credited. Allows an exception when specified by judicial order or decree. Provides that, after the natural resource damage recovery fund has been credited with these moneys, moneys awarded to reimburse state general fund costs shall be returned to the general fund.

**APPROVED** by Governor May 23, 1996  
**EFFECTIVE** May 23, 1996

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## **HEALTH CARE POLICY AND FINANCING**

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**H.B. 96-1188** Medical assistance program - revisions - appropriation. Clarifies the medical assistance program's right of assignment for a recipient's workers' compensation benefits.

Requires the state department of health care policy and financing to ensure that managed care providers allow a recipient to disenroll at any time, implement consumer friendly procedures for disenrollment, and allow adequate response time for recipients to make selection options.

Establishes the statutory authority for the department of health care policy and financing to impute occupancy in medical nursing facilities at 85% in urban areas.

Redefines, clarifies, and changes allowable cost centers for nursing facility reimbursement.

Limits certain physician referrals to comply with federal law.

Changes the criteria for determining when private-duty nursing services may be delivered.

Deletes the requirement that the department of health care policy and financing submit an annual report to the general assembly on certain aspects of community-based programs.

Eliminates the requirement that income trusts be court-approved.

Provides that a person who is eligible for home and community-based services for the developmentally disabled may be eligible for home and community-based services for the elderly, blind, and disabled if the need for such services is due to impairments based on developmental disability diagnosis.

Reduces the appropriation in the long bill to the department of health care policy and financing, medical services division, by \$84,667 and reduces the appropriation to the judicial department by \$26,902.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

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## **HUMAN SERVICES — INSTITUTIONS**

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**S.B. 96-229** Involuntary medication - persons found not guilty by reason of insanity or defendants found incompetent to proceed. Expands the statute permitting a court to enter an order requiring a person to accept medication to include persons found not guilty by reason of insanity or impaired mental condition and persons found incompetent to proceed. Grants jurisdiction for such orders to the court that committed the person to the department of human services or, if the committing court agrees, to the court of the jurisdiction in which the designated treating facility for the person is located. Requires the court to appoint an attorney to represent such persons. If the petition is filed in the county where the facility is located, requires the county where the person was found not guilty or incompetent to pay the costs of the county where the petition is filed.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1146** Multipurpose juvenile detention facility in southwest Colorado - assessment of need. Directs the department of human services to assess the need for, and to determine the community commitment to, a new multipurpose juvenile detention facility to be constructed in La Plata county. Identifies the types of detention and treatment needs that such a facility should serve. Requires the department to evaluate privatization options in assessing the need for such a facility. Directs the department to present its findings, conclusions, and recommendations to the capital development committee on or before November 1, 1996.

**APPROVED** by Governor May 22, 1996

**EFFECTIVE** May 22, 1996

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## HUMAN SERVICES — SOCIAL SERVICES

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**S.B. 96-53** Public assistance - medical assistance - death reimbursement for funeral, burial, and cremation expenses for recipients - appropriations. Increases the maximum combined charge to the decedent's estate and family and to the county and state for funeral, burial, or cremation expenses of a medical assistance or public assistance recipient from \$1500 to \$2500. Clarifies that the maximum amount of a death reimbursement paid by the county or state department is \$1500, and mandates that no reimbursement shall be made if the maximum combined charges from providers exceed \$2500. Allows providers of services to seek and accept contributions from nonresponsible family members and other sources but only to the extent that moneys are available from such parties. Directs that such contributions shall be counted as an offset to the maximum combined charges.

Requires a legally responsible person to participate financially towards the charges for final disposition through a contribution to the maximum death reimbursement if his or her resources are above the federal SSI resource limits. Mandates that the financial participation from a legally responsible person shall not include the survivor's home or other excluded resources as provided for in rules. Provides that only the decedent's spouse or, if the decedent is an unemancipated minor, the decedent's parent can be a legally responsible person. Provides that any financial participation by a legally responsible person in excess of the legally required amount shall be deducted from the amount of the maximum death reimbursement. States that social security lump-sum death benefits payable to a legally responsible person shall not be an automatic deduction from the maximum death reimbursement.

For purposes of calculating the contributions to the charges for final disposition, defines resources or income as assets accessible and available to the legally responsible person and disbursement of insurance proceeds to a legally responsible person or nonresponsible person named as a beneficiary in the decedent's insurance policy. Sets forth the following as personal resources of the decedent that must be applied towards the charges:

- Any preneed contract for merchandise or services for the decedent's final disposition;
  
- Other resources or income accessible and available in the name of the decedent, including the decedent's share of jointly owned resources or income;

- Any death benefit in which reimbursement is directly paid to a provider of funeral, cremation, or burial services for the decedent's final disposition.

States that the portion of the purchase price of a final resting place owned by the decedent in excess of \$2000 shall be counted as a personal resource. Directs that a final resting place previously acquired by someone other than the decedent and donated upon the decedent's death shall not be counted as a personal resource.

Sets forth the requirements for distribution of payments to providers of services. Specifies that the county department shall be reimbursed by the state for 80% of the share of the death reimbursement for recipients of aid to the needy disabled and aid to families with dependent children and 100% of the share of the death reimbursement for old age pension recipients. Makes the payment of death reimbursements subject to available appropriations. Mandates that the state reduce the amount of the death reimbursement level if the appropriated amount is insufficient to meet the demand. States that if such a reduction is made, the county department shall have no additional responsibility beyond the reimbursement level.

Decreases the cash funds appropriation in the long bill to the department of human services, self-sufficiency, assistance payments, for the old age pension fund, by \$30,882. Increases the appropriations to the department of human services, self-sufficiency, assistance payments for aid to families with dependent children by \$6,637, of which \$5,309 is from the general fund and \$1,328 is cash funds exempt. Decreases the appropriation made to the department of human services, self-sufficiency, assistance payments, for burials, by \$9,581, of which \$7,665 shall be from the general fund and \$1,917 shall be from cash funds exempt.

**APPROVED** by Governor May 31, 1996

**EFFECTIVE** See Note

**NOTE:** This act was passed without a safety clause. Section 3 of the act establishes an effective date of January 1, 1997. It will take effect on that date unless a referendum petition is filed pursuant to section 1 (3) of the state constitution. In that event, the act will take effect on the date of the official proclamation of the governor or January 1, 1997, whichever is later, if it is approved by the voters at the 1996 election.

**S.B. 96-135** County veteran services offices - state assistance - amount of payments made by the division of veterans affairs. Changes the amount of the payments that the division of veterans affairs in the department of human services may provide to support the veterans service office in any county from a maximum of \$50 per month for any county that has a veterans service officer to the following:

- A minimum of \$50 per month and a maximum of \$200 per month for a county that has a

full-time veterans service officer; and

- A minimum of \$50 per month and a maximum of \$100 per month for a county that has a part-time veterans service officer.

If adjacent counties jointly establish a veterans service office, allows the division of veterans affairs to provide the county that contains such veterans service office with a payment equal to the total of the payments that would have been made to each of the counties forming the office.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** July 1, 1996

**S.B. 96-164** State aid to the needy disabled - substance abuse eligibility criteria - appropriation. Denies eligibility for state aid to the needy disabled (AND) to persons whose primary diagnosis is an addiction to a controlled substance or alcoholism unless the person is participating in a treatment program and can demonstrate that he or she is free of the use of alcohol or any nonprescribed controlled substance on a form verified by the treatment program. Denies eligibility for such aid to any person who has received the aid based upon a diagnosis of alcoholism or a controlled substance addiction for any cumulative 12-month period in the person's lifetime.

Requires that AND payments for persons who are disabled as a result of a primary diagnosis of alcoholism or a controlled substance addiction shall be paid either to the person's treatment program on his or her behalf or to the person directly upon a showing of documentation from the treatment program that the person is free of the use of alcohol or controlled substances.

Increases the appropriation in the long bill to the department of human services, office of information technology services, by \$4,800. Decreases the appropriation in the long bill to the department of human services, self-sufficiency, by \$21,541 in general fund dollars and \$5,385 in cash funds exempt. Increases the appropriation in the long bill to the department of human services, health and rehabilitative services, for alcohol and drug abuse division by \$6,912.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**S.B. 96-178** Medical assistance - persons with disabilities - consumer-directed attendant support pilot program - residential child health care program - medically correctable pilot program - appropriation. Authorizes the department of health care policy and financing, in cooperation with the department of human services, to implement a statewide pilot program that would allow persons with disabilities to self-direct their attendant support. Limits the number of participants in the pilot program to 150. Permits the departments to seek any necessary federal waivers.

Identifies that the purposes of the pilot program are to increase consumer direction and

flexibility in the delivery of attendant support and to save money for the state. Identifies the qualifying criteria for participation in the program.

Directs the departments of health care policy and financing and human services to develop accountability requirements and to adopt rules necessary to implement the pilot program. Permits such rules to include a provision allowing a person with a cognitive disability to designate a family member or friend to be responsible for self-directing support on behalf of the disabled person. Further directs the departments to work with consumers of attendant support to develop technical assistance for participants.

Requires the departments to conduct an independent evaluation of the pilot program at the end of the third year and to report annually to the general assembly on the program. Authorizes the departments to accept grants or donations for the implementation of the act.

Repeals the pilot program, effective July 1, 2000.

Includes the department of human services, with the department of health care policy and financing, in the residential child health care program. Expands the residential child health care program to include the provision of services to developmentally disabled children who are neglected or dependent, who meet the out-of-home placement criteria set forth in the "Colorado Children's Code," and who are placed through county departments of social services in licensed or certified out-of-home placement facilities in addition to residential child care facilities.

Repeals the statutory provisions related to the community-supported living arrangement services program for the developmentally disabled.

Directs the department of human services to implement a 3-year, statewide medically correctable pilot program. Identifies the eligibility criteria for persons to whom the program shall apply, including a requirement that such person have a disability that can be corrected with medical treatment costing less than \$10,000. Lists the features of the program. Specifies that such amount shall not be treated as a workers' compensation benefit. Requires annual reports to the joint budget committee and the health, environment, welfare, and institutions committees of the general assembly.

Repeals the pilot program, effective July 1, 2000.

Appropriates \$105,302 to the department of health care policy and financing, medical services division, for the implementation of the act. Identifies that \$44,495 of said sum shall be from the general fund and \$60,807 from matching federal funds. Also appropriates \$3,100,416 to the department of health care policy and financing, medical services division, for the implementation of this act. Identifies that \$1,477,521 of said sum shall be from the general fund and \$1,622,895 from matching federal funds. Adjusts the appropriations made in the annual general appropriation act to the department of human services for the implementation of the act.

**APPROVED** by Governor June 1, 1996  
**EFFECTIVE** July 1, 1996

**S.B. 96-194** Teen parents - participants in the JOBS program. Requires JOBS program participants who are parents under 20 years of age to participate in educational activities directed at the attainment of a high school diploma or its equivalent.

**APPROVED** by Governor May 23, 1996  
**EFFECTIVE** May 23, 1996

**H.B. 96-1006** Child care licensing - risk-based approach to monitoring - definitions - fees - rules - license duration - actions against license. Identifies the intent of the general assembly that the department of human services use a risk-based approach in monitoring child care facilities. Requires the department to inspect licensed facilities that have been found to be the subject of complaints or out of compliance with statutory standards and rules or that otherwise appear to be placing children at risk. Requires the state auditor's office to conduct a performance audit of the department's risk-based approach by December 1, 1998.

Expands the definition of "child care center" to add facilities providing care to children 18 years of age or younger. Excludes from the definition of "child care center" preschools that are maintained in connection with a public, private, or parochial school system of at least 6 grades. Clarifies that school-age child care centers and before and after school programs are child care centers. Distinguishes, by definition, between foster care homes and family child care homes. Specifies that foster care homes may include homes licensed by the department of human services that receive neither moneys from the counties nor children placed by the counties. Differentiates between certification and licensing. Defines "place of residence".

Authorizes the state board of human services to establish fees for the filing of appeals and the duplication of licensing records for the public. Clarifies the factors the department of human services must weigh in establishing fees by eliminating the consideration of facility size and the facility's ability to pay and adding consideration of the facility's licensed capacity. Directs the licensing division to implement a systematic approach to child care licensing fees by tracking direct and indirect costs associated with child care inspection licensing, reassessing such costs and fees annually, and reporting the results to the state board of human services.

Clarifies that original licenses issued by the department of human services are permanent unless suspended or revoked and that a 6-month provisional license may only be issued for the original 6-month period.

Requires a comprehensive rule and regulation review in conjunction with the performance audit and periodic review of rules and procedures relating to child care centers, family child care homes, and foster care homes at least every 5th, instead of every 3rd, fiscal year thereafter. Requires the state board of human services to define the contents of the criminal background check for child care facility applicants. Authorizes the state board of human services to establish security rules for residential child care facilities. Authorizes the state board of human services to

establish by rule the number of additional children that a person providing less than 24-hour care may care for and still remain exempt from the licensing requirements. Directs the department of human services to conduct a study concerning the number of children a family home may receive and remain exempt from licensure and to present recommendations to the state board of human services by October 1, 1996. Requires the department of human services to examine the relation between licensing regulations governing larger family care homes and child care centers and to present options to the board by October 1, 1996. Requires the state board of human services to adopt rules requiring child care facilities to post their licenses and to make inspection reports available.

Requires the department of human services to prescribe specific standards for adoption agencies. Identifies specific areas that the board's rules concerning adoption agencies may address, including credentials, qualifications, education, and the types of adoptions for which the agency may be licensed.

Eliminates all references to employer-sponsored on-site child care centers. Requires each residential child care facility and secure residential treatment center to conform to the sanitary standards prescribed by the department of public health and environment before such facility or center may be licensed.

Identifies the crimes for commission of which the department of human services *may* deny or revoke a license and the crimes for commission of which the department *shall* deny or revoke a license, including crimes committed in another state for which the department has a certified court order. Adds conviction of certain crimes related to controlled substances and marihuana as cause for the department of human services to take legal action against a facility's license. Authorizes the department of human services to take legal action against a facility's license when the licensee fails to comply with minimum safety and sanitation standards. Allows a county to impose and enforce higher standards and requirements for facilities than those established by the state.

With regard to license suspension and revocation matters, establishes that the decision of the executive director of the department of human services, based on the recommendation of the administrative law judge, is final agency action, rather than the decision of the administrative law judge.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1098** Child care training program - repeal. Establishes the neighbor-to-neighbor child care training and education pilot program, the "neighbors program", in the department of human services, with the goal of training welfare recipients to be child care workers. Requires the department to issue a request for proposals on or before January 1, 1997, to train and educate welfare recipients to become child care workers. Requires interested public or private community-based agencies to respond to the request for proposals no later than April 1, 1997.

Allows the state department to award grants of up to \$25,000 for a one-year term to no more than 10 local public or private community-based agencies selected to participate as pilot site agencies no later than September 1, 1997. The pilot site agencies shall begin the training and education programs no later than 30 days after the date of the grant award or October 1, 1997, whichever is later.

Requires pilot site agencies to report monthly to the department and to submit a final report no later than November 1, 1998, on the effectiveness of the program. Requires the department to evaluate the neighbors program in a final report to the general assembly no later than January 1, 1999.

Authorizes the state department to accept public or private donations for the implementation of the neighbors program. States the need for cash fund appropriations for future fiscal years.

Repeals the provisions relating to the neighbors program, effective July 1, 1999.

**APPROVED** by Governor May 30, 1996

**EFFECTIVE** May 30, 1996 **H.B. 96-1122** Public assistance - electronic benefits transfer service - limits on business participation - limits on client access. Limits participation in the electronic benefits transfer service through point of sale terminals to those businesses that provide products or services that are related to the purpose of public assistance benefits. Prohibits the access of a client to public assistance benefits at automated teller machines located in gambling casinos, in-state simulcast facilities, race tracks, commercial bingo facilities, establishments in which the principal business is the sale of firearms, or retail establishments licensed to sell alcoholic beverages.

Authorizes the state board of human services to promulgate rules concerning the electronic benefits transfer service.

Authorizes the state department of human services to request federal waivers as necessary to administer the electronic benefits transfer service.

**APPROVED** by Governor April 2, 1996

**EFFECTIVE** April 2, 1996

**H.B. 96-1180** Utilization of child placement agencies - pilot program created. Requires the department of human services to select 5 or more counties, or groups of counties, by July 1, 1996, to implement pilot programs to evaluate the responsiveness of child placement agencies to the needs of children. Establishes the required features of a pilot program and requires that a pilot program provide for an external evaluation of its effectiveness in assessing the utilization of child placement agencies.

Establishes reporting requirements for participating counties and the state.

Repeals the authority for pilot programs, effective July 1, 1998.

**APPROVED** by Governor May 23, 1996  
**EFFECTIVE** May 23, 1996

**H.B. 96-1233** Public assistance - requirement of recipients to apply for SSI benefits - elimination of transfers of a residence with a retained life estate - old age pension program - study - appropriation. Aligns the state resource criteria for old age pension eligibility with the federal criteria used in the medicaid and supplemental security income (SSI) programs.

Implements a transfer without fair consideration policy in connection with the computation of eligibility for the old age pension program and for public assistance by eliminating the possibility of transferring a residence but retaining a life estate. Shortens from 5 years to 36 months the period used for determining whether an assignment or transfer of property without fair consideration by an applicant for public assistance was made for the purpose of rendering the person eligible for public assistance.

Mandates the department of human services to require old age pension applicants or recipients who may be eligible for SSI benefits to apply for SSI benefits and to comply with any recommendation for referrals made by the county department except for good cause shown. Authorizes the department to develop a statewide program to assist such applicants in obtaining those benefits.

Creates a work incentive program for persons receiving old age pensions that allows them to retain earnings in the same amounts used for retained income under the federal supplemental security income (SSI) program without losing their old age pensions and without affecting their eligibility for medical assistance. Requires the department to submit to the general assembly a report of the effectiveness of the old age pension work incentive program. Repeals the program, effective July 1, 2000.

Authorizes the department to contract with an objective organization or entity to conduct a study of the old age pension program to make recommendations on changes in the age of eligibility, the benefit package, and other changes to meet the current and future needs of elderly citizens. Directs that such study be presented to the joint budget committee and the health, environment, welfare, and institutions committees on or before February 1, 1997.

Increases the cash funds appropriation in the long bill to the department of human services, office of information technology services, for the client-oriented information network, by \$46,800, and reduces the cash funds appropriation to the department of human services, self-sufficiency, assistance payments, old age pension fund, by \$76,298.

**APPROVED** by Governor June 1, 1996  
**EFFECTIVE** June 1, 1996

**H.B. 96-1253** State aid to the needy disabled - resource eligibility criteria - appropriation. Requires recipients of state aid to the needy disabled and aid to the blind programs to comply with recommendations for referrals as a condition of continued eligibility.

Establishes that federal supplemental security income resource eligibility criteria must be applied to the programs.

Increases the general fund appropriation in the long bill to the department of human services, office of information technology services, for the client-oriented information network, by \$3,200. Decreases the general fund appropriation in the long bill to the department of human services, self-sufficiency, assistance payments, by \$3,618 and the cash fund exempt appropriation by \$905.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

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## INSURANCE

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**S.B. 96-18** Long-term care insurance - rules. Eliminates authorization for the commissioner of insurance in the department of regulatory agencies to issue rules establishing minimum standards for producer compensation, producer testing, penalties, and premium rate stabilization for long-term care insurance. Authorizes the commissioner to issue rules establishing minimum standards for producer training for long-term care insurance.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**S.B. 96-34** Insolvency of insurer - priority of claim distributions. Makes the following changes to the insurance claim priority levels that apply in the event of an insurer's insolvency:

- Class 3 (policy) claims become class 2 claims
  
- Class 4 (certain federal government) claims become class 3 claims
  
- Class 2 (employee compensation) claims become class 4 claims

- Class 4 (certain state and local government) claims are class 5
- Class 5 claims become class 6 claims
- Class 6 claims become class 7 claims
- Class 7 claims become class 8 claims

**APPROVED** by Governor April 8, 1996  
**EFFECTIVE** April 8, 1996

**S.B. 96-78** Colorado Auto Accident Reparations Act - required insurance coverage - PIP examination program - fees - appropriation. Creates a PIP examination program to handle disputed claims for personal injury protection (PIP) benefits under Colorado's no-fault law. The PIP examination program establishes:

- A PIP review panel and establishes a method to choose a health care practitioner from the panel.
- Limited immunity for health care practitioners that perform PIP examinations.
- How conflicting medical opinions will be treated in any arbitration or judicial proceeding.
- A PIP examination review panel advisory committee to assist the commissioner in the promulgation of the PIP examination program rule.
- That the commissioner is authorized to contract with anyone for the development of the rule and for administration of the PIP examination program.

Requires insurance companies to pay an annual fee, not to exceed \$400, to the division of insurance to fund the PIP examination program.

Requires that unused benefit coverage for rehabilitation treatment under a motor vehicle insurance policy apply to the treatment of neurologic injuries, also known as closed-head injuries and their sequelae, temporomandibular joint disorder, craniomandibular disorder, vestibular, auditory, and visual disorders, psychological disorders, and cognitive disorders, arising out of use of a motor vehicle.

Prohibits a health maintenance organization (HMO) or preferred provider organization (PPO) within a county with a population in excess of 100,000 from requiring an insured or injured person entitled to benefits ("insured") to travel over 30 miles from the person's home for treatment without the person's consent.

Requires a health care professional having a vested interest in an HMO or PPO to disclose such interest to the insured or injured person at the time of referral. Requires an insurer, upon receiving a claim, to provide the insured with a fact sheet specifying the individual's rights and duties to receive benefits. Specifies that medical equipment or devices furnished to an insured are property of the insured unless they were specifically rented, leased, or of a kind commonly found in a health, exercise, or athletic facility.

Directs the commissioner of insurance to promulgate rules requiring timely payment of PIP benefits. Requires an insurer to approve or deny care within 20 days of receipt of a request.

Appropriates \$100,000 to the division of insurance in the department of regulatory agencies for implementation of this act.

Provides that the PIP examination program takes effect January 1, 1997.

**APPROVED** by Governor May 2, 1996

**PORTIONS EFFECTIVE** August 1, 1996, January 1, 1997

**S.B. 96-100** Nonprofit hospital, medical-surgical, and health service corporations - conversion to stock insurance company. Allows nonprofit hospital, medical-surgical, and health service corporations to elect to convert to a stock insurance company under a complying plan. Details procedures and requirements for such a conversion.

Provides for the transfer of the fair market value of the nonprofit hospital, medical-surgical, and health service corporation to a qualifying entity. Defines qualifying entity as an independent tax-exempt charitable or social welfare organization.

**APPROVED** by Governor June 6, 1996

**EFFECTIVE** June 6, 1996

**S.B. 96-107** Health care coverage - independent medical examinations. Requires all independent

medical examinations performed by a doctor to be performed in accordance with generally accepted professional standards of practice or care. Prohibits a doctor from having a financial interest in the future care of a patient undergoing an independent medical examination. Prohibits an insurer, employer, employee, or patient from attempting to dictate to a doctor performing an independent medical examination the type or duration of treatment or the results of the examination.

**APPROVED** by Governor April 24, 1996

**EFFECTIVE** April 24, 1996

**S.B. 96-184** Health insurance - business group of one - definition. Includes nonprofit corporations and household employees within the definition of "business group of one" for health insurance coverage purposes.

Applies to all policies, contracts, plans, and certificates subject to the health care coverage statutes that are delivered, issued for delivery, renewed, extended, or modified on or after January 1, 1997.

**APPROVED** by Governor April 17, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1076** Domestic stock insurance company - continuation of disclosure requirement for directors and owners - continued regulation of proxies. Continues the requirement that a director or owner of a domestic stock insurance company, or the beneficial owner of more than 10% of any class of equity security of a domestic stock insurance company, file a statement with the commissioner of insurance declaring the amount of ownership of all classes of equity securities of that company.

Continues the regulation of proxies, consents, or authorizations by domestic stock insurers that have 100 or more stockholders by making certain solicitation practices unlawful.

**APPROVED** by Governor March 25, 1996

**EFFECTIVE** March 25, 1996

**H.B. 96-1082** Health care coverage - women's reproductive system health care - access to obstetrician or gynecologist. Prohibits the issuance or renewal of a managed care plan that provides coverage for reproductive health or gynecological care unless the plan either provides a woman direct access to an obstetrician or gynecologist participating and available under the plan or establishes procedures to ensure that, upon a woman's timely request for a referral to such a physician, the request is not unreasonably withheld. Requires the promulgation of rules by the commissioner of insurance. Identifies what the rules shall address.

Applies to health coverage plans issued or renewed on or after January 31, 1997.

**APPROVED** by Governor May 22, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1096** Interinsurance exchanges - powers - holding title to real estate. Allows a reciprocal or interinsurance exchange to purchase, sell, and otherwise affect the title to real estate in its own name, acting through a designated representative. Requires the exchange to file with the clerk and recorder of the county in which real estate is situated a statement of authority containing the name and address of the exchange and the name of the person or entity authorized to act on its behalf. Allows, but does not require, the filing of such information with regard to past transactions.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** April 8, 1996

**H.B. 96-1101** Insurance providers - securities deposits. Clarifies that securities deposited by an insurance company with a clearing corporation or held in the federal reserve book-entry system are exempt from the physical deposit requirements for securities that are not so deposited or held. Authorizes the commissioner of insurance to approve the sale of such deposited securities if they are replaced by other securities. Allows the insurance company depositing securities to collect the interest and dividends if it remains solvent. Authorizes any court of competent jurisdiction to dispose of deposited securities for any insurance company adjudged insolvent. Allows the commissioner of insurance to designate which financial institutions may receive deposits of securities.

Specifies that nonprofit hospital, medical-surgical, and health service corporations and prepaid dental care plans are subject to the same deposit-of-securities options as other insurers.

**APPROVED** by Governor March 20, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1112** Automobile insurance - notification of cancellation and nonrenewal - quarterly premium payment plan. As an alternative to notice of cancellation for nonpayment of premium, allows the insurer the option to provide a notice warning of cancellation if payment of premium is not made in a timely manner. Requires such alternative notice to be given at least 10 days but not more than 30 days before the premium is due.

Increases the time within which an insurer must provide an insured with notice of cancellation or notice of its intention not to renew a policy from 20 to 30 days.

Eliminates the requirement that an insurer provide a quarterly premium payment plan if it provides a more frequent than quarterly payment plan.

**APPROVED** by Governor April 17, 1996

**EFFECTIVE** April 17, 1996

**H.B. 96-1149** Fraud prevention - reporting requirements - anti-fraud plan - disciplinary action by

appropriate licensing boards. Obligates an insurance company to notify the appropriate licensing board when it obtains a judgment or settlement involving a fraudulent insurance act against a person licensed by the state who is compensated in any way by insurance claim proceeds. Allows a person to report to the appropriate licensing agency the receipt of a judgment or settlement in a lawsuit that involves a fraudulent insurance act. States that no cause of action may arise against an insurance company or person as a result of such reporting.

Allows anyone who suspects a fire was started by arson to disclose any relevant information to anyone investigating, prosecuting, or preventing fraudulent insurance claims. Makes disclosure confidential, exempt from the open records law, not discoverable, and inadmissible in civil litigation. Establishes immunity from any cause of action for anyone making such a disclosure.

Requires every insurance company, except reinsurance companies, to have in place by January 1, 1997, an anti-fraud plan to prevent, detect, investigate, and report insurance fraud. Exempts the anti-fraud plan from the open records law and the rules of civil procedure and makes it inadmissible in any civil litigation. Requires a warning against the commission of insurance fraud to be placed on all forms provided and required by an insurance company.

Establishes that any person who provides health care services, the cost of which is to be covered by insurance, may be subject to disciplinary action by the appropriate licensing board if the provision of those services violates established standards of care.

**APPROVED** by Governor April 11, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1211** Basic and standard long-term care insurance - exemption from offering. Exempts group and individual annuities and life insurance policies or riders that provide or supplement long-term care insurance through acceleration of benefits from the requirement that carriers offer basic and standard long-term care plans.

**APPROVED** by Governor March 25, 1996

**EFFECTIVE** March 25, 1996

**H.B. 96-1216** Health care coverage - managed care plan - contracts between insurance carriers and health care providers - required contract provisions. Defines "covered person", "health coverage plan", "intermediary", and "managed care plan".

Requires that a contract between an insurance carrier and a health care provider concerning delivery of health care services covered by a managed care plan contain provisions stating the following:

- That a carrier and a provider cannot be prohibited from disagreeing with a medical decision, medical policy, or medical practice of the other;

- That a carrier is prohibited from terminating a contract with a provider because the provider disagrees with a carrier's decision to deny or limit an insured's benefits or because the provider assists the insured to protest such decision;
- That a carrier is prohibited from terminating a contract with a provider because the provider discusses with a current, former, or prospective patient, such patient's medical condition and proposed treatment whether or not such treatment is covered by the plan, policy provisions of the plan, or a provider's personal recommendation regarding selection of a plan.

Allows language in a contract that prohibits the provider from making or circulating, directly or indirectly, any oral or written statement that is false or maliciously critical of the carrier and calculated to injure the carrier. Permits a contract provision authorizing termination of the contract without cause to both the carrier and the provider.

Requires contracts between a carrier and an intermediary to contain a provision that the underlying contract authorizing the intermediary to negotiate and execute contracts with a carrier, on behalf of a provider, must comply with these provisions.

Prohibits the commissioner of insurance from arbitrating or mediating disputes between a carrier, its intermediaries, or a provider network arising out of a provider contract. Mandates the commissioner of insurance to promulgate rules to implement these provisions.

Requires all such contracts issued, renewed, amended, or extended, after January 1, 1997, to comply with these requirements.

**APPROVED** by Governor April 25, 1996  
**EFFECTIVE** July 1, 1996

**H.B. 96-1229** Property and casualty insurance - claims-made policies - extended reporting period coverage - changes to aggregate limit. Allows an insurer to offer an insured with an expiring claims-made insurance policy the option to purchase extended reporting period coverage that is different from the aggregate limit of the original policy coverage.

**APPROVED** April 25, 1996  
**EFFECTIVE** July 1, 1996

**H.B. 96-1232** Health benefit plans - mandatory renewal. Requires insurers, nonprofit hospitals, medical-surgical, and health services corporations, and health maintenance organizations to renew individual health benefit plans unless:

- Premiums have not been paid;
- The insured commits fraud or misrepresentation;
- The insured fails to comply with plan provisions;
- The insurer chooses not to renew all persons in the state covered by the same plan;
- The insured attains the age of eligibility for Medicare;
- The commissioner of insurance finds that the continuation of the coverage would not be in the best interest of policyholders or would impair the insurer's ability to meet its contractual obligations; or
- The commissioner of insurance finds that the product form is obsolete and is being replaced with comparable coverage.

If the insurer nonrenews all persons in the state covered by the same plan, state that the insurer cannot accept any individual health insurance business in Colorado for 5 years. Makes any failure to comply with these provisions an unfair trade practice under existing statutes.

**APPROVED** by Governor April 23, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1241** Health insurance - mandatory coverage provisions for newborns. Eliminates the requirement under the current newborn mandate that parents have family coverage before the child is born in order for the child to be covered.

**APPROVED** by Governor March 25, 1996

**EFFECTIVE** See Note

**NOTE:** This act was passed without a safety clause. It will take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly unless a referendum petition is filed pursuant to section 1 (3) of the state constitution. In that event, the act will take effect on the date of the official proclamation of the governor, if it is approved by the voters at the 1996 election.

**H.B. 96-1261** Insurance premiums - tax. Modifies the basic insurance premium tax rate for insurers that do not maintain a home office or regional home office in Colorado by reducing the current 2.25% rate to 2.20% for 1996, 2.15% for 1997, 2.10% for 1998, 2.05% for 1999, and 2.00% for 2000 and thereafter. Applies to all premiums collected or contracted for on or after January 1, 1996.

**APPROVED** by Governor April 24, 1996

**EFFECTIVE** April 24, 1996

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## **LABOR AND INDUSTRY**

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**S.B. 96-72** Unemployment compensation - conformance with federal law - continuance of employment support fund - increase in allowable base-period wages - exemption from tax surcharge - decrease in penalty for failure to file tax report. Excludes from the definition of "employment" those aliens who are in the United States for 15 months or less and who are participating in an international cultural exchange program.

Requires new applicants for unemployment benefits to be advised that their benefits are subject to federal and state income tax and that they may elect to have each withheld.

Increases from \$500 to \$1000 the amount of base-period wages an employee may earn that is not subject to adjudication and clarifies that any benefits paid to the employee will be charged against the fund instead of the experience rating account of the employer. Provides that unemployment benefits received due to unemployment directly caused by a disaster declared by the president of the United States will not be charged against the experience rating account of an employer but against the unemployment compensation fund.

Allows companies that have unemployment compensation benefit charges of less than \$100 for 3 fiscal years preceding the computation date to be exempted from the tax surcharge.

Changes the sunset date of the employment support fund from 1997 to 2002. Allows new employers to pay a \$10 instead of \$50 penalty for failure to file a tax report with the division of

employment and training in the department of labor and employment during the first 4 quarters of unemployment coverage.

**APPROVED** by Governor April 17, 1996

**PORTIONS EFFECTIVE** April 17, 1996, January 1, 1997

**S.B. 96-169** Unemployment compensation - employer's unemployment surcharge tax allocation. For the calendar year beginning January 1, 1996, and ending December 31, 1996, decreases the amount of the employer's surcharge tax allocated to the unemployment compensation fund from 80% to 70% and increases the amount allocated to the employment support fund from 20% to 30%.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**S.B. 96-230** Minimum wage - prohibition of local minimum wage enactments. Specifies that minimum wage laws are a matter of statewide concern and prohibits local governments from enacting any jurisdiction-wide minimum wage laws other than minimum and prevailing wages to be paid by the local government to its own employees and to contractors and subcontractors of the local government.

**VETOED** by Governor June 5, 1996

**H.B. 96-1024** Regulation of explosives - reduction in permit fees. Reduces the application and renewal fees for explosives permits charged by the division of labor in the department of labor and employment from \$50 to \$25.

**APPROVED** by Governor March 13, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1026** Petroleum storage tanks - surcharge - petroleum storage tank fund - claims - financial responsibility - appropriation. States that no environmental response surcharge shall be imposed if revenues in the petroleum storage tank fund ("fund") are greater than \$30,000,000. Allows the surcharge to be adjusted if lesser amounts are in the fund, and states that, effective July 1, 2001, no surcharge shall be imposed if revenues in the fund exceed \$8,000,000.

States that interest shall not begin to accrue on claims that are not reimbursed in a timely manner because of insufficient funds until 31 days after sufficient funds are available. Waives the \$10,000 deductible for any eligible tank owner who discovers contamination when making required corrosion protection, overfill prevention, and monthly monitoring upgrades. Limits the liability of the fund to \$2,000,000 during a state fiscal year for multiple occurrences involving tanks that are the responsibility of one owner, not to exceed \$1,000,000 per occurrence.

Eliminates the requirement that owners and operators submit corrective action plans to the state inspector of oils. Prohibits certain owners and operators from using moneys in the fund to

demonstrate their compliance with federal financial responsibility requirements. Makes moneys in the fund available to owners and operators who never operated an orphan aboveground storage tank or knew of a release from such tank. Makes corrective action provisions applicable to aboveground storage tanks.

Appropriates \$6,560,000 from the petroleum storage tank fund to the department of labor and employment for petroleum storage tank site cleanup.

**APPROVED** by Governor May 15, 1996

**EFFECTIVE** May 15, 1996

**H.B. 96-1040** Workers' compensation - medical impairment ratings - assignment of. Authorizes primary care physicians who are not level II accredited to make determinations of no permanent medical impairment. States that insurers and self-insured employers shall not be liable for the cost of any impairment evaluation that there is a permanent medical impairment, when such evaluation is made by a physician who is not level II accredited.

Sets forth the following procedures when maximum medical improvement (MMI) determinations are made by primary care physicians who are not level II accredited:

- The physician must make a determination concerning permanent impairment within 20 days after the MMI determination.
  
- If the employee is not a state resident upon reaching MMI:

If permanent impairment has been sustained, requires the physician to conduct tests required by American Medical Association permanent impairment evaluation guides to make an MMI rating and transmit relevant medical information and test results to the insurer or self-insured employer.

If the employee chooses not to have the physician perform the tests or if the information is not transmitted in a timely manner, requires the self-insured employer or insurer to pay for the employee to return to Colorado for examination and rating.

Prohibits permanent disability benefits from being awarded if the employee refuses to return to Colorado for examination.

Requires the self-insured employer or insurer to appoint a level II physician within 20 days after receipt of the medical information to determine the employee's medical impairment rating. If the employee was treated in Colorado by a level II accredited physician for the same injury, requires that physician to be requested to determine the medical impairment rating.

- If the employee is a state resident upon reaching MMI:
- Requires the physician to refer the employee to a level II physician for an impairment rating if the employee has sustained any permanent impairment.
- Requires the insurer or self-employed employer to refer the employee to a level II accredited physician within 40 days after the determination of MMI.
- If any party disputes an impairment rating, requires the parties to the dispute to select an independent medical examiner to review the rating. Requires the division of workers' compensation to make the selection if they are unable to agree. Provides that the review shall stand in the absence of clear and convincing evidence.
- States that an insurer or self-insured employer shall select a level II accredited physician as the treating physician upon the request of an employee who has not reached MMI.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** April 8, 1996

**H.B. 96-1043 Unemployment compensation - calculation of benefits.** For unemployment compensation purposes, defines "severance allowance" as any remuneration paid as compensation for weeks not worked after separation, other than vacation pay, wages in lieu of notice, or separation bonuses. Deems such remuneration to be a severance allowance if it is specified in a dollar amount or as a number of weeks whether or not:

- It is included in a separation agreement that includes other settlement considerations; or
- The employer has or follows a severance pay policy.

Authorizes an employer, at its option, to designate remuneration as a separation bonus. States that a "separation bonus" is not a "severance allowance" thereby resulting in the postponement of

unemployment compensation benefits rather than a reduction of such benefits.

Provides that the status of a severance allowance paid to a member of a bargaining unit shall be determined by the terms of the bargaining unit contract, if specifically provided in such contract, or the official records of the parties leading to the collective bargaining agreement.

**APPROVED** by Governor March 13, 1996

**EFFECTIVE** March 13, 1996

**H.B. 96-1057 Workers' compensation - creation of classification appeals board.** Creates the workers' compensation classification appeals board in the division of insurance in the department of regulatory agencies, for the purpose of hearing grievances by employers against insurers and the Colorado compensation insurance authority (CCIA) concerning the calculation of experience modification factors and classification assignment decisions. Allows employers to appeal by filing notice with the board within 30 days after it has exhausted all appeal procedures of the insurer. Requires insurers to provide employers with a copy of their appeal procedures at designated times. Requires the board to notify the appellant, insurer, and the workers' compensation rating organization within 30 days after receiving notice of an appeal and at least 10 days before the hearing.

States that the board shall consist of 5 voting members and 1 nonvoting member as follows:

- 2 members must be employees of an insurance company that issues workers' compensation insurance or representatives of the CCIA;
- 3 members must represent private employers; and
- One member must be an employee of a workers' compensation rating organization and shall be a nonvoting member.

Includes appointment and conflict of interest provisions. States that members shall serve 3-year staggered terms. Makes members immune from liability in tort claims.

States that board decisions are final; except that the employer, insurer, or CCIA may provide notice to the commissioner of insurance who shall determine if a job misclassification occurred. Allows disputed premium amounts to be held in abeyance until a final decision is made by the board or the commissioner issues a decision, whichever occurs later. If the employer loses its appeal, provides that it shall pay the disputed premium amount plus interest at the rate of 1% of the disputed premium amount per month.

States that provisions creating the board shall be repealed, effective July 1, 2001.

**APPROVED** by Governor May 31, 1996

**EFFECTIVE** October, 1. 1996

**H.B. 96-1126** Workers' compensation - medical benefits - repeal of medical care accreditation commission - continuation of accreditation function. Repeals the workers' compensation medical care accreditation commission. Continues the accreditation function of the director of the division of workers' compensation in the department of labor and employment until July 1, 2003, pursuant to the

sunset law.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1186** Workers' compensation - corporate officers and others - procedures - effect. Provides that corporate officers and members of limited liability companies are eligible to elect not to be covered by workers' compensation insurance if they control, supervise, or manage the corporation or company and meet the current statutory 10% ownership requirement. Requires such corporate officers or members of limited liability companies to send notice by certified mail of their election not to be covered to the corporation or company's workers' compensation insurance carrier, if any, and, if none, to the division of workers' compensation in the department of labor and employment. Directs the director to promulgate a rule approving the form of the notice. Provides that the election is effective on the day following the receipt of the notice by the insurance company or division.

States that working general partners, sole proprietors, corporate officers, or members of limited liability companies who choose not to be covered by workers' compensation insurance are not the statutory employee of a person, company, or corporation that contracts out all or part of its work. Clarifies that such persons have no claim under the "Workers' Compensation Act of Colorado".

**APPROVED** by Governor May 1, 1996

**EFFECTIVE** May 1, 1996

**H.B. 96-1209** Labor Peace Act - definition of farm labor. Defines "farm" for the purpose of identifying persons who are farm labor under the "Labor Peace Act".

**APPROVED** by Governor April 12, 1996

**EFFECTIVE** April 12, 1996

**H.B. 96-1226** Workers' compensation - termination of benefits - finding of maximum medical improvement - right to request independent exam. Allows an injured worker or other interested party to request an independent medical examination if either party disputes a finding by the worker's authorized treating physician that the worker has or has not reached maximum medical

improvement (MMI). (Current law allows such a request only upon a finding that the worker has reached MMI.)

In cases where an authorized treating physician has not determined that the worker has reached MMI, allows the employer or insurer to request an independent examination only if at least 18 months have passed since the injury, the authorized treating physician has been asked in writing to make a finding of MMI, and a physician other than the authorized treating physician has determined that the worker has reached MMI.

Applies to determinations of MMI made on or after July 1, 1996.

**APPROVED** by Governor April 23, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1230** Workers' compensation - benefits - temporary disability - criteria for termination - notice. Where a worker is employed by a temporary help contracting firm, allows termination of temporary total disability (TTD) and temporary partial disability (TPD) benefits under the workers' compensation statutes upon the refusal of the injured worker to accept modified employment without requiring the offer of modified employment to be in writing, if:

- A written offer of modified employment has previously been given, and such offer includes a statement of the employer's policy regarding subsequent, oral offers as well as notice that future offers need not be in writing and that benefits will be terminated if the employee fails to respond to an offer of modified employment;
- The subsequent, oral offer of modified employment is within the restrictions given to the worker by his or her attending physician; and
- The worker is allowed a period of at least 24 hours, not including any part of a Saturday, Sunday, or legal holiday, within which to respond to the offer.

Adds provisions to make the criteria for termination of TPD benefits consistent with the criteria for termination of TTD benefits. Applies to claims for injuries occurring on or after July 1, 1996.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1235** Workers' compensation - failure to timely admit or deny liability - limit on civil penalties. Limits the amount of civil penalties that may be imposed on an employer or insurer for

failure to timely admit or deny liability on a workers' compensation claim to a maximum of 365 days' compensation. Specifies that no penalty for failure to timely admit or deny liability may be assessed if filed more than 7 years after the alleged violation.

Requires the division of workers' compensation in the department of labor and employment to retain original claim records for at least 7 years after closure of any case. Limits use of records after a case has been closed for more than 7 years to reopening a settlement on grounds of fraud or mutual mistake of material fact.

Applies to all requests for penalties under the "Workers' Compensation Act of Colorado" filed on or after July 1, 1996.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** July 1, 1996

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## **MILITARY AND VETERANS**

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**H.B. 96-1025** State military forces - complaints of wrongs - filing procedure. Creates a procedure for state military members to petition for a redress by filing a complaint of wrongs against a commanding officer in the member's chain of command. Requires that such petitions be delivered through the member's chain of command. Specifies the procedures to appeal a decision on such petition. Specifies that such procedures apply through each step of the member's chain of command up to the adjutant general. Allows a member to submit a complaint of wrongs directly to the governor if the member is dissatisfied with the redress afforded by an appeal. Allows the governor to refer such complaints to the national guard inspector general for an independent investigation and report. Requires the governor to deliver to the member all portions of the report that may be released under federal law. Prohibits any form of retaliation against a complainant who utilizes this procedure.

**APPROVED** by Governor March 20, 1996

**EFFECTIVE** See Note

**NOTE:** This act was passed without a safety clause. It will take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly unless a referendum petition is filed pursuant to section 1 (3) of the state constitution. In that event, the act will take effect on the date of the official proclamation of the governor, if it is approved by the voters at the 1996 election.

**H.B. 96-1072** Department of military affairs - authority and direction to sell real property.

Authorizes and directs the adjutant general of the department of military affairs to sell specified state land located in Jefferson county to the county for open space, parks, or recreation purposes. Allows the county to lease the property while the sale is pending. Grants the department of military affairs a limited right to use the property for common task training for a period not to exceed 2 years.

**APPROVED** by Governor April 17, 1996

**EFFECTIVE** April 17, 1996

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**MOTOR VEHICLES AND TRAFFIC REGULATION**

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**S.B. 96-28** Street rod vehicles - number of license plates - use of blue dot tail lamps - automobile emissions program. Directs the department of revenue to furnish one license plate, rather than 2 license plates, to the owner of any street rod vehicle. Eliminates the requirement that a street rod vehicle have a front license plate attached.

Authorizes the use of red lamps containing a blue or purple insert in street rod vehicles and custom vehicles. Authorizes the use of such blue dot tail lamps for stop lamps, rear turning indicator lamps, rear hazard lamps, and rear reflectors.

Exempts street rod vehicles from the automobile emissions program.

**APPROVED** by Governor April 22, 1996

**PORTIONS EFFECTIVE** April 22, 1996, July 1, 1996

**S.B. 96-29** Traffic infractions - penalties - operation of certain vehicles by minors - driver's license violations - high occupancy vehicle lanes. Reclassifies the following violations as class A traffic infractions:

- Operation of a motor vehicle used to transport explosives or inflammable material or a school bus by a person under 18 years of age;
- Operation of a motor vehicle used as a commercial, private, or common carrier or person

or property by a person under 18 years of age unless such person has necessary driving experience and has been examined regarding such person's qualifications;

- Operation of a commercial vehicle by a person under 21 years of age except as authorized by statute;
- Violations regarding driving instruction permits and temporary drivers' licenses; and
- Violations regarding restricted drivers' licenses.

Provides that the same number of points are assessed against a driver's license for the offense of driving on the wrong side of a divided or controlled-access highway as are currently assessed for driving on the wrong side of the road.

Increases the fine for failure to observe high occupancy vehicle lane restrictions from \$35 for any offense to \$50 for a first or second offense committed within a 12-month period and \$100 for a third or subsequent offense committed within a 12-month period. Reduces the number of points assessed against a driver's license for such offense from 4 points to zero points.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** July 1, 1996

**S.B. 96-57** Distributive data processing system - management - advisory committee. Clarifies that the department of revenue coordinates management of the distributive data processing system. Provides that the distributive data processing advisory committee consist of county clerk and recorders or, for the city and county of Denver, the manager of revenue.

Adds to the duties of the distributive data processing advisory committee by requiring it: (a) To assist in the development of annual operational plans and budget proposals regarding the distributive data processing system and the special purpose account in the highway users tax fund for the system; and (b) To give final approval of such plans and budgets. Also requires the advisory committee to make presentations along with the department of revenue to the appropriate legislative committees regarding use of funds in the special purpose account.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** April 8, 1996

**S.B. 96-68** Safety of emergency personnel - criminal obstruction of emergency personnel - lights and signals on emergency vehicles. Expands the criminal obstruction statute to include

obstructing an emergency medical service provider, rescue specialist, or volunteer.

Standardizes the colors of emergency lights for ambulances and private vehicles of fire department volunteers and ambulance service volunteers. Provides that authorized service vehicles shall only use the color yellow for warning lamps. Allows authorized emergency vehicles to be exempt from traffic laws when using either audible or visual signals rather than both types of signals. Directs that a motorist must yield the right-of-way to emergency vehicles that are using either audible or visual signals.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** July 1, 1996

**S.B. 96-84** Department of revenue - ports of entry division - enforcement of violations. Deletes the requirement for at least 10 permanent and 4 mobile ports of entry weigh stations to be authorized by the executive director of the department of revenue.

Makes violations of certain laws related to ports of entry class 2 misdemeanor traffic offenses and specifies the fines for such violations to be \$50 and the surcharge thereon to be \$6.

Specifies that all such fines for violations cited by the state shall be credited to the state highway fund. Specifies that 50% of all fines for violations cited by local law enforcement authorities shall be retained by the local government and 50% credited to the state highway fund.

**APPROVED** by Governor April 17, 1996

**EFFECTIVE** April 17, 1996

**S.B. 96-97** Transport of materials by motor vehicle - use of surge brakes - weight limitations - vehicles operated by electric utilities - alternative fuel vehicles. Authorizes the department of public safety to promulgate rules relating to the use of surge brakes.

Increases the gross weight limit allowed on a single axle of a vehicle equipped with pneumatic tires from 20,000 pounds to 21,000 pounds if the vehicle is a digger derrick or bucket boom truck operated by a public utility and the vehicle is operated on a highway that is not on the interstate system. Increases the gross vehicle weight allowed for any vehicle or combination of vehicles by 1,000 pounds if the vehicle or combination has an alternative fuel system and the vehicle or combination operates on alternative fuel or both alternative and conventional fuels.

**APPROVED** by Governor May 1, 1996

**EFFECTIVE** January 1, 1997

**S.B. 96-142** Nonoperable motor vehicle transfer. Defines "auto parts recycler", "nonoperable motor vehicle", "scrap", and "scrap metal recycler".

Establishes separate provisions for the transfer of ownership of a nonoperable motor vehicle to an auto parts recycler or scrap metal recycler and no longer requires the motor vehicle recycler to

apply for a new certificate of title for the vehicle. Allows for the transfer of ownership of the vehicle without a certificate of title through the use of a transfer document. Requires the transfer document to verify certain information including the fact the vehicle has not been reported stolen. Establishes an inspection procedure to verify that the vehicle has not been reported stolen and that there are no liens on the motor vehicle.

Allows a property owner or lessee to have a nonoperable motor vehicle that has been abandoned for a specified period removed by an auto parts or scrap metal recycler rather than a private tow company.

**VETOED** by Governor June 6, 1996

**S.B. 96-203** Emissions testing - nonresident motor vehicles - residents working or attending school in a program area. Clarifies that a motor vehicle owned by a nonresident residing in either the basic or enhanced emission program areas must undergo an emissions test if that vehicle is operated in a program area for at least 90 days. Requires a motor vehicle owned by a resident who works or attends school in a program area to be inspected if that vehicle is operated in a program area for at least 90 days in any 12-month period. Clarifies that motor vehicles that operate in the enhanced emissions program area and are required to be inspected in that area are not required to obtain an inspection for the basic emissions program area.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1055** Travel restrictions on state highways - use of snow tires and tire chains - fines for violations. Requires that any snow tire used on a motor vehicle operated on a portion of a state highway that is subject to travel restrictions imposed by the department of transportation have a manufacturer's "mud and snow" or all weather rating. Requires the operator of a commercial motor vehicle, other than a bus, that has 4 or more drive wheels and that is operated under such travel restrictions to affix tire chains to at least 4 of the drive wheel tires of such vehicle. Requires the operator of a bus that is operated under such travel restrictions to affix tire chains to at least 2 of the drive wheel tires of such bus. Authorizes the transportation commission to promulgate rules to implement the statutory provisions governing highway travel restrictions.

Increases the fine for violation of travel restrictions imposed by the department of transportation from \$35 to \$100. Establishes an enhanced fine of \$500 if the operator of a motor vehicle violates such restrictions and the violation results in an incident that causes the closure of all highway lanes in one or both directions.

**APPROVED** by Governor April 11, 1996

**EFFECTIVE** April 11, 1996

**H.B. 96-1069** Speed limits - maximum lawful speed - prima facie speed limits - examination of speed limits on existing highways. Increases the maximum speed limit that the department of transportation may establish as a reasonable and safe speed limit for a highway from 65 miles per

hour on certain interstate highways and 55 miles per hour on other highways to 75 miles per hour on any highway. Increases the maximum speed limit that a county or municipality may establish as a reasonable and safe speed limit for a highway from 55 miles per hour to 75 miles per hour. Changes the prima facie speed limit for surfaced, 4-lane freeways and expressways that are not on the interstate system from 55 miles per hour to 65 miles per hour. Eliminates the requirement that the transportation commission approve a speed limit of 65 miles per hour for a highway.

Requires the department of transportation to conduct an examination of the speed limits for all existing highways. Requires the department to complete such examination and implement any speed limit changes within one year after May 25, 1996.

Modifies the penalty classifications, the penalty assessment schedule, and the point system schedule for speeding violations to conform with the change in the maximum lawful speed in the state.

**APPROVED** by Governor April 25, 1996

**EFFECTIVE** May 25, 1996

**H.B. 96-1116** Identification cards - expiration date - fee for renewal of cards. Provides that any identification card issued by the department of revenue to an individual who is 21 years of age or older expires on the birthday of the individual in the fifth year after issuance of the card, rather than not having any expiration date. Provides that any existing identification card issued to an individual continues without expiration unless the name or social security number of the individual changes, but allows any individual who has been issued an existing identification card to voluntarily surrender such card and, upon payment of the required fee, to obtain a new identification card with an expiration date. Authorizes the department of revenue to purge the records of identification cards 7 years after issuance of the cards beginning on October 1, 2003. Provides that the fee for renewal of an identification card is the same as the fee charged for initial issuance of a card.

**APPROVED** by Governor April 16, 1996

**EFFECTIVE** April 16, 1996

**H.B. 96-1129** Mobile machinery and construction equipment - valuation - appropriation. For purposes of valuing Class F personal property acquired on or after January 1, 1997, utilizes 85% of the manufacturer's suggested retail price as the primary valuation standard. Provides that the secondary valuation standard shall be 100% of the original retail delivered price if the manufacturer's suggested retail price is not available. In the event neither the manufacturer's suggested retail price nor the original retail delivered price is available, directs the property tax administrator to establish the value based on 85% of the value set forth in a nationally recognized standard or reference for such figures or, if such a standard or reference is not available, on the best information available to the administrator.

Appropriates \$44,619 to the department of education, public school finance, total program, for implementation of this act.

**APPROVED** by Governor June 1, 1996  
**EFFECTIVE** June 1, 1996

**H.B. 96-1133** Drivers' licenses - drug or alcohol violations - commercial motor vehicles. If a person's privilege to drive a commercial motor vehicle has been revoked because the person drove a commercial motor vehicle while the person had a blood alcohol content above the legal limit for commercial drivers, but such level was less than the level requiring revocation of other drivers' licenses, allows such person to apply for a driver's license, instead of a probationary license, of another class or type. Prohibits such person from operating any commercial motor vehicle during the period of revocation. Prohibits the department of revenue from issuing such person a probationary license that would authorize operation of any commercial motor vehicle.

Requires the department of revenue to cancel or deny issuance of a commercial driver's license for a period of 6 months if a person possesses or knowingly transports specified drugs while operating a commercial motor vehicle during on-duty time. Requires the department of revenue to cancel or deny issuance of a commercial driver's license for a period of one year if a person makes unlawful use of specified drugs while operating a commercial motor vehicle during on-duty time.

**APPROVED** by Governor April 8, 1996  
**EFFECTIVE** April 8, 1996

**H.B. 96-1136** Traffic violation data - acceptance of electronic transmissions of information - standards for electronic transmission - points assessed for speeding violations. Authorizes the department of revenue to accept electronic transmission of traffic information for direct recording in the department's records and systems. Provides that information transmitted by an electronic means approved by the department of revenue constitutes an official department record whether or not an original source document for such information exists or ever existed.

Directs the department of revenue, the judicial department, and the department of public safety to develop standards for electronic transmission of any traffic violation penalty assessment notice or summons and complaint. Directs such departments to consult with county sheriffs, municipal police departments, municipal courts, and the office of transportation safety in the department of transportation in the development of such standards. Prohibits any interpretation of the provisions regarding development of such standards that would require any municipality, county, or other government entity to transmit traffic data electronically.

Reduces the points assessed against a driver's license for a speeding violation involving driving 1 to 4 miles per hour over the reasonable and prudent speed or over the maximum lawful speed from 1 point to zero points.

Deletes Denver, Colorado, from the provisions of the statutes that refer to the address of division of motor vehicles.

**APPROVED** by Governor May 1, 1996

**EFFECTIVE** May 1, 1996

**H.B. 96-1138** Promotion of organ and tissue donation - creation of organ and tissue donation awareness fund - voluntary contributions at time of driver license application - appropriation.

Declares the importance of organ and tissue donation in modern medical practice. Creates the organ and tissue donation awareness fund in the state treasury.

Allows applicants for drivers' licenses to make voluntary \$1 donations to such fund at the time of license issuance or renewal at offices of the division of motor vehicles in the department of revenue. Provides that the division of motor vehicles and its employees shall not be covered by the "Colorado Charitable Solicitations Act" in performing such function.

Specifies that donations be distributed to the Transplant Council of the Rockies (TCOR). Requires TCOR to create an advisory body consisting of representatives of qualified transplant organizations including those for organs, tissue, bone marrow, and blood. Specifies that such advisory body utilize donated moneys to promote organ and tissue donation through the creation and dissemination, by means of electronic media and otherwise, of educational information to increase awareness in the medical professions and related fields.

Directs the division to make available informational booklets or other informational sources on the importance of organ and tissue donations as approved by the advisory body. Requires reports to be filed with the department of revenue on the use of donated moneys. Specifies that no moneys may be used to encourage fetal tissue donation.

Repeals these provisions on July 1, 1999.

Appropriates \$10,800 from the organ and tissue donation awareness fund to the department of revenue and \$141,750 from such fund to the department of the treasury for allocation to TCOR for implementation of the act.

**APPROVED** by Governor May 31, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1140** Drivers' licenses - driver examinations - probationary licenses - appropriation.

Repeals the statutory provision providing that an applicant for renewal of a driver's license who has incurred not more than 2 moving violations totalling not more than 7 points during the period of the license need not be reexamined except for eyesight tests and other examinations of the applicant's physical limitations.

Prohibits the department of revenue from issuing a probationary driver's license to an individual unless, at the time of license restraint, such individual has a valid driver's privilege and has no outstanding judgments or warrants for motor vehicle or traffic violations. Prohibits the department of revenue from renewing a probationary license if the individual has any such outstanding judgments or warrants.

Limits issuance of any probationary license to a term not to exceed one year.

Decreases the appropriation in the general appropriation act to the department of revenue by \$12,926 and 0.6 FTE.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1143** Proof of financial responsibility - accident reports -appropriation. Specifies that the 3-year requirement for maintenance of proof of financial responsibility runs from the date of conviction. Allows the executive director of the department of revenue to take action against a driver for being uninsured based upon an accident report unless proof of insurance is subsequently given. Allows a person to postpone the date on which a person's license would be suspended if that person files evidence of current liability insurance with the executive director.

Reduces from \$1000 to "any" property damage the extent of property damage which must be sustained before an insurance report is required. Specifies that a driver or owner shall only be required to report insurance information to the department if that information has not been reported to law enforcement officers at the scene of an accident.

Repeals the exemption from proof of financial responsibility for owners involved in accidents with no injuries or damage if that owner was legally parked at the time of the accident and was found by the executive director to be free from fault for the accident. Allows a driver who did not cause damage in the accident to file future proof of financial responsibility to prevent a suspension or to quickly reinstate the driving privilege. Requires the executive director to suspend the driving privileges of a person required to file and maintain proof of financial responsibility if such person fails to file and maintain the required proof. Specifies that, after June 1, 1996, the time period for the exception to the 3-year requirement for maintaining proof of financial responsibility by a driver whose driving privilege has been restrained under certain circumstances shall be for as long as such driver's privilege is under restraint but no longer than 3 years and that this change applies to persons currently required to maintain future proof of financial responsibility.

Changes the requirement that an insurance carrier give the executive director a 10-day notice before cancelling a motor vehicle liability policy to a requirement that such notice be given within 10 days after cancellation.

Decreases the general fund appropriation to motor vehicle division in the department of revenue by \$39,088 and 1.8 FTE.

**APPROVED** by Governor June 1, 1996

**PORTIONS EFFECTIVE** June 1, 1996, July 1, 1996

**H.B. 96-1154** License plates - Colorado national guard plates - issuance to retired members. Allows retired members of the Colorado national guard to obtain the special license plates issued

currently to active members of the Colorado national guard. Requires a person retiring from the Colorado national guard who wishes to retain the special Colorado national guard license plates issued to such person to submit verification of retired status to the department of revenue. Provides that, once a retired member of the Colorado national guard has provided verification of retired status, such person is not required to provide further verification when renewing such license plates.

**APPROVED** by Governor March 25, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1173** Alcohol- and drug-related traffic offenses - persons under 21 years of age - revocation or denial of drivers' licenses - traffic infraction. Requires the department of revenue to revoke the license of any provisional driver, in addition to any minor driver, upon the first conviction of such person for an alcohol- or drug-related driving violation.

Reduces the blood alcohol content at which the department of revenue is directed to revoke the driver's license of a person under the age of 21 years who is operating a motor vehicle from 0.10 to 0.02. Reduces the blood alcohol content at which the department of revenue is directed to revoke the driver's license of a person under the age of 21 years who is operating a commercial motor vehicle from 0.04 to 0.02. If a person is under 21 years of age at the time of driving a motor vehicle and has an alcohol level of at least 0.02 but less than 0.05, directs the department, upon request by such person, to issue a 6-month suspension in lieu of the 3-month revocation imposed for a first offense. Authorizes a person receiving such a 6-month suspension to apply for a probationary license.

Requires the department of revenue to cancel or deny a commercial driver's license to a person for life if such person commits two or more violations of driving a commercial motor vehicle while being under 21 years of age and having a blood alcohol content of 0.02 or more, rather than 0.04 or more.

Makes the act of driving a motor vehicle by a person under 21 years of age with a blood alcohol content of at least 0.02 but less than 0.05 a class A traffic infraction. Imposes a \$50 penalty assessment and \$6 surcharge for such traffic infraction. Assesses 4 points against the driver's license of any person convicted of such traffic infraction. Requires the immediate surrender of a person's driver's license or instruction permit upon conviction for such traffic offense. Prohibits a court from accepting a plea of guilty for such traffic infraction, in addition to the prohibition against pleas to non-alcohol- and non-drug-related traffic offenses, from a person originally charged with another alcohol- or drug-related traffic offense unless the prosecuting attorney could not establish a prima facie case on the original charge.

**VETOED** by Governor April 29, 1996

**H.B. 96-1189** License plates - military veterans. Consolidates into a single statutory section all provisions that concern the issuance of special license plates for military veterans who:

- Are in receipt of a purple heart;
- Are a survivor of the attack on Pearl Harbor;
- Are disabled veteran of the armed forces of the United States;
- Were a prisoner of war; or
- Were honorably discharged from the armed forces of the United States.

Authorizes the surviving spouse of a former prisoner of war to keep any set of special plates the former prisoner of war had obtained. Authorizes eligible persons to apply for additional military veteran special license plates upon the payment of required fees and taxes.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** January 1, 1997

**H.B. 96-1218** Truck registration fees - vehicles traveling less than 10,000 miles annually - qualification for fee schedule. Authorizes the registration of a truck or truck tractor under the fee schedule provided for vehicles operated less than 10,000 miles annually in the following instances:

- If a truck or truck tractor exceeding 16,000 pounds is replaced by another such vehicle, the mileage history of the vehicle being replaced may be used to qualify the new vehicle for registration under such fee schedule;
- If a truck or truck tractor exceeding 16,000 pounds is part of a business located in Colorado that is purchased and specified requirements regarding the business and the vehicle are met, the prior mileage history of the truck or truck tractor may be used to qualify the vehicle for registration under such fee schedule; and

- If a truck or truck tractor exceeding 16,000 pounds is purchased by a person owning one or more other such vehicles and other such vehicles owned by the purchaser all qualify for registration under the fee schedule for vehicles that are operated less than 10,000 miles annually, then the newly purchased truck or truck tractor may also be registered under such fee schedule.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** January 1, 1997

**H.B. 96-1220** Motor vehicle rental - authorizing blind persons to take financial responsibility.

Permits the rental of motor vehicles to blind persons but requires the blind person to be accompanied by at least one person with a valid driver's license whose name appears on the rental agreement. Requires the person renting the motor vehicle to the blind person to compare and verify the signature on the driver's license with the signature executed in his or her presence. Limits authorized drivers to persons whose signatures have been compared and verified. States that the blind renter and the driver have the same financial responsibility as other renters and drivers of rented motor vehicles.

**APPROVED** by Governor April 2, 1996

**EFFECTIVE** April 2, 1996

**H.B. 96-1377** Emissions testing - motor vehicle dealers - vouchers. Allows motor vehicle dealers and used motor vehicle dealers to comply with the requirement that a certificate of emissions control be obtained by the seller and transferred to the consumer at the time of vehicle sale or transfer by providing the consumer a voucher for an emissions inspection at an enhanced inspection center. If the vehicle fails the test, requires the dealer to repair the vehicle, repurchase the vehicle, or pay the owner to have the vehicle repaired.

Requires the department of revenue to prescribe the form of such voucher, which shall set forth the terms and conditions of the voucher.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**S.B. 96-15** Division of wildlife - peace officers - management review recommendations - appropriation. Includes peace officer, level II district wildlife managers within the definition of "peace officer" for peace officer standards and training (P.O.S.T.) purposes. Requires every district wildlife manager to comply with the P.O.S.T. certification requirements by July 1, 1998, except the testing requirement. Allows any manager who, as of July 1, 1998, has met all certification requirements except the completion of P.O.S.T. board-approved basic training to be certified.

Establishes January 1, 1998, as the deadline for the division of wildlife in the department of natural resources to implement the Deloitte Touche LLP management review recommendations.

Requires the director of the division to establish a schedule for the implementation of the management review recommendations and to report biannually to members of the senate and house agriculture committees concerning the implementation of or specific departure from the recommendations.

States that the director may reimburse division employees for the reasonable and necessary expenses they incur in relocating due to the implementation of the management review recommendations. Includes restrictions on such reimbursements.

Appropriates \$161,600 from the wildlife cash fund to the department of natural resources for allocation to the division of wildlife for implementation of the act.

**APPROVED** by Governor June 1, 1996  
**EFFECTIVE** June 1, 1996

**S.B. 96-37** Construction material mining regulation - technical corrections arising from the "Colorado Land Reclamation Act for the Extraction of Construction Materials". Clarifies that construction material mining operations are subject to the "Colorado Land Reclamation Act for the Extraction of Construction Materials" and not the "Colorado Mined Land Reclamation Act". Specifies that construction material mines operating under permits issued under the "Colorado Mined Land Reclamation Act" prior to July 1, 1995, shall continue to operate under such permits and that those permits shall be deemed to be permits issued under the "Colorado Land Reclamation Act for the Extraction of Construction Materials". Makes conforming changes to accomplish the complete statutory separation of provisions regulating construction materials mining from those regulating operations generally under the "Colorado Mined Land Reclamation Act".

**APPROVED** by Governor April 8, 1996  
**EFFECTIVE** April 8, 1996

**S.B. 96-38** Division of wildlife - property seizures - procedures. Prohibits the division of wildlife in the department of natural resources from undertaking the seizure of property unless they have complied with the procedures set forth in "Colorado Code of Criminal Procedure". If the division seizes personal property that is not part of a criminal proceeding and fails to return the property

upon demand, provides that it shall be charged \$100 per day per violation plus any attorney's fees incurred by the owner of the property.

**APPROVED** by Governor April 17, 1996

**EFFECTIVE** April 17, 1996

**S.B. 96-90** Weather modification - elimination of operator licensing - permit applications and fees - reports by operators - continuation of permit issuance under sunset law. Eliminates the licensing of weather modification operators.

Provides that renewal permits for ground-based winter clouding seeding operations have a duration of 5 years for the second permit and 10 years for the third or subsequent permit, instead of 5 years for every renewal permit.

Requires the qualifications, education, and experience of the weather modification operator to be provided in a weather modification permit application. Makes the following changes in the requirements for issuance of a weather modification permit:

- Eliminates the requirement that a commercial weather modification project be conceived to provide and offer promise of providing an economic benefit;
- Requires weather modification projects to be determined to be scientifically and technically feasible, rather than only commercial projects; and
- Eliminates the requirement that a scientific or research project be designed for and offer promise of expanding knowledge and technology of weather modification.

Changes the permit fee imposed for a commercial weather modification operation from 2% of the value of the contract for the project to an amount set by the executive director of the department of natural resources that is sufficient to cover the direct costs of application review, public hearings, and permit operation monitoring. Repeals the requirement that certain information be contained in reports filed by weather modification operators. Authorizes the executive director to promulgate rules requiring weather modification operators to file reports.

Extends the automatic termination date for the authority of the executive director to issue permits for weather modification operations to July 1, 2011, pursuant to the provisions of the sunset law.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1014** Division of wildlife - undesirable plant control - continuation of habitat partnership council - appropriation. Requires the division of wildlife in the department of natural resources to pay expenses incurred by a local governing body to control undesirable plants on lands under the jurisdiction of the division. Mandates that a state agency reach an agreement with a local governing body for the payment of a weed control expense within 2 weeks after the expense is submitted. If the division holds property pursuant to a long-term lease, requires the division to execute weed control agreements with local governing bodies by July 1, 1997, and specifies items to be included in such agreements.

Continues the authority of the director of the division to establish a habitat partnership council and habitat partnership committees and also continues the habitat partnership cash fund.

Appropriates \$19,456 to the department of natural resources for allocation to the division of wildlife for the control of undesirable plants.

**APPROVED** by Governor June 3, 1996

**EFFECTIVE** June 3, 1996

**H.B. 96-1020** Snowmobile registration - continuation. Continues the requirement that the division of parks and outdoor recreation in the department of natural resources register snowmobiles. Provides that the registration function by the division is no longer subject to the provisions of the sunset law.

**APPROVED** by Governor March 25, 1996

**EFFECTIVE** March 25, 1996

**H.B. 96-1027** Wild animals - management - damage claims - appropriation. Prohibits the division of wildlife in the department of natural resources from adopting rules that restrict the taking of raccoons and coyotes to a specific season. Makes the state potentially liable for livestock damage caused by coyotes, bobcats, and any other animal the taking of which is prohibited or restricted by the division of wildlife.

Eliminates a provision that made the state liable for damage to aftermath on alfalfa to the full extent of such damage. Makes it a lawful act to dispose of coyotes and raccoons when necessary, to dispose of certain wildlife to prevent damage to inhabited residential property, and to kill a raccoon without a permit.

Requires the division of wildlife, when reimbursing property owners for game damage to crops, to use the property owner's established yield and not an areawide average or historic yield, unless the property owner has no established yield.

Appropriates \$931,545 from the wildlife cash fund to the department of natural resources for allocation to the division of wildlife for game damage claims.

**VETOED** by Governor June 6, 1996

**H.B. 96-1045** Oil and gas operations - prohibition on local government inspection tax or fee.

Provides that no local government may charge an inspection fee or tax to conduct monitoring and inspections of oil and gas operations with regard to matters that are within the jurisdiction of the oil and gas conservation commission. Prohibits municipalities and counties from considering oil and gas wells and their related facilities as a business or occupation for the purpose of imposing an occupational privilege tax.

**APPROVED** by Governor April 17, 1996

**EFFECTIVE** April 17, 1996

**H.B. 96-1077** Vessel regulation - proof of ownership - searches and seizures - continuation under sunset law. Specifies that an officer must have probable cause to seize a vessel that does not appear to be in the legal possession of the owner. Changes postseizure hearing requirements on seized vessels to mirror the requirements for retaining seized property in drug cases. Requires an officer to have reasonable suspicion before stopping and boarding a vessel.

Extends the automatic termination date for the authority of the department of natural resources to regulate vessels through the division of parks and outdoor recreation in the department of natural resources until July 1, 2011, pursuant to the provisions of the sunset law.

**APPROVED** by Governor May 22, 1996

**EFFECTIVE** January 1, 1997

**H.B. 96-1086** Parks and outdoor recreation - fees - appropriation. Authorizes the board of parks and outdoor recreation in the department of natural resources to set all fees for the use of facilities at state parks except for certain specific types of passes.

Requires the amount of fees set by the board to be included in the board's annual budget request. Specifies that no change in any fee set by the board may take effect until the July 1 following passage of a separate act, other than the general appropriation act ("long bill"), containing an appropriation covering implementation of a budget based on collection of the fee at the changed level. Requires a separate act for increases to daily vehicle entrance fees, annual vehicle entrance fees, vessel registration fees, off-highway vehicle registration fees, snowmobile registration fees, or any other pass or permit over \$30.

Appropriates \$679,104 from the parks and outdoor recreation cash fund to the department of natural resources for allocation to the division of parks and outdoor recreation for implementation of the act. Decreases the general fund appropriation made to the division in the long bill by \$679,104.

**APPROVED** by Governor May 23, 1996

**PORTIONS EFFECTIVE** May 23, 1996, January 1, 1997

**H.B. 96-1187** Great outdoors Colorado trust fund - property acquired by state agencies - payments in lieu of taxes - procedures - appropriation. Makes a legislative declaration concerning the impacts that removal of property from the tax rolls due to its acquisition by state agencies can have on local governments and concerning the constitutional requirement that payments in lieu of taxes be made from the great outdoors Colorado (GOCO) trust fund for property acquired with GOCO funding.

Requires each state agency that holds an interest in real property acquired using GOCO funds and not subject to property taxation due to its acquisition by the state agency to pay to the treasurer of the county in which the property is located a payment in lieu of taxes. Provides that the payment in lieu of taxes shall not exceed the amount of taxes that would have been due if the interest in real property was taxable.

Requires the board of county commissioners of each county in which an interest in real property described above is located to report the following to the state agency that holds the interest: The assessed value of the property; the amount of the payment in lieu of taxes for the property, based on the value and tax rate applicable to the property if it was taxable; and the date the payment in lieu of taxes is due, based on the date that property taxes in the county are due. Directs each state agency that receives information from a board of county commissioners to promptly forward such information to the GOCO board along with information concerning the portion of the real property interest that was paid for with GOCO funding.

Provides that the GOCO board shall pay to the reporting state agency that portion of the payment in lieu of taxes that is equal to the portion of the real property interest paid for with GOCO funds. States that the GOCO board is responsible for ensuring that timely payment is made to each state agency. Requires each state agency that receives a payment in lieu of taxes from the GOCO board to transmit the payment, along with any other amounts payable as part of the payment and appropriated by the general assembly, to the county entitled to receive it. Directs the county treasurer of each county that receives a payment in lieu of taxes to pay over to each political subdivision its appropriate share of the payment. Provides for any payments made to a school district to be reported to the state board of education.

Provides that the general assembly may make appropriations for an agency's share of payments in lieu of taxes, using the wildlife cash fund for the division of wildlife and the parks and the outdoor recreation cash fund for the division of parks and outdoor recreation. Prohibits a state agency that has not received funds due for payments in lieu of taxes from the GOCO board from accepting funding from the GOCO board for other acquisitions of real property until the payments have been brought up to date.

States that this act is not intended to alter the administration of impact assistance grants for property acquired by the division of wildlife or the division of parks and outdoor recreation without assistance from the GOCO board.

Appropriates \$1,899 out of the parks and outdoor recreation cash fund to the department of natural resources for allocation to the division of state parks for the implementation of the act.

**APPROVED** by Governor May 22, 1996  
**EFFECTIVE** May 22, 1996

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## **PROBATE, TRUSTS, AND FIDUCIARIES**

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**H.B. 96-1342** Probate code amendments - marital agreements - nonclaim statute - transfer of property in joint tenancy. Extends the effect of the execution of a waiver or marital agreement on previously drafted probate documents to the relatives of the waiving party. Applies to waivers, revocations, and marital agreements executed on or after July 1, 1996.

Sets forth restrictions on the exercise of specified fiduciary powers by a trustee who is also a beneficiary of a trust. Provides that any of the proscribed fiduciary powers that are conferred upon 2 or more trustees may be exercised by the trustees who are not so disqualified. Allows any party in interest to apply to a court of competent jurisdiction to appoint an independent trustee who may exercise such powers, if there is no trustee qualified to exercise the fiduciary powers. Makes the fiduciary powers statute applicable to every governing instrument unless the terms of the governing instrument provide expressly to the contrary or unless, if the trust is irrevocable, all parties in interest elect affirmatively not to be subject to the application of the fiduciary powers statute.

Specifies that exempt property from an estate may be in the form of cash or personal property. States that, if the estate is otherwise sufficient, property specifically devised or disposed of by a memorandum written by the testator to any person other than a person entitled to exempt property may not

be used to satisfy rights to exempt property.

Specifies in which court the custodian of a will must lodge the will. Clarifies venue for a decedent's estate in cases where the decedent was not a resident of Colorado.

With respect to decedents dying on or after October 1, 1996, imposes a duty on the personal representative to inform the heirs that the surviving spouse and minor and dependent children may be entitled to exempt property and a family allowance and that the surviving spouse may have a right of election to take a portion of the augmented estate.

Specifies that the time limits for presentation of a claim by a creditor against a decedent's estate that arose before the decedent's death are governed under the statute concerning allowance of claims.

Corrects a citation and clarifies that trusts created for the purpose of establishing or maintaining

income eligibility for medicaid ("Miller trusts") are exempt from the filing fee for trust registration.

Amends the statute on creation of joint tenancy in real property to state that the instrument of transfer or conveyance can be either in joint tenancy or as joint tenants. Clarifies the terminology for the transfer of joint tenancy.

**APPROVED** by Governor May 2, 1996

**EFFECTIVE** July 1, 1996

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## **PROFESSIONS AND OCCUPATIONS**

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**S.B. 96-27** Hearing aid dealers - trainees - disciplinary actions. Authorizes the director of the division of registrations in the department of regulatory agencies to issue a trainee registration certificate to any person who pays the trainee registration fee and provides verification of training under the direct supervision of a registered hearing aid dealer or audiologist. Prohibits trainees from selling hearing aids independently of their supervisor, makes them subject to the disciplinary provisions that apply to registrants, and requires them to inform consumers of their status as trainees. Makes the supervising hearing aid dealer or audiologist responsible for the actions of the trainee and makes failure to adequately supervise a ground for discipline.

Requires the director to issue rules concerning the time period during which a trainee registration certificate shall be valid and specifying the training requirements. States that the revocation of a trainee registration certificate may be cause for denying an applicant permanent registration as a hearing aid dealer.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**S.B. 96-32** Subdivision developers - registration requirements of the real estate commission - renewal. Simplifies the definitions of "developer" and "subdivision". Removes commercial and industrial property from the definition of "subdivision" and clarifies its applicability to residential property only. Exempts from registration requirements those projects that have received local government approval and sales by public officials in the official conduct of their duties.

Accepts proof of out-of-state registration in full or partial satisfaction of Colorado's requirements if the 2 states have substantially equivalent requirements.

Requires managers and members owning a 24% or greater financial interest in the business of the developer to disclose such interest to the real estate commission and, if no one owns 24%, the person with the greatest percentage of ownership must disclose such interest. Includes disclosure of the placement survey monuments, whether or not a common interest community has been created, and the type of common interest community as required registration information.

Clarifies and broadens the current requirement that the holder of any senior interest in the subdivided property must subordinate to the interest of a new purchaser.

Provides that a developer's registration certificate will be renewed by payment of a renewal fee unless there is a reason or condition that exists that might warrant the denial or revocation of a registration.

**APPROVED** by Governor April 17, 1996

**EFFECTIVE** April 17, 1996

**S.B. 96-33** Limited gaming - definition of "poker" - rules - employment of skills - conflicts of interest - age restrictions - appropriation. Adds as an allowable object of poker the holding of a poker hand entitled to a monetary or premium return based upon a predisclosed pay schedule. Allows the dealer to play, but not to bet, in certain variations of poker. Prohibits a casino from offering a variation of poker without prior approval by the limited gaming control commission. Prohibits the employment of skills (casino employees playing and betting with house money).

Amends conflict-of-interest provisions to allow ownership of a partial interest by or through an institutional investor fund and to allow some non-investigatory, non-prosecutorial law enforcement personnel to own or work in a casino.

Prohibits a person under 21 from lingering in the gaming area of a casino or being present at a table, slot machine, or other area where gaming is conducted. Prohibits a gaming licensee from allowing persons under 21 to be present in such areas. Exempts from these prohibitions persons employed by the casino in which they are present.

Appropriates \$6,500 to the department of revenue for allocation to the gaming division for implementation of the act.

**APPROVED** by Governor May 31, 1996

**EFFECTIVE** October 1, 1996

**S.B. 96-45** Coal mine board of examiners - continuation of the authority to regulate persons working in coal mines. Authorizes the governor to remove any member of the board for misconduct, incompetence, or neglect of duty. Repeals references to physical and psychological requirements for a person to become a hoistman. Requires the board to determine the training requirements for hoistmen. Requires the board to determine the experience requirements for certification as a shot-firer. Mandates that certificate holders be given a reasonable opportunity to comply with lawful requirements if the certificate holder's actions fall below a standard of

reckless disregard for health and safety standards, instead of the current standard of deliberate and willful violation, before the person's certificate is revoked or suspended. Changes the willful standard for the bases for revocation of a certificate of competency to reckless disregard for health and safety standards, demonstrated incompetence, or intentional withholding of mine examination information.

Extends the automatic termination date of the regulation of person working in coal mines by the coal mine board of examiners to July 1, 2006, pursuant to the provisions of the sunset law.

**APPROVED** by Governor April 17, 1996

**EFFECTIVE** July 1, 1996

**S.B. 96-49** Direct-entry midwives - continuation of registration - continuation of exemption from "practice of medicine". Until such time as liability insurance is available, requires all direct-entry midwives to provide their new clients with a disclosure statement indicating that they have no liability insurance. Authorizes registered direct-entry midwives to carry and administer oxygen upon the completion of training requirements established by the department of regulatory agencies. Allows a registered acupuncturist to also be registered as a direct-entry midwife.

In addition to denying or revoking registration, allows the director of the division of registrations to suspend any registration, issue a letter of admonition, or place a registrant on probation as discipline for certain acts or omissions. Adds to the acts or omissions that are grounds for disciplinary action. Requires hearings for proceedings to deny, suspend, or revoke a registration or to place a registrant on probation and allows an administrative law judge to conduct such proceedings. Grants civil and criminal immunity to the director of the division and his or her staff, as well as any person who files a complaint, when testifying in good faith or participating in an investigative proceeding. Authorizes the director to keep its investigatory files confidential until the results of the investigation are known and either the complaint is dismissed or notice of hearing and charges are served upon the registrant.

Prohibits any person who has had his or her registration revoked from reregistering until after a 2-year waiting period. Increases the minimum age for those qualified to register from 18 to 19 years.

Requires the state registrar of vital statistics to report on all birth certificates, and death certificates when the subject of an investigation or inquest is under one year of age, the names of the prenatal care provider and the provider of initial delivery services.

Extends the automatic termination date for the registration of direct-entry midwives to July 1, 2001, pursuant to the provisions of the sunset law. Extends until July 1, 2001, the exemption of registered direct-entry midwives from the "practice of medicine" under the "Medical Practice Act".

**APPROVED** by Governor April 17, 1996

**EFFECTIVE** April 17, 1996

**S.B. 96-58** Alcoholic beverages - liquor licenses. Prohibits a state or local licensing authority from acting on a liquor license application if it concerns a location that is within 500 feet of a location for which an application for the same class of license was denied within the previous 2 years and the reason for the denial was that the licenses already granted for the locale were adequate for the needs and desires of the inhabitants.

Exempts from the prohibition any city in which limited gaming is permitted.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** April 8, 1996

**S.B. 96-87** Dentistry and dental hygiene - regulation - licensing - discipline - continuation under sunset law - appropriation. Increases to 5 the number of dentists on the state board of dental examiners ("board"). Eliminates congressional district considerations in the appointment of board members. Revises the qualifications of board members. Makes board members immune from civil suits that are based on their official acts. Specifies who may assist in conducting dental and dental hygiene licensing examinations.

Authorizes the board to issue temporary licenses and confidential letters of concern. Exempts examiners who represent a board-approved testing agency from the practice of dentistry or dental hygiene. Makes the following procedures the practice of dentistry: Prescription and administration of drugs and anesthetics; prescription of dosage levels for inhalation analgesia; and the interpretation of dental charts. Permits X-ray procedures to be delegated to trained personnel.

Includes provisions pursuant to which dental hygiene may be practiced by a professional service corporation of licensees.

Amends the licensing examination requirements. Eliminates the probation and supervision period for graduates of foreign schools. Authorizes the board to license applicants who are licensed in good standing in another jurisdiction and who otherwise meet the qualification requirements. Requires applicants to provide the board with verification of licensure from any jurisdiction.

Authorizes the board to deny the issuance or renewal of or to suspend a license for more than one year. Makes the following actions a cause for discipline: Failing to report adverse action taken against a license by another state; failing to adequately supervise unlicensed employees; engaging in conduct relating to the practice of dentistry or dental hygiene that constitutes a crime;

and practicing outside the scope of legitimate dental or dental hygiene practice.

Requires the board to issue a letter of concern to any licensee who has engaged in possible errant conduct that could lead to serious consequences. Eliminates a requirement that the board mail to all board members a list of all licensees. Prohibits dentists from prescribing or distributing to themselves or family members any habit-forming drugs or controlled substances other than in the

course of legitimate dental practice.

Revises the licensure and examination requirements for dental hygienists. Prohibits dental auxiliaries from performing specified tasks. Makes it unlawful for any person to file a forged document required or requested by the board for licensure purposes. Authorizes the board to grant retired licensure status to any person meeting stated requirements.

Extends the automatic termination date for the state board of dental examiners to July 1, 2003.

Appropriates \$13,886 out of the division of registrations cash fund to the department of regulatory agencies for implementation of this act.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** July 1, 1996

**S.B. 96-89** Practice of pharmacy - regulation of - continuation under sunset law - appropriation.

For purposes of the pharmacy practice laws, defines the terms "location", "patient counseling", "pharmaceutical care", "prospective drug review", "satellite", and "supervision".

Modifies the requirements for membership on the board by removing the requirement that members be appointed based upon the congressional districts in the state and requires instead that appointments provide adequate urban and rural representation and a balance among the various types of practice of pharmacists.

Requires self-insured pharmacists and pharmacies to report malpractice claims that are settled or adjudicated against the insured in the same manner as do insurance companies.

Clarifies language to show that all pharmacists are "licensed" and all outlets are "registered".

Requires the examination given to applicants for licensure to be designed to test the applicant's knowledge of pharmacy and other related subjects and states that it shall not be given orally. Requires an applicant to complete an internship. Permits a graduate of a school of pharmacy in another country to take the examination for licensure if such person has passed a foreign graduate equivalency test given or approved by the board. Specifies that all persons seeking licensure, whether by examination, endorsement, or reinstatement, must take a jurisprudence examination. Replaces licensure by endorsement with a system of license transfer through a national clearinghouse designated by the board.

Repeals the provisions that set up classes of pharmacists.

Clarifies the categories of outlets that must be registered and requires a separate registration for any area outside of an outlet that is not a satellite of an outlet and for any area that is under different ownership from the registered outlet. Prohibits any hospital outlet filling inpatient chart orders from selling or transferring its prescription drug inventory to another registered outlet for sale or dispensing at retail except for the hospital's own use and for casual sales.

Clarifies the types of facilities that the board may approve to receive emergency kits. Repeals the requirements that a person must obtain a special permit to dispose of any stock of drugs or devices.

Allows a pharmacist to supervise up to 2 unlicensed personnel for purposes of duties that a pharmacist may choose to delegate to unlicensed personnel.

Empowers the board to send confidential letters of concern to a licensee who has been the subject of an investigation because of conduct that the board feels does not rise to the level of being actionable but which could become actionable if continued.

Clarifies that a prescription order includes those that are written, mechanically produced, computer generated, or transmitted electronically or by facsimile. Specifically authorizes the use of facsimile transmissions of emergency prescriptions to long-term care facilities.

Specifies that fenfluramine shall be deleted as a schedule IV controlled substance under Colorado law when such drug is removed from schedule IV of the federal "Controlled Substances Act".

Extends the automatic termination date of the authority of the state board of pharmacy to regulate pharmacists until July 1, 2003, pursuant to the provisions of the sunset law.

Appropriates \$36,868 from the division of registrations cash fund to the department of regulatory agencies for implementation of this act. Appropriates \$4,487 from such amount to the department of law for the provision of legal services to the department in connection with the implementation of this act.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** July 1, 1996

**S.B. 96-92 Optometrists - conditions optometrist may treat - appropriation.** Removes glaucoma and iritis as conditions optometrists may not treat. Adds posterior uveitis as a condition optometrists may not treat. Expands the classes of drugs that may be used and prescribed by certified therapeutic optometrists. Requires optometrists to consult with an ophthalmologist or medical doctor when treating certain conditions.

Gives the state board of optometric examiners ("board") the authority to establish rules authorizing optometrists to use therapeutic procedures and techniques in the practice of optometry and institute the educational requirements necessary for the use of such procedures and techniques. Prohibits such rules from expanding the practice of optometry beyond its statutory definition and from allowing the use of laser surgery. Adds practice beyond the scope of education and training prescribed by the rules adopted by the board to the definition of unprofessional conduct.

Mandates that persons certified as therapeutic optometrists on or before July 1, 1996, complete the additional requirements established by the board before treating patients with glaucoma or

anterior uveitis. Directs the board to suspend the therapeutic certificate of any optometrist who does not meet the additional requirements on or before March 31, 1999.

Requires new applicants to comply with the additional requirements established by the board prior to licensure. Allows persons who apply for licensure prior to July 1, 1996, but receive a license on or after July 1, 1996, to be considered licensed optometrists for the purpose of establishing licensing requirements.

Appropriates \$10,075 from the optometric board cash fund to the department of regulatory agencies for implementation of this act. Appropriates \$997 from such amount to the department of law for the provision of legal services to the department in connection with the implementation of this act.

**BECAME LAW** without Governor's signature June 8, 1996  
**EFFECTIVE** July 1, 1996

**S.B. 96-111** Motor vehicle dealers - buyer agents - assistance to consumer in disposition of trade-in vehicle. Specifies that a buyer agent may assist a consumer in the disposition of a trade-in motor vehicle incident to the purchase or lease of another motor vehicle by the consumer if such buyer agent: 1) Does not advertise the sale or sell to the public; 2) directs wholesalers and dealers to communicate offers directly to the consumer; 3) does not handle the sales transaction for the consumer; 4) identifies himself or herself as a buyer agent to potential purchasing dealers and wholesalers; and 5) receives no compensation from the purchasing dealer or wholesaler.

Prohibits a buyer agent from being employed by a person whose business includes the purchase of motor vehicles primarily for resale or lease.

**APPROVED** by Governor April 8, 1996  
**EFFECTIVE** April 8, 1996

**S.B. 96-134** Fireworks - regulation and licensing - continuation under sunset law. Eliminates the July 1, 1996, automatic termination date for the statutes that regulate fireworks and that require the licensing of persons engaged in the sale, wholesale, or export of fireworks.

**APPROVED** by Governor April 11, 1996  
**EFFECTIVE** April 11, 1996

**S.B. 96-150** Bingo and raffles - electronic bingo card minders. Authorizes the use of portable, hand-held electronic devices to assist in the playing of bingo. Defines "card", "electronic bingo card minder", "electronically preprinted bingo card", "host computer", and "sheet", and amends the definition of "equipment" with respect to bingo. Permits the lease of bingo and raffle equipment. Sets forth conditions for use of portable, hand-held electronic devices by bingo players. Requires a reasonable number of such devices to be reserved for use by persons with disabilities. Specifies security safeguards. Requires records to be kept in such form and contain such information as prescribed by the secretary of state.

**VETOED** by Governor June 6, 1996

**S.B. 96-176** Racing - division of racing events - enforcement practices. Defines "pari-mutuel wagering". Upgrades the investigative staff of the division of racing events in the department of revenue to peace officers, level II, allowing increased exchange of department investigative staff for undercover investigations. Broadens conflict of interest statutes to include division of racing events employees.

Prohibits licensees from extending credit for participation in pari-mutuel wagering. Changes the standard for balance sheets from certified to audited for corporate applicants for meet licenses. Allows denial of a license to applicants who are of unsatisfactory character, record, or reputation. Limits disqualification for licensure for crimes involving fraud or misrepresentation to crimes committed within 10 years prior to the date of application.

Changes the payment period for horse breeders' and owners' awards and supplemental purse funds from daily to the 15th day of the month following the month in which a sum was received. Limits the locations for pari-mutuel wagering. Makes placing or accepting a wager via telephone, telegraph, facsimile machine, or messenger off the premises of a licensed facility a class 2 misdemeanor.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1046** Bingo and raffles - licensing - eligibility. Exempts the graduate or alumni division of a college fraternity or sorority from the existing prohibition against issuing a bingo-raffle license to a college or high school fraternity.

**APPROVED** by Governor March 25, 1996

**EFFECTIVE** March 25, 1996

**H.B. 96-1067** Limited gaming - regulation - continuation under sunset law. Changes the current annual renewal requirement for support and key-employee license holders to a biennial renewal requirement. Removes the requirement that persons licensed to be employees where gaming is conducted register with the local sheriff. Eliminates the requirement that a person holding a retail gaming license also obtain an operator license.

Directs the Colorado limited gaming control commission to promulgate rules specifying how and when the movement of slot machines must be reported and repeals the current statutory requirement that such reporting be done within 24 hours.

Modifies the requirement that the director of the division of gaming in the department of revenue not hold any outside employment to say instead that the director shall not hold any outside employment that could present a conflict of interest.

Extends the automatic termination date of the authority of the department of revenue to regulate

limited gaming through the division of gaming to July 1, 2003, pursuant to the provisions of the sunset law.

**APPROVED** by Governor April 17, 1996

**EFFECTIVE** April 17, 1996

**H.B. 96-1070** Real estate licensees - mandatory errors and omissions insurance - real estate commission - review under the sunset law. On and after January 1, 1998, requires all active real estate brokers and salespersons, except an attorney who maintains a policy of professional malpractice insurance that provides errors and omissions coverage, to maintain errors and omissions insurance as a condition of licensure. Requires the Colorado real estate commission ("commission") to make errors and omissions insurance available to all licensees by contracting with an insurer after a competitive bid process. Makes the mandatory insurance requirement inapplicable during the years that the commission is unable to contract with an insurer for group coverage at a premium not to exceed \$100 per licensee.

Allows licensees to maintain independent errors and omissions insurance so long as the coverage complies with the minimum requirements established by the commission. Authorizes the commission to determine the terms and conditions of coverage such as minimum limits, deductibles, and exemptions.

Removes negligence as a ground for recovery from the real estate recovery fund if the negligence occurs when there is an errors and omissions insurance policy in effect. Requires those persons claiming money from the fund due to a licensee's negligence to show that there was no errors and omissions insurance in effect at the time of the negligent act or omission.

Provides for an automatic termination date of the function of the commission to make available errors and omissions insurance on July 1, 1999, pursuant to the provisions of the sunset law.

**APPROVED** by Governor June 3, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1074** Water and wastewater treatment plant operators - certification - examination and continuing education - continuation of the plant operators certification board - board membership. Classifies wastewater treatment plant operators as domestic wastewater treatment plant operators and industrial wastewater treatment plant operators. Provides for the certification of both types of wastewater treatment plant operators.

Requires that the current member of the plant operators certification board nominated as a wastewater treatment plant operator be a domestic wastewater treatment plant operator. Requires that the board member currently recommended by the state board of health be recommended by the department of public health and environment. Requires that at least 3 of the members of the board represent private industry. Adds the following representatives to the board:

- A certified Class A industrial wastewater treatment plant operator; and
- A small systems operator who is certified as a Class C or Class D water treatment or wastewater treatment plant operator.

Establishes the maximum numbers of classes of plant operators, rather than the minimum numbers of such classes, that may be established by the plant operators certification board. Provides criteria for the discipline or reprimand of plant operators and for the suspension or revocation of plant operator certifications.

Requires that examinations for plant operators be specifically relevant. Eliminates customer relations as one of the topics for plant operator examinations.

Requires that a plant operator pass a specifically relevant examination in order to renew the operator's certification. Provides that the certification of an operator expires if the certification is not renewed before the expiration date of the certification. Allows renewal of such a certification up to 2 years after the expiration date and directs the board to revoke any certification that is not renewed within 2 years after the expiration date.

Eliminates the continuing education requirements for plant operators.

Extends the automatic termination date of the plant operators certification board to July 1, 2004, pursuant to the provisions of the sunset law.

**APPROVED** by Governor April 17, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1078** Bail bonding agents - licensure - continuing education - continuation under sunset law. Eliminates certain provisions from the professions and occupations statutes that are also in the insurance code. Eliminates the issuance of a professional bail bonding agent license under the professions and occupations statutes and requires instead that bail bonding agents qualify only for an insurance producer license. States that bail bonding agent licenses shall expire biennially and that agents shall receive a pocket card that clearly states they are licensed bail bonding agents.

Eliminates certain licensure application information. Requires applicants to pay the costs associated with fingerprinting and obtaining a background check and photograph. Makes the qualification bond requirements applicable only to cash bonding agents. Requires a court that enters a judgment declaring a bond forfeited to serve notice of the forfeiture on the bail bonding agent within 10 days. Includes forfeiture provisions applicable to surety bonds.

Eliminates provisions establishing the bail bonding agents' advisory committee and the continuing education requirements. Eliminates the semiannual reporting requirement and

provides instead that bail bonding agents shall report information only upon the reasonable request of the division of insurance in the department of regulatory agencies. Eliminates the requirement that the division furnish all courts in the state with the names of licensed bail bonding agents. Requires bail bonding agents to provide sureties with a list of collateral taken within 20 days after taking such collateral, instead of 10 days, and to keep a copy of such list for 2 years.

Extends the automatic termination date of the function of licensing bail bonding agents by the division of insurance to July 1, 2006, pursuant to the provisions of the sunset law.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**H.B. 96-1080** Real estate appraisers - regulation - continuation of licensing function under sunset law. Makes the licensure or registration of real estate appraisers voluntary. Decreases the number of licensed or certified appraisers on the board of real estate appraisers ("board") by one and increases the number of public members on the board by one, maintaining a 7-member board. Eliminates the statutory licensure, registration, and continuing education requirements and instead requires the board by rule to establish new requirements that are no more stringent than federal law.

Eliminates the provision stating that a license issued by another state will be recognized temporarily only if the property appraised is part of a federally related transaction as defined by federal law. Authorizes the board to license an applicant by endorsement if such applicant is licensed in another jurisdiction that has laws similar to this state's licensure-by-endorsement laws.

Replaces language authorizing the board to determine if an applicant for registration, licensure, or certification has good moral character with language authorizing the board to consider whether the applicant has been convicted of a crime involving moral turpitude. Authorizes the board to issue a letter of admonition when misconduct does not warrant formal action but should not be dismissed. Establishes information to be included in such letters.

Makes it unlawful to perform an appraisal in conjunction with any debt instrument that is federally guaranteed or in the federal secondary market. Generally makes it unlawful to make an appraisal on a contingency fee basis. Exempts any person who represents property owners as an advocate in tax or valuation protests from the licensing requirements, but requires such person to disclose his or her remuneration to the parties, the arbitrator, the board of assessment appeals, or the district court before the arbitration or appeal. Eliminates the requirement that any savings a financial institution incurs by using an inside appraiser must be passed on to the consumer.

Extends the automatic termination date of the board of real estate appraisers to July 1, 2002, pursuant to the provisions of the sunset law.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1102** Drug precursors - regulation - record keeping functions subject to review under sunset law. Removes provisions concerning drug precursors from the "Colorado Licensing of Controlled Substances Act". Eliminates licensure and reporting requirements. Requires the department of human services to refund licensure application moneys to applicants and licensees before September 30, 1996.

Makes the recordkeeping functions of the department of human services subject to review on July 1, 2002, pursuant to the provisions of the sunset law.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** April 8, 1996

**H.B. 96-1107** Real estate brokers and salespersons - licenses - qualifications - continuing education requirements. Phases out existing real estate salesperson licenses beginning in 1997. Requires licensed salespersons who wish to renew on active status for the year 2000 and thereafter to either:

- Pass the Colorado portion of the broker's license examination;
- Complete an approved course of study consisting of 24 hours of instruction in closings and contract preparation, entitling them to a broker's license with limited privileges that allows them to practice only in the employ of a licensed broker until they pass the Colorado portion of the broker's license examination. States that completion of the course satisfies the normally applicable continuing education requirement for those choosing this option.

Defines "employing broker". Requires employing brokers to have at least 2 years' experience as a broker or salesperson and a course in brokerage administration, beginning in 1997. Deletes the current "equivalent experience" option for meeting the 2-year experience requirement. Repeals the current requirement for a branch office license but makes any broker maintaining more than one office responsible for supervising all licensed activities originating in such offices.

Revises pre-licensing educational requirements for new applicants for broker licenses. Deletes current provisions allowing education in lieu of experience.

**APPROVED** by Governor April 22, 1996

**EFFECTIVE** See Note

**NOTE:** This act was passed without a safety clause. Section 6 of the act establishes an effective

date of January 1, 1997. It will take effect on that date unless a referendum petition is filed pursuant to section 1 (3) of the state constitution. In that event, the act will take effect on the date of the official proclamation of the governor or January 1, 1997, whichever is later, if it is approved by the voters at the 1996 election.

**H.B. 96-1123** Alcoholic beverages - legal age to sell. Allows a person licensed to sell malt, vinous, or spirituous liquors at retail to employ a person under 21 years of age to sell or dispense such liquors if such person is supervised by another person who is at least 21 years of age. Continues to require taverns that do not regularly serve meals and retail liquor stores to employ persons 21 years of age or older to sell such liquors.

**APPROVED** by Governor April 11, 1996

**EFFECTIVE** April 11, 1996

**H.B. 96-1168** Alcoholic beverages - licensure - brew pubs. Creates a new classification of liquor license for brew pubs. Allows issuance of a brew pub license by state and local licensing authorities to any person operating a brew pub and selling malt, vinous, and spirituous liquors in the place where such liquors are to be consumed. Defines "brew pub". States that effective January 1, 1997, a hotel and restaurant licensee operating a licensed brewery will automatically be issued a brew pub license. Establishes a \$300 state fee and a \$325 local fee for brew pub licensees.

States that malt liquors manufactured on licensed premises may be:

- Furnished for consumption on the premises;
- Sold to independent wholesalers for distribution to licensed retailers;
- Sold to the public in sealed containers for off-premises consumption;
- Sold at wholesale to licensed retailers in an amount up to 300,000 gallons per year.

Requires brew pub licensees to purchase malt, vinous, and spirituous liquors not manufactured on the premises only from licensed wholesalers, with the exception that such licensees may purchase up to \$500 worth of such liquors per year from a retail liquor store. Requires retention of receipts for retail purchases.

Allows a brew pub licensee to sell malt, vinous, and spirituous liquors for on-premises consumption if at least 15% of the licensee's gross on-premises income is from the sale of food. Makes brew pub licensees subject to the excise tax and certain unlawful financial assistance provisions.

States that brew pub licensees may only sell malt, vinous, or spirituous liquors to consumers during the hours retailers may sell such liquors. Authorizes brew pub licensees to obtain the special license to sell malt, vinous, and spirituous liquors between 8 p.m. and 12 midnight on Sundays.

Allows a person with a financial interest in a hotel and restaurant license to own an interest in a brew pub license or establishment or for a person with an interest in a brew pub license to conduct, own, or be interested in another brew pub or hotel and restaurant license. Prohibits a brew pub licensee from having a financial interest in a wholesalers license or a retail gaming tavern license.

**APPROVED** by Governor April 23, 1996  
**EFFECTIVE** April 23, 1996

**H.B. 96-1210** Used motor vehicle dealers - motor vehicle salespersons - negotiation on behalf of consumer - disclosure. Clarifies that a licensed used motor vehicle dealer may offer an interest in used motor vehicles as well as sell, exchange, or lease used motor vehicles. Authorizes the licensed used motor vehicle dealer to negotiate for a consumer a sale, exchange, or lease of used and new motor vehicles not owned by the dealer. In such negotiation, mandates that the dealer disclose to all parties the amount of compensation to be received by the dealer as a result of the transaction.

Allows a licensed motor vehicle salesperson to negotiate with a motor vehicle dealer for the sale, exchange, or lease of new and used motor vehicles and be compensated for that negotiation by the used motor vehicle dealer for which the salesperson is licensed.

**APPROVED** by Governor June 1, 1996  
**EFFECTIVE** June 1, 1996

**H.B. 96-1237** Accident victims - solicitation. Prohibits any person from soliciting employment relating to personal injury or wrongful death for 30 days following an accident. Prohibits any person from accepting referrals of employment relating to personal injury or wrongful death from anyone who solicited a person within 30 days of an accident. Allows the individual suffering the injury or such individual's authorized representative to void any agreement made within such 30-day period. Defines "solicitation" as any communication directed to a specific individual, but excludes from such definition advertisements in newspapers or yellow pages and on television or radio.

Enlarges from 15 days to 30 days the period of time after an injury during which a person adverse to an injured party may not engage in negotiations for a settlement or release, but retains

the period at 15 days during which a person adverse may not obtain a statement from an injured party.

**APPROVED** by Governor May 31, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1240** Limited gaming - distribution of proceeds to counties impacted by gaming activity - task force and study - appropriation. Creates a gaming impact task force to conduct a 1996 interim study of existing formulas and methods of distributing revenues derived from limited gaming activity to local governments and to report to the limited gaming control commission, the governor, and the general assembly on its findings and to recommend appropriate legislation.

Appropriates \$1,340 from the general fund to the general assembly for implementation of the act.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**H.B. 96-1282** Alcoholic beverages - discipline of licensees - limited winery licensees - interstate shipments - excise taxes - unlawful acts. Requires, for purposes of denial or nonrenewal of a beer or liquor license on grounds of danger to the health, welfare, or safety of a neighborhood, that a local licensing authority have evidence of a continuing pattern of fights, violent activity, or disorderly conduct.

Authorizes limited winery licensees to deliver wine of their own manufacture by common carrier to purchasers who have visited their licensed premises. Requires that shipping containers be clearly labelled to indicate that they cannot be delivered to a minor or an intoxicated person.

Authorizes the state licensing authority to establish a fee for processing applications for wine shipment permits. Authorizes winery licensees in other states to make interstate wine shipments to Colorado residents, subject to certain limitations including the requirement of a wine shipment permit. States that wine shipment permits shall be valid for one year.

Imposes a wine development fee of 1.0 cent per liter on wine sold in Colorado, effective July 1, 2000. Requires such fee to be credited to the Colorado wine industry development fund.

Makes it an unlawful act, punishable as a class 2 misdemeanor, for a common carrier to deliver alcoholic beverages for anyone not licensed under the liquor code.

**APPROVED** by Governor May 2, 1996

**EFFECTIVE** May 2, 1996

**H.B. 96-1302** Used motor vehicle dealers - licensing requirements - exception for disposal of vehicles towed away. Exempts towing carriers (a/k/a operators) who sell abandoned motor vehicles pursuant to existing lien statutes from used motor vehicle dealer licensing requirements.

**APPROVED** by Governor June 1, 1996  
**EFFECTIVE** June 1, 1996

**H.B. 96-1308 Racing - horse racing and simulcasting - requirement for live horse racing - limits on simulcast days - taxes and fees - purse funds - horse owners' and breeders' award funds.**

Temporarily reduces the number of days of live horse racing that a track must offer to qualify as a class B track, allowing 30 race days during 1996 and 1997 and then returning to the current standard of 50 per year (or 60, if such year is the track's third or subsequent year of operation), in 1998 and thereafter. During operating years 1996 and 1997, allows a class B track to receive up to a total of 250 days of simulcast racing, including days on which live racing is held, then returns to the current standard of 3 simulcast days for each live race day. Defines an operating year, for purposes of calculating allowable simulcast days, as beginning April 21 and ending on the following April 20.

Conditionally prohibits all simulcasting activity in Colorado from June 20, 1996, to April 20, 1997, unless at least one class B track has applied by June 20, 1996, to conduct a live horse race meet during 1996.

During 1996 and 1997, requires off-track simulcast facilities (a/k/a "off-track betting facilities" or OTBs) to remit one-fifth of their 5% expense allowance (representing a total of 1% of the proceeds of pari-mutuel wagering on simulcast horse racing) to the class B track from which the simulcast signals originate. Allows a similar one-fifth deduction during 1996 and 1997 from the amounts otherwise payable to horse purse funds by a simulcast facility located at a class B track.

Allows OTBs to deduct simulcast signal fees from amounts payable to purse funds and other amounts payable under private contracts. Separates the required payments to purse funds by simulcast facilities so that revenues generated as a result of horse racing go to horse purse funds and revenues generated as a result of greyhound racing go to greyhound purse funds. Allows payments from the horse breeders' and owners' awards and supplemental purse fund to owners and breeders of otherwise eligible horses that run in races outside Colorado.

**APPROVED** by Governor April 23, 1996  
**EFFECTIVE** April 23, 1996

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**PROPERTY**

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**S.B. 96-186 Common interest communities - statute of limitations on violations of building restrictions - unit owners' association bylaws.** For causes of action accruing on or after July 1,

1996, specifies that the statute of limitations on a violation of a building restriction contained in the declaration, bylaws, articles, or rules of a common interest community is one year from the date from which the person commencing the action knew or should have known of the violation. Eliminates the repeal date of the statutory provision concerning the required contents of the bylaws of a unit owners' association of a common interest community when the association delegates certain executive board powers.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1053** Mobile home parks - noncompliance with rules - termination of tenancy - right to cure. Allows a mobile home park home owner whose tenancy is being terminated because of a failure to comply with park rules 30 days to cure the noncompliance, unless:

- Local ordinances, state laws and regulations, park rules, or emergency, health, or safety situations require immediate compliance; or
- The mobile home park home owner was in violation of the same park rule and was given notice and a right to cure within 12 months of the second noncompliance.

States that the 30-day right to cure period runs concurrently with the 30- day period to remove a mobile home from the premises. Clarifies that acceptance of rent within the 30-day right to cure period does not waive the landlord's right to terminate the tenancy for noncompliance.

Requires the complaint for such termination of a tenancy to specify that the homeowner was given 30 days to cure the noncompliance and that 30 days have passed and the noncompliance has not been cured. Requires the notice to quit for such noncompliance to include a statement advising the home owner of the 30-day right to cure.

Eliminates language that states that a defense alleging a landlord's allegations are false or the termination is invalid is an affirmative defense.

**APPROVED** by Governor May 2, 1996

**EFFECTIVE** May 2, 1996

**S.B. 96-10** Telecommunications - providers - taxation - use of rights-of-way - limits on powers of municipalities. Defines a "public highway", for purposes of statutes defining local jurisdiction over rights-of-way, to include all roads, streets, alleys, and all other dedicated rights-of-way and utility easements, whether or not located within the boundaries of a city, town, or other political subdivision of the state. Declares that providers of telecommunications service have a state franchise to do business within such political subdivisions, subject to lawful exercises of the police power.

Prohibits a political subdivision from discriminating among telecommunication providers in the rates and terms offered for use of rights-of-way and requires evenhanded treatment of providers wherever possible. Requires fees to be assessed in a manner reflecting the nature, extent, and value of the right or privilege granted and the terms of all agreements for the use of rights-of-way to be made public. Prohibits the exaction of in-kind payments from providers. In cases where equalization of tax provisions would require imposition of new or increased taxes on certain providers, and such taxes would be subject to voter approval under article X, section 20 of the state constitution ("Amendment 1"), requires submission of the new or increased taxes to a vote. If disapproved, invalidates both the new or increased taxes and the taxes that had previously applied to the incumbent providers.

Separates current statutes governing municipal control over rights-of-way for utility purposes generally into 2 different articles, one dealing with telecommunications and one dealing with other utility services such as electricity and gas.

**APPROVED** by Governor April 12, 1996  
**EFFECTIVE** April 12, 1996

**S.B. 96-138** Natural gas distribution - study - report - appropriation. Directs the legislative council to contract with a private party to study the availability of competitively-provided natural gas and associated services and supply choices in the state and report to the general assembly by January 15, 1997.

Appropriates \$54,000 from the public utilities commission fixed utility fund to the legislative council for the conduct of the study.

**APPROVED** by Governor May 23, 1996  
**EFFECTIVE** May 23, 1996

**H.B. 96-1010** Telecommunications - local exchange service - unbundling, interconnection, and resale - interim tariffs. Requires that any telecommunications service provider that will provide unbundled facilities or functions, interconnection, services for resale, or local number portability in local exchange markets must place in effect interim tariffs, effective July 1, 1996, and cooperate in the development of semi-permanent "commission tariffs" governing the pricing of such services unless and until interconnection agreements setting prices for such services are

adopted and approved pursuant to federal law.

Directs the public utilities commission to initiate emergency proceedings to approve the interim tariffs and, immediately thereafter, to initiate proceedings to develop the commission tariffs. Requires a "true-up" procedure for recovery of the differences, if any, between the rates paid under the interim tariffs and the rates that would have been paid if the commission tariffs or interconnection agreements, if applicable, had been in effect during the same time period.

Exempts providers that serve only rural exchanges of 10,000 or fewer access lines and, as to the interim rates, exempts colleges and vocational schools.

**APPROVED** by Governor May 15, 1996

**EFFECTIVE** May 15, 1996

**H.B. 96-1059** Railroads - definition of common carrier. Clarifies that railroads providing transportation of property as well as passengers are included in the definition of common carrier.

**APPROVED** by Governor April 8, 1996

**EFFECTIVE** April 8, 1996

**H.B. 96-1114** Motor carriers - safety regulation - oversize and overweight permits - taxicab service - ports of entry - jurisdiction of state patrol, departments of transportation and revenue, and public utilities commission. Replaces the ports of entry division in the department of revenue with a motor carrier services division consisting of enforcement functions, including the ports of entry, and service functions, including personnel and facilities for dealing with interstate and international motor vehicle registrations. Eliminates current provisions specifying minimum numbers of fixed and mobile port of entry weigh stations (now set at 10 and 4, respectively). Changes the minimum weight at which vehicles must clear weigh stations from the current 16,000 lbs. empty weight to a manufacturer's gross vehicle weight rating (GVWR) or gross combination rating (GCWR) of 26,001 lbs. or more. Eliminates existing references to negotiated and average weight factors.

Grants the motor carrier services division concurrent authority, along with the state patrol and the department of transportation, to issue permits for the movement of oversize or overweight vehicles. Requires that such permits be available at ports of entry except where additional safety precautions are necessary, in which case permits must originate with the department of transportation. As of July 1, 1996, if a municipality has in effect an ordinance or resolution governing oversize/overweight permits, requires filing of the ordinance or resolution with the department of transportation and the motor carrier services division.

Directs the departments of transportation and revenue to report by July 1, 1997, to the transportation legislation review committee on their progress in implementing electronic permitting systems.

Transfers from the public utilities commission (PUC) to the department of public safety the

primary duty to make and enforce safety rules pertaining to property carriers operating vehicles with a GVWR or GCWR of 26,001 lbs. or more, but gives concurrent enforcement authority under such rules to the PUC. Gives the department of public safety concurrent authority to enforce PUC safety rules applicable to exempt passenger carriers and to property carriers operating vehicles under 26,001 lbs. GVWR/GCWR. Includes towing carriers within the definition of "commercial vehicles" subject to safety regulation by the department of public safety, granting concurrent enforcement authority to the PUC.

Expands existing taxicab operating authority within the city and county of Denver to include the authority to provide service from Denver to all points in the state or to all points within the taxicab operator's base area, depending on the type of authority currently held.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** July 1, 1996

**H.B. 96-1161** Telecommunications - telephone service - rates for nonoptional operator services - disclosure to consumers. Requires rates for nonoptional operator services (as defined in current law) to be at or below a benchmark rate unless the public utilities commission (PUC) approves a higher rate. If a higher rate has been approved, and if the PUC determines that disclosure of the rate to customers is in the public interest, allows the PUC to require the provider of nonoptional operator services to disclose orally the total charges for such services prior to any charge being assessed and to allow the caller the option to disconnect at that time. States that the PUC may order any telecommunications provider to block access to the nonoptional operator services provider in response to any violation of these provisions.

**APPROVED** by Governor April 17, 1996

**EFFECTIVE** See Note

**NOTE:** This act was passed without a safety clause. It will take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly unless a referendum petition is filed pursuant to section 1 (3) of the state constitution. In that event, the act will take effect on the date of the official proclamation of the governor, if it is approved by the voters at the 1996 election.

**H.B. 96-1278** Railroads - state policy on abandoned rights-of-way - right of first refusal - repeal. Declares that the abandonment and disposal of railroad rights-of-way and the resulting loss of the use of the property as a transportation corridor adversely affects Colorado. Makes the transportation legislation review committee responsible for analyzing railroad rights-of-way abandonment and disposal in Colorado and presenting a final report with recommendations for legislation on or before January 1, 1997, to the general assembly.

Requires railroad companies to offer a right of first refusal to the state, through the executive director of the department of transportation, prior to sale or disposal of abandoned rights-of-way. Authorizes the executive director, with approval from the transportation commission, to match any offer made for the purchase of the abandoned right-of-way. Allows the executive director to

intervene in a railroad right-of-way abandonment proceeding before the surface transportation board upon consultation with and direction from the committee.

Repeals these provisions on July 1, 1997.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

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## **STATE PUBLIC DEFENDER**

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**S.B. 96-205** Appointment of legal counsel in criminal cases - office of alternate defense counsel created - repeal of contract authority for state public defender - appropriation. Creates the office of alternate defense counsel in the judicial department for the purposes of providing legal representation for indigent persons in criminal cases where the public defender has a conflict of interest and for persons found by the court to be partially indigent. Creates a 9-member alternate defense counsel commission appointed by the Colorado supreme court which shall select the alternate defense counsel and act as an advisory board to the alternate defense counsel.

Directs that the court appoint the office of alternate defense counsel to provide legal representation for indigent persons in cases where the state public defender has a conflict of interest in providing legal representation. Provides that the court may appoint the office of alternate defense counsel to provide legal representation in cases involving partial indigency in which the state is required to provide an attorney at state expense. Authorizes the alternate defense counsel to contract with licensed attorneys to provide legal representation and to contract with investigators to provide investigative services. Directs that such court appointments or contracts be made on or after January 1, 1997.

Authorizes the recoupment of fees and costs from a defendant whom the court finds able to repay all or part of the expense of state-supplied or court-appointed counsel.

Repeals the authority of the state public defender to contract with attorneys to provide representation in conflicts cases and to contract with investigators.

Appropriates to the judicial department, office of alternate defense counsel, \$101,996 and 1.3 FTE to implement the act. States that any appropriation in fiscal year 1996-97 to the judicial department, office of the public defender, for conflict of interest cases that remains on January 1, 1997, shall be transferred to the office of alternate defense counsel on or after January 1, 1997. Makes a future appropriation to the judicial department, office of alternative defense counsel, for

fiscal year 1997-98.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

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## STATUTES

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**S.B. 96-75** Colorado Revised Statutes - enactment of 1995 supplements and replacement volumes. Establishes the effective date for the 1995 cumulative supplement and replacement volumes and enacts them as the positive statutory law of the state of Colorado.

**APPROVED** by Governor February 13, 1996

**EFFECTIVE** February 13, 1996

**S.B. 96-208** 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. Sets forth the specific reasons for each amendment or repeal in the appendix to the act.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**H.B. 96-1341** Outdated provisions of law - repeal. Repeals the following obsolete provisions of law:

- **3-1-129**, Report submitted when the United States took control of state canal number three;
- **7-43-101**, Formation of flume companies;
- **Article 10 of title 9**, Ventilation of garages and shops;

- A portion of **10-3-242 (1)**, Requirement that investments acquired for mutual funds mature no later than twelve months after acquisition;
- **Article 3 of title 12**, Manufacture and sale of alcohol;
- **17-26-130 through 17-26-136**, Expired pilot project authorizing a joint jail for Huerfano and Las Animas counties;
- **24-50-103.7**, Expired study of model child care program;
- **25-1-614**, Regulation of privies and water closets;
- **25-1-623 through 25-1-629**, Use of county judges and sheriffs in controlling contagious disease;
- **Part 2 of article 3 of title 25**, Maternity hospitals;
- **Part 6 of article 10.5 of title 27**, Expired study of group trust funds for providing support to persons with developmental disabilities;
- Portions of **30-10-711**, Requirement that county treasurers publish notice of the fact that the balance of a fund reaches \$500 when there are outstanding warrants against the fund;
- **Article 6 of title 36**, Sale of state lands to veterans;

- **40-32-103**, Qualifications of telegraph operators for railroad companies;
- **40-32-104**, Penalty for violating 40-32-103;
- **42-4-804**, Requirement that pedestrians use the right side of a crosswalk.

**APPROVED** by Governor April 24, 1996

**EFFECTIVE** April 24, 1996

**H.B. 96-1371** Colorado Revised Statutes - format for publication of official version. Authorizes publication of the official version of Colorado Revised Statutes in a softbound format. Specifies that the Committee on Legal Services may extend the current printing contract for an additional period not to exceed five years if the Committee finds that such an extension would facilitate preparation of the softbound format and would be in the public interest. Deletes the requirement that the Committee set the public sale price for the statutes. Makes conforming amendments.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

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## **TAXATION**

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**S.B. 96-6** Personal property tax - elimination of proration. Eliminates the proration of personal property taxes. Requires persons who own taxable personal property as of January 1 of the property tax year, the assessment date, to pay the personal property taxes for the full tax year without proration in the event the tax status of the property changes or the property is destroyed, transferred, or removed from the state during the property tax year. Eliminates the requirement that persons who acquire taxable personal property after January 1 of the property tax year or whose exempt personal property becomes taxable after January 1 of the property tax year must report and pay a portion of the personal property tax due for that property tax year. Waives prorated personal property tax obligations that are not in the process of collection as of January 1, 1997.

Provides that the elimination of the proration of personal property tax applies to personal property tax obligations for property tax years commencing on or after January 1, 1996.

**APPROVED** by Governor March 20, 1996

**EFFECTIVE** March 20, 1996

**S.B. 96-52** Property tax - transfer of real property - declaration form. Requires the property tax administrator to develop a form for declaring real property transfer information. Requires the state board of equalization to approve the form after review by the advisory committee to the property tax administrator. Eliminates the form for declaring real property transfer information created in statute.

Applies to real property conveyances recorded on or after July 1, 1996.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** July 1, 1996

**S.B. 96-156** Income tax - voluntary contributions - Drug Abuse Resistance Education (D.A.R.E.) - appropriation. For income tax years commencing on or after January 1, 1996, but prior to January 1, 1999, permits taxpayers to designate on their Colorado individual income tax return an amount of contribution to the Drug Abuse Resistance Education (D.A.R.E.) fund. Creates the D.A.R.E. fund and credits such contributions to the fund. Authorizes the general assembly to appropriate moneys in the fund to the department of public safety for distribution to D.A.R.E. programs throughout the state. Specifies that distribution of moneys in the fund shall be based on criteria established by the executive director of the department of public safety. Repeals the voluntary contribution and the fund, effective January 1, 2000.

Appropriates \$215,000 from the D.A.R.E. fund, or so much thereof as may be available in the fund, to the department of public safety for the implementation of the act.

**APPROVED** by Governor June 3, 1996

**EFFECTIVE** June 3, 1996

**S.B. 96-157** Property tax - classification of agricultural property. Amends the definition of "agricultural and livestock products" for property tax purposes to state that the use of a product after its sale and the entity that purchases the product are not to be considered in determining whether the product is an agricultural or livestock product.

Provides that land meeting the definition of "agricultural land" may be used by either the landowner or a lessee.

Eliminates the requirement that, in order to qualify as agricultural land, the gross income resulting from the use of a parcel of land as a farm or ranch that is not being restored through conservation practices must equal or exceed one-third of the total gross income resulting from all uses of the property during any given tax year. Specifies what constitutes "in the process of being

restored through conservation practices" for the purpose of determining whether a parcel used as a farm or ranch is agricultural land.

Defines "agricultural land" to include:

- A parcel used as a farm or ranch where the owner of the land has a decreed water right or final permit to water for purposes other than residential purposes, and the owner uses the water for the production of agricultural or livestock products on the land. Requires assessors, before changing the classification of a parcel from agricultural to any other classification, to make a determination based on sufficient evidence that the parcel does not qualify as agricultural land under this provision.
- A parcel that has been reclassified from agricultural land to another classification and that meets the definition of agricultural land as set forth in specified portions of the definition of "agricultural land" during the three years before the year of assessment.
- A parcel that has been classified as agricultural land and which is lying fallow and not being used for other than agricultural purposes for a period of not more than 3 years.

For purposes of abatements and refunds, defines "erroneous valuation" to include: 1) Any reclassification of property from agricultural land classification for the 1995 property tax year if the property qualifies for classification as agricultural land under the statutory provisions amended by this act; or 2) any denial of a tax exemption for property claimed as agricultural or livestock products for the 1995 property tax year if the property qualifies as agricultural and livestock products property under the statutory provisions amended by this act.

Applies to property tax years commencing on or after January 1, 1995.

**VETOED** by Governor June 5, 1996

**S.B. 96-170** Severance tax trust fund - distributions - appropriation. Authorizes the use of severance tax trust fund moneys for funding programs that promote and encourage sound natural resource planning, management, and development. Splits the severance tax trust fund into the perpetual base account and the operational account. Requires one-half of the severance tax receipts credited to the fund for tax years commencing on and after January 1, 1995, to be credited to the operational account for funding such programs. Requires the executive director of the department of natural resources to submit a list of programs recommended for funding with its annual budget request. Requires the state minerals, energy, and geology policy advisory board to review the executive director's list of recommended programs before submittal.

Allows the general assembly to appropriate money from the operational account of the severance tax trust fund to the department of natural resources for distribution to selected programs or projects as follows: Up to 45% of the moneys for programs within the Colorado oil and gas conservation commission; up to 20% of the moneys for programs within the Colorado geological survey; up to 30% of the moneys for programs within the division of minerals and geology; and up to 5% of the moneys for programs within the Colorado water conservation board. Except in emergencies, limits the use of moneys appropriated for programs and projects within the Colorado oil and gas conservation commission to plugging and abandonment programs, well-site reclamation projects, and specific regulatory and environmental programs. Requires the commission to give priority to uses that reduce industry fees and mill levies.

Appropriates \$3,172,000 from the fund and 2.0 FTE to the department of natural resources to fund specific programs for the fiscal year beginning July 1, 1996.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**S.B. 96-193** Enterprise zones - requirements for designation - zone termination - tax credits - economic development commission recreated - appropriation. Increases the maximum allowable population for an area to be designated as an enterprise zone from 50,000 to 80,000. Requires that an enterprise zone development plan submitted by a local government to the executive director of the department of local affairs include the specific business development and job creation objectives to be achieved in the enterprise zone. For any area designated as an enterprise zone prior to July 1, 1996, requires local governments to develop and submit specific business development and job creation objectives for the area no later than September 1, 1996. In order for the executive director to determine if the enterprise zones are achieving those objectives, requires local governments to annually report the most recent statistics available on:

- The number of jobs created in the enterprise zone and the standard industrial classification of each company reporting the creation of jobs within the zone;
  
- The number of jobs retained within the enterprise zone;
  
- The average annual compensation level of jobs created or retained within the enterprise zone categorized by full time, part time, temporary, or contract jobs;
  
- Any change in the unemployment rate in the enterprise zone;

- The number of employees from outside the zone transferred to a facility within the enterprise zone;
- The amount and specific purpose of any contribution made to implement the economic development plan for the enterprise zone;
- The number of new or expanded business facilities and the number and amount of qualified rehabilitation expenses made on vacant buildings;
- The amount of investment in qualifying property for which investment tax credits were claimed; and
- The number of employees trained and the amount of investment in job training programs and school-to-work programs.

Requires the state auditor to submit a report every 2 years to the governor and the general assembly evaluating the implementation of the enterprise zone program and its effect on employment, the unemployment rate, investment, growth, economic diversity, and per capita income and making recommendations for any statutory changes and providing any other information requested by the governor or the general assembly.

Requires the executive director of the department of local affairs to submit a plan, including criteria, procedures, and schedules, for the termination of enterprise zones or portions thereof to the economic development commission no later than January 1, 1997. Provides that the plan shall not call for credits that have already been earned by taxpayers to be cut off or otherwise curtailed and requires procedures for recognizing credits claimed by taxpayers who have taken actions in reliance on agreements with enterprise zone administrators. Requires that the plan provide for designation or termination decisions to be made by the economic development commission upon recommendations of the executive director and that no termination decision be effective prior to July 1, 1997, or prior to submission of a report on the decision to the general assembly. Directs the state auditor to review the plan and provide comments and suggestions to the general assembly within 60 days after received.

Provides that, effective January 1, 1997, all designation and termination decisions shall be made by the economic development commission upon the recommendations of the executive director

of the department of local affairs; except that no termination decision may be effective prior to July 1, 1997, or prior to submission of a report on the decision to the general assembly.

Directs the Colorado economic development commission to conduct a competitive benchmarking study evaluating Colorado's business assistance programs in comparison to other states and assessing Colorado's long term economic development strategies. In addition, directs the commission to make recommendations to the governor and the general assembly concerning any additional study that is needed, legislative changes, and specific business development and job creation objectives that should be used as minimum requirements for future designation of enterprise zones. Requires that the report and study be completed by March 1, 1997.

Establishes a process by which taxpayers who have planned activities that would entitle them to enterprise zone tax benefits that could not otherwise be claimed due to the termination of the enterprise zone may certify such information to the economic development commission and receive the tax benefits for up to 5 years after the enterprise zone has been terminated.

Requires enterprise zone administrators to report by November 1 of each year to the department of local affairs a list of all entities that are eligible to receive contributions for the purpose of implementing the economic development plan of the zone for which an enterprise zone tax credit may be claimed. Requires that the list identify the entity, relationship of the entity's activity to the enterprise zone plan, the expected benefits to the zone, and the potential amount of contributions that may be received. Directs the department to forward the lists no later than December 1 of each year to the economic development commission. Requires that modifications to any list be reported within 30 days. Authorizes the commission to hold hearings and review the listed entities and to reject any listed entity within 30 days of receiving the list upon a two-thirds vote of the commission. Allows listed entities to request that the commission reconsider its decision.

Reduces the amount of the contribution credit from 50% to 25%; except that the amount of the credit remains at 50% for contributions made prior to July 1, 1997, to projects that were approved prior to May 1, 1996, and for contributions made after July 1, 1997, but before December 31, 2000, to projects that were approved prior to May 1, 1996, pursuant to a written agreement executed prior to July 1, 1997. Prohibits enterprise zone administrators from accepting or certifying tax credits contributions that directly benefit the contributor or that are not directly related to job creation, job preservation, or other purposes of this article. Allows zone administrators to certify entities that may receive contributions directly from taxpayers. Requires entities receiving direct contributions to submit annual reports to the zone administrator.

Requires zone administrators to report to the department of local affairs within 90 days after making a certification of the value of a contribution the following information: The certified value, the source and purpose of the contribution, and the relationship of the purpose of the contribution to the enterprise zone goals and objectives. Authorizes the department of local affairs and zone administrators to release information concerning the source and amount of contributions, as well as the amount of credits allowed.

With respect to investment tax credits available within an enterprise zone, increases the limit on

the credit to 50% of that portion of tax liability that exceeds \$5,000 and increases the number of years that any excess credit can be carried forward to 12. For income tax years commencing on and after January 1, 1997, allows a credit for investments in qualified job training programs and school-to-work programs. Defines qualified job training and school-to-work programs.

Permits the enterprise zone tax credit for employer-provided health care insurance to be carried forward for up to 5 years beginning January 1, 1996.

Provides that a 10% increase in the number of employees, as long as at least one new full-time employee is hired, is sufficient to meet the new employee requirement for qualifying an expanded facility as a new business facility for purposes of claiming the enterprise zone credit for new business facility employees.

Abolishes and recreates the Colorado economic development commission. Expands the membership of the commission from 6 to 9, giving the speaker of the house and the president of the senate one additional appointment each and including the executive director of the department of local affairs as a member. Provides that commission members shall serve at the pleasure of the individual that appointed them.

Provides that this act shall apply to income tax years commencing on or after January 1, 1996.

Appropriates \$103,600 to the department of local affairs, for allocation to the Colorado economic development commission, for the implementation of this act.

**APPROVED** by Governor May 31, 1996

**EFFECTIVE** July 1, 1996

**S.B. 96-218** Property tax - treatment of possessory interests in exempt real or personal property - appropriation. Provides that possessory interests in exempt real or personal properties are not subject to property taxation unless specific statutory provisions are enacted directing such taxation.

States that the statute pertaining to the taxation of partial interests is not to be construed to direct the taxation of possessory interests in exempt real or personal property. Repeals the statute pertaining to taxation of leasehold and other possessory interests.

If the Colorado constitution is found to require that possessory interests in government-owned land, improvements, or personal property be taxed, states that specific standards for the appropriate consideration to the cost approach, the market approach, and the income approach to appraisal must be established and applied in the valuation of such possessory interests to eliminate unjust and unequalized valuations that would result in the absence of such standards.

Sets forth a capitalization procedure for the valuation of lands used for ski area recreational purposes. Defines "management contract" and states that management contracts are presumed to have no actual value. Specifies the procedures to be used in valuing other possessory interests

based upon the present worth of rents or fees, or portions thereof, to be paid by the holder of the possessory interest to the grantor. Provides that these procedures are not applicable to the valuation of public utilities, equities in state lands, mines, or oil and gas leaseholds and lands.

Prohibits county treasurers from treating any possessory interest in exempt properties as taxable property omitted from the tax roll if the possessory interest was excluded from the tax roll due to any statute created or repealed by this act.

Appropriates \$584,117 to the department of education for implementation of this act. Sets aside \$581,160 of the 1996-97 appropriation to the department of education for school finance to make additional state aid payments that may result from the adjustment of such payments due to the passage of this act.

Applies to property tax years commencing on and after January 1, 1996; except that the provision concerning the treatment of possessory interests in exempt property as omitted property is applicable upon passage of this act.

**APPROVED** by Governor June 5, 1996

**EFFECTIVE** June 5, 1996

**H.B. 96-1036** Property tax - collection - options. Allows the treasurer to choose between collection processes by eliminating the requirement that distraint of delinquent personal property and sale be completed before a treasurer may proceed to a collection agency or a court action to collect delinquent personal property taxes.

**APPROVED** by Governor February 22, 1996

**EFFECTIVE** February 22, 1996

**H.B. 96-1058** Property tax - abatements and refunds - procedures - forms - waiver by public utilities - exception to limitation on abatement or refund for overvaluation - deduction of delinquent personal property taxes. Requires that 2 copies of an application for an abatement or refund that is in excess of \$1,000 and that has been recommended by a board of county commissioners be submitted to the property tax administrator. Directs the property tax administrator to approve the form of petitions for abatement or refund. Provides that public utilities that do not file property schedules and that do not appeal the property tax administrator's valuation based on best information available are deemed to have waived any right to file an abatement or refund petition. When an audit of prior years' taxes discloses that taxes are due and owing on a taxpayer's personal property, permits the deduction of the amount due from any abatement or refund of taxes due the taxpayer. Corrects an incorrect statutory cross-reference concerning the appeal of a decision on a petition for refund or abatement of taxes.

Repeals obsolete language concerning abatement or refund petitions based upon the grounds of overvaluation that were pending on June 5, 1991. Repeals obsolete language concerning the taxes that may be challenged on the grounds of overvaluation.

In cases where the valuation of property has been challenged and a notice of determination has been mailed to the taxpayer, provides that the prohibition against an abatement or refund of taxes based upon the grounds of overvaluation is not applicable to personal property when the challenge is withdrawn and an audit by the county assessor reveals that a reduction in value is warranted. Makes this provision applicable to abatement or refund petitions that are pending before a board of county commissioners or the board of assessment appeals on the effective date of this act.

**APPROVED** by Governor May 1, 1996

**EFFECTIVE** May 1, 1996

**H.B. 96-1063** Property tax - valuation of residential property - consideration of sales by a lender or government - notification of changes in valuation - statements of valuation - no presumption in favor of a pending valuation - annual notices of valuation - tax statement. Eliminates a reference to the cost approach to appraisal so that residential real property is valued solely by the market approach to appraisal. Includes consideration of sales by a lender or government in utilizing the market approach to appraisal.

Requires the notification of changes in valuation prepared by the assessor to include changes made not only after certification of valuation for assessment but also after notification of total actual value. Requires said notification to include changes in total actual value as well as in valuation for assessment.

Requires statements of valuation of public utilities made by the property tax administrator to state the actual value of the utility.

Changes statutory references from "valuation for assessment" to "valuation" and states that there shall be no presumption in favor of any pending valuation in the valuation appeals process or arbitration.

Requires that notices of valuation for both real and personal property be mailed annually. Provides that notices of valuation for nonagricultural property shall set forth the total value of land and improvements together. Specifies that the inclusion of a notice of valuation with a tax bill fulfills the statutory requirements for notification of value and is consistent with the purposes of the state constitution to restrain the growth of government in the intervening year of a reassessment cycle when there is no change in the property's value.

Requires tax statements mailed to taxpayers to include the actual value of real and personal property upon which taxes were levied.

**APPROVED** by Governor May 22, 1996

**EFFECTIVE** May 22, 1996

**H.B. 96-1075** Property tax - valuation of oil and gas production. Requires owners and operators of oil or gas property and leases to file with the county assessor a statement that:

- Includes the "selling price at the wellhead", as defined;
- Declares under penalty of perjury that the owner or operator examined the statement and it is true to the best of his or her knowledge; and
- Declares under penalty of perjury that no representations have been made as to the accuracy of the value of production from the property.

On and after January 1, 1997, authorizes the assessor to require owners and operators to submit written documentation in support of the information provided in their statement. Requires owners and operators to supply the requested information within 45 days. Provides that any owner or operator who willfully fails or refuses to comply with a request shall be fined \$100 for each day of the willful failure or refusal, not to exceed \$3000 in any calendar year. Requires fines to be paid to the county assessor. Requires unpaid fines to be included in the delinquent owner's or operator's property tax statement.

States that all statements and documentation filed with the assessor shall be confidential and made available to the assessor, the administrator, and the annual study contractor, and on a confidential basis to the board of assessment appeals and the county board of equalization when information is relevant to an appeal or protest. States that anyone who divulges confidential information is guilty of a misdemeanor.

**APPROVED** by Governor March 25, 1996

**PORTIONS EFFECTIVE** March 25, 1996, January 1, 1997

**H.B. 96-1084** Property tax - deadlines for certification of abatements and refunds, total valuation for assessment, and growth valuation for assessment. Changes the cutoff date for certification of the amount of property tax revenue rebated or refunded by taxing entities from September 1 to August 1. Changes the date by which county assessors must certify to each authority in the county the total valuation for assessment of all taxable property within the territorial limits of the authority from September 15 to August 25. Changes the date by which assessors must annually report the amount of growth valuation for assessment in their counties from October 10 to August 25.

**APPROVED** by Governor February 22, 1996

**EFFECTIVE** February 22, 1996

**H.B. 96-1109** Property tax - personal property exemption - reimbursement to local governments - fund created. For property tax years beginning on and after January 1, 1997, exempts from the

levy and collection of property tax a stated amount of actual value of personal property listed on a personal property schedule.

For property taxes levied in property tax years beginning on and after January 1, 1997, requires the state treasurer to transmit a specified amount of moneys for losses in property tax revenue to each local government in which the total assessed value of all taxable property within its taxing jurisdiction decreases below the total assessed value of all taxable property for such government for the 1996 property tax year. Creates the property tax exemption backfill fund and, for fiscal years beginning on and after January 1, 1997, requires the general assembly to appropriate a specified amount to the fund for reimbursement to local governments. By March 1, 1998, and each year thereafter, requires the property tax administrator to prepare a report specifying the amount to be transmitted to each local government and to submit the report to the state treasurer and the general assembly.

Requires the property tax administrator to create a short form of schedule to be used by a taxpayer in reporting personal property when the actual value of all personal property listed on the schedule is equal to or less than the actual value exempt from the levy and collection of property taxes. Prohibits the short form from requiring a taxpayer to list personal property by individual item.

**VETOED** by Governor June 5, 1996

**H.B. 96-1113** Property tax - valuation - minor structures on vacant land - change in tax status of property - oil and gas drilling rigs. Allows for the existence of minor structures on vacant land. Defines "minor structures". Clarifies the applicability of the review and approval process used for manuals and associated data published by the administrator to assist assessors in the valuation of property. Repeals an obsolete statutory section concerning state assessed valuations. For purposes of determining the proportion of valuation that is taxable when exempt property becomes taxable or taxable property becomes exempt, deletes the requirement that the change in status occur between the assessment date and the date taxes are levied in order for such value to be prorated. Clarifies that oil and gas drilling rigs are valued pursuant to certain procedures, even if brought into the state after the assessment date or removed from the state before the assessment date.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**H.B. 96-1121** Income tax - credit for child care expenses. Beginning with the 1996 income tax year, allows a Colorado taxpayer a credit against state individual income taxes in an amount equal to a stated percentage of the child care expenses credit claimed on the taxpayer's federal tax return depending on the taxpayer's federal adjusted gross income. Permits a taxpayer to carry forward for up to 5 years any unused credit. Allows the credit to a part-year resident in an apportioned amount.

**APPROVED** by Governor May 30, 1996

**EFFECTIVE** May 30, 1996

**H.B. 96-1131** Property tax - notices of valuation - valuations for assessment - reporting of errors - abatement reports - payment of delinquent taxes - properties with tax liens subject to sale.

Requires notices of valuation for both real and personal property to be mailed annually, regardless of whether there is a change in value.

Directs assessors to notify the department of education of the total valuation of land and improvements within taxing entities located in their county. Directs assessors to certify valuations for assessment to the department of education.

Requires assessors to report to the board of county commissioners any erroneously or illegally collected taxes that assessors discover. Changes the date by which treasurers must make their annual report of abated, refunded, and uncollectible taxes to the administrator from March 1 to August 25.

Increases the time allowed for taxpayers to pay delinquent taxes and interest from 10 to 15 days after the mailing of a treasurer's notice of delinquent taxes. With respect to the requirement that treasurers make a list of properties the tax liens on which are subject to sale, deletes the requirement that such list be prepared twenty days after the mailing of notices of delinquent taxes.

Increases the threshold valuation of property that requires county treasurers to publish notice of purchase of a tax lien from \$100 to \$500.

**APPROVED** by Governor March 25, 1996

**EFFECTIVE** March 25, 1996

**H.B. 96-1156** Income tax - voluntary contributions - Colorado child care improvement fund - appropriation. For the 1996 income tax year and income tax years thereafter, establishes a voluntary income tax check-off on Colorado individual tax returns to allow Colorado taxpayers to contribute money to be used to make grants to improve the quality of child care programs in the state. Establishes the Colorado child care improvement fund and provides for the voluntary contributions to be credited to the fund. Provides for the distribution of moneys from the fund through the Colorado children's campaign, a Colorado nonprofit organization. Requires the Colorado children's campaign to establish criteria for the distribution of the moneys.

Imposes limits on the amount of voluntary contributions that the Colorado children's campaign may spend for administrative costs and marketing. Creates the child care improvement oversight committee and sets forth the committee's oversight responsibilities relating to grants awarded by the Colorado children's campaign.

Appropriates \$27,567 from the Colorado child care improvement fund for the fiscal year beginning July 1, 1996, to the department of revenue for the implementation of this act.

Repeals the provisions of this act on January 1, 2000.

**APPROVED** by Governor May 30, 1996  
**EFFECTIVE** May 30, 1996

**H.B. 96-1177** Income tax - enterprise zone tax credits - sales and use tax exemption - activities involving agricultural products. Expands the enterprise zone income tax credit for new business facility employees to include taxpayers who operate a business in an enterprise zone that adds value through the handling, packing, grading, processing, containerizing, or any other activity involving agricultural commodities. Expands the income tax credit for research and experimental activities within an enterprise zone to include research and development activities that result in an alternative use of or added value to an agricultural product. Exempts from sales and use tax the purchase of machinery or machine tools to be used exclusively in enterprise zone by a person engaged in the manufacturing, processing, or handling of agricultural commodities.

**VETOED** by Governor April 12, 1996

**H.B. 96-1236** Taxation - public utilities - database of taxable addresses - task force - electricians' license exemption. Creates a task force to determine the accuracy of using state, county, or local governmental precinct information or other regularly updated sources of information as a method for determining taxable addresses or locations within taxing entities in the state that impose taxes upon the services or property of a public utility. Requires such information source to meet a specified level of reliability. Specifies the membership of the task force. Requires the task force to submit recommendations by January 1, 1997, to the general assembly to enact legislation designating an information source to serve as the basis for a computer database to be maintained as a public record.

Creates an exemption from the licensing requirements for electricians for installations of electrical facilities under the exclusive control of electric utilities for the purpose of demand side management equipment owned and operated by an electric utility on the load side of the meter.

**VETOED** by Governor June 6, 1996

**H.B. 96-1239** Property tax - valuation of water rights. Provides that exchanged water rights and nonexempt dams, ditches, pipelines, canals, flumes, reservoirs, bypasses, conduits, wells, pumps, or other associated structures or devices used to produce, hold, transport, measure, or exchange water shall be valued for property tax purposes with the item of real property served by the water. Clarifies that valuing real property and the water rights serving the real property as a unit means that any increase in value of the real property served with water made available directly, or by exchange, by the use of any dam, ditch, pipeline, canal, flume, reservoir, bypass, conduit, well, pump, or other associated structure or device shall be included in the valuation of the real property served by the water rights.

Applies to property tax years commencing on or after January 1, 1996.

**APPROVED** by Governor April 23, 1996  
**EFFECTIVE** April 23, 1996

**H.B. 96-1267** Personal property tax - exemption. For property tax years commencing on and after January 1, 1997, exempts personal property from the levy and collection of property tax if the personal property would otherwise be listed on a single personal property schedule and the actual value of the personal property is \$2,500 or less.

**APPROVED** by Governor June 5, 1996  
**EFFECTIVE** See Note

**NOTE:** This act was passed without a safety clause. It will take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly unless a referendum petition is filed pursuant to section 1 (3) of the state constitution. In that event, the act will take effect on the date of the official proclamation of the governor, if it is approved by the voters at the 1996 election.

**H.B. 96-1277** Income tax - procedures for payment by nonresident partners of partnerships. For income tax years commencing on and after January 1, 1996: 1) Modifies the filing requirements for Colorado income tax returns of partnerships; and 2) Requires nonresident partners of a partnership to sign an agreement to file a return and pay their share of income tax due on the partnership's income or requires the partnership to file a return and pay the income taxes due from nonresident partners.

**APPROVED** by Governor April 16, 1996  
**EFFECTIVE** April 16, 1996

**H.B. 96-1283** Property tax - valuation of superfund water treatment facilities. States that the income approach to appraisal shall be considered the primary indicator of the value of superfund water treatment facilities. Requires that the cost approach or market approach to appraisal be used to value superfund water treatment facilities only if the value determined under the cost approach or market approach is less than the value determined under the income approach to appraisal. Requires the assessor to capitalize the actual income generated by the property at 10% per annum. Defines "superfund water treatment facilities".

Applies to property tax years commencing on and after January 1, 1996.

**APPROVED** by Governor March 25, 1996  
**EFFECTIVE** March 25, 1996

**H.B. 96-1290** Property tax - abatement or refund - extension of time period for common interest community to request - filing deadline. Extends the time period within which a common interest community may file a petition for abatement or refund of property taxes for property tax years commencing on or after January 1, 1985, but prior to January 1, 1996. Requires a common interest community to file such petition on or before January 1, 1997. Limits the common interest community's right to receive refund interest on such abatements or refunds to the refund interest accruing for the two latest years of illegal or erroneous assessment.

**APPROVED** by Governor April 25, 1996  
**EFFECTIVE** April 25, 1996

**H.B. 96-1313** Taxation - department of revenue - notices by first-class mail. On or after July 1, 1996, allows the department of revenue to mail notices to taxpayers by first-class mail, rather than by certified mail, to the last-known address of a taxpayer. Establishes a presumption that notices sent by first-class mail and certified by an employee of the department as sent by first-class mail have been received by the taxpayer. Provides that evidence of the notice and certification of mailing the notice is prima facie proof that the notice was received by the taxpayer.

**APPROVED** by Governor April 8, 1996  
**EFFECTIVE** July 1, 1996

**H.B. 96-1333** Sales and use tax - exemption for machinery or machine tools used in manufacturing. On and after July 1, 1996, changes the requirement that machinery or machine tools used in manufacturing be used exclusively for manufacturing to a requirement that they be used predominantly for manufacturing in order to qualify for an exemption from sales and use tax. Defines the term "machinery". For purposes of the exemption, provides that direct use in manufacturing is deemed to begin at the point at which raw material is moved from plant inventory on a contiguous plant site and to end at a point at which the raw material has been altered to its completed form, including packaging. Provides that machinery used to move material from one production step to another and machinery used in testing during the manufacturing process are deemed to be directly used in manufacturing for the purposes of the exemption.

**APPROVED** by Governor June 5, 1996  
**EFFECTIVE** June 5, 1996

**H.B. 96-1359** Sales and use tax - wireless telecommunication equipment - sale or transfer - purchase price. For purposes of state sales tax, defines the term "purchase price", when applied to the transfer of wireless phones at no cost or little cost as an inducement to a consumer to enter into or continue a contract for telecommunication services that are subject to state sales tax, means the cash amount paid by the consumer and does not reflect any sales commission or other compensation received by the retailer as a result of the consumer entering into or continuing a contract for such telecommunication services. States that this definition does not apply to the amount a retailer collects from a consumer who defaults or terminates a contract for telecommunication services. States that the transfer of wireless phones as an inducement to enter into or continue a contract for telecommunication services that are subject to sales taxes shall not be construed to be the storage, use, or consumption of the equipment by the transferee and is therefore not subject to use tax.

Applies to legal or administrative proceedings commenced before, on, or after the effective date of the act.

**APPROVED** by Governor May 22, 1996  
**EFFECTIVE** May 22, 1996

## **TRANSPORTATION**

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**S.B. 96-173** Public highway authorities - elimination of taxation powers. Eliminates the powers of taxation granted to a public highway authority under the "Public Highway Authority Law" since the Colorado supreme court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo. 1995), determined that the power to impose taxes is inconsistent with the establishment of a public highway authority as an "enterprise" under section 20 of article X of the state constitution.

**APPROVED** by Governor March 18, 1996  
**EFFECTIVE** March 18, 1996

**S.B. 96-200** Department of transportation - disposal of property - procedures. Prior to the disposal of any property or interest therein worth \$5,000 or more that is no longer needed for transportation purposes, requires the department of transportation to obtain an appraisal from a certified appraiser to determine the fair market value of such property or interest. Specifies the methods for determining the first right of refusal on such property or interest. If refusal is not exercised, requires the department to dispose of such property or interest by means of a sale or exchange for not less than its fair market value. For property or interest therein worth less than \$5,000, allows the department to employ a right-of-way acquisition agent to provide an estimate of the fair market value of such property.

In regard to the disposal of property or interest therein by the department of transportation, eliminates the following requirements:

- That the first right of refusal on property no longer needed must be given to political subdivisions of the state and then to the abutting landowner;
  
- That the cost of any property offered to a political subdivision may not exceed the cost of acquisition to the department;

- That the rule against perpetuities does not apply to rights to purchase or rights to repurchase; and
- That the department must give the first right of refusal to the original owner of property upon which there has been no construction.

Requires the department of transportation to dispose of, by means of a sale or exchange at not less than its market value, any portion of an abandoned state highway if the portion is not claimed by a county, city, or town for a county highway or a city street. Eliminates the requirement that title to such portion reverts to the abutting land owner. Specifies that the manner of disposal is the same as required for property that is no longer needed for transportation purposes.

Requires the department of transportation to vacate any property or interest therein that is no longer necessary for transportation purposes or as a state highway if the department is unable to sell or exchange the property or interest or the vacated state highway, as applicable, following a diligent effort

for 5 years.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**H.B. 96-1028** Highways - advertising devices. Amends the definition of "directional advertising device" to include devices that direct emergency vehicles to remote locations. Authorizes on-premise advertising devices, in addition to awnings, that are attached to buildings adjacent to state highways to extend over rights-of-way. Requires the department of transportation to issue permits for advertising devices on bus benches or bus shelters in the right-of-way of a state highway if the local governing body having jurisdiction over the state highway approves the advertising device.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**H.B. 96-1144** Turnpike construction - powers of department of transportation - public-private initiatives - highway commission - disposition of tolls. Adds to the powers of the department of transportation the ability to design and finance turnpikes within the state. Authorizes the department to contract with public or private entities through a public-private initiative to design, finance, construct, operate, maintain, reconstruct, or improve a turnpike. Requires the contract to contain a provision that the public or private entity secure adequate liability insurance for any turnpike project. Allows the department to revise periodically the fees, fares, and tolls charged

for travel upon any turnpike.

Requires, rather than permits, the department to use excess revenues after bond retirement for the cost of maintaining, repairing, and operating a turnpike. Specifies the priority in which the revenues generated from the fees, fares, and tolls are to be used when bonds are issued and when bonds are not issued. If a turnpike project is adequately maintained, allows the department to use any additional proceeds for the maintenance, construction, and operation of a network of turnpikes.

Eliminates the provision requiring the department to maintain a turnpike free of tolls once the bond debt is retired. Eliminates the long-range highway program that authorizes the department to construct turnpikes and speedways.

Clarifies that the transportation commission, rather than the department, has the authority to pass a resolution authorizing any action by the department with respect to a turnpike project.

Eliminates the provision requiring a corporation formed to construct a toll road to commence and continue work on such road until \$500 has been expended.

**APPROVED** by Governor April 23, 1996

**EFFECTIVE** April 23, 1996

**H.B. 96-1215** Aeronautics division - authority to contract - duty of aeronautical board to distribute federal funds - definition of "aviation purposes". Expands the definition of "aviation purposes" to include informal public education or training or informational materials for dissemination to the public concerning aviation in Colorado. Allows the division of aeronautics, under supervision of the Colorado aeronautical board, to enter into contracts with public or private entities for aviation purposes. Authorizes the use of moneys in the aviation fund to pay for the costs of any contract that the division may award. Allows the Colorado aeronautical board to accept and distribute by contract to local airports federal funds available to the state for airport development or planning projects if certain requirements are met.

**APPROVED** by Governor May 1, 1996

**EFFECTIVE** May 1, 1996

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## **WATER AND IRRIGATION**

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**S.B. 96-64** Water conservation board - instream flow appropriations. Authorizes the Colorado

water conservation board to take agency action as provided by law to determine whether to appropriate minimum stream flow or natural lake level appropriations based on reasonable environmental considerations. Ratifies existing contractual agreements and stipulations related to such appropriations.

Specifies a procedure the board must follow in order to consider decreasing an existing instream flow right, including a public notice and comment process and public hearings. Requires the board's decision to be in writing and filed with the water court. Allows any person who appeared at the board hearing to file a petition for judicial review of the board's decision with the water court. Provides that judicial review be conducted as provided in the "State Administrative Procedure Act". If no petition is filed, requires the court to enter an order modifying the board's instream flow decree in accordance with the board's determination.

Allows minimum stream flows for natural lake level appropriations by the board as part of the endangered species recovery program for the upper Colorado river basin within Colorado and establishes criteria for such appropriations.

**APPROVED** by Governor May 23, 1996

**EFFECTIVE** May 23, 1996

**S.B. 96-74** Water well pumping - augmentation requirements. Specifies when "not nontributary ground water" shall not be considered "nontributary ground water". Defines "not nontributary ground water".

Requires that a judicial decree approving a well augmentation plan in the Dawson aquifer provide for the replacement of stream depletion caused by the withdrawal of water from the well when the withdrawal occurs between July 1, 1998, and July 1, 2001.

Requires that a judicial decree approving a well augmentation plan with a point of contact closer than one mile between any natural stream and any of the Denver, Arapahoe, or Laramie-Fox Hills aquifers provide for the replacement of actual out of priority water depletions caused by the operation of the well when the depletions occur between July 1, 1998, and July 1, 2001.

Creates a special water committee to investigate Denver basin groundwater management and South Platte basin issues. Requires the state engineer and the director of the Colorado water conservation board to conduct a study of certain issues, subject to peer and committee review.

**APPROVED** by Governor June 1, 1996

**EFFECTIVE** June 1, 1996

**S.B. 96-124** Ground water - administrative activities related to regulation of diversions - augmentation loans for Arkansas river basin - appropriations for study of Arkansas river channel restoration and data collection - penalties for violations of water diversion restrictions.

Authorizes the Colorado water conservation board to make loans of up to \$3,750,000 from the Colorado water conservation board construction fund to the Lower Arkansas water management

association to augment the waters of the Arkansas river and appropriates \$50,000 to the board for grants to coordinate data collection operations. Establishes criteria for granting or denying such loans. Authorizes the Colorado water conservation board to expend up to \$150,000 for a channel restoration study of the Arkansas river. Authorizes the state engineer and water division engineers to order energy suppliers to ground water pumps to provide records of energy supplied to such facilities for purposes of enforcing pumping restrictions. Accelerates the priority of water court cases to enforce orders to curtail ground water pumping for purposes of compliance with interstate water compacts. Imposes a civil penalty, not to exceed \$500 a day, for violations of groundwater diversion rules and reporting requirements as well as for interfering with groundwater diversion measuring equipment. Provides for the enforcement of such penalties by the state engineer and water division engineers through the attorney general's office. Makes persons responsible for excess groundwater diversions resulting in violations of interstate compacts liable for expenses of the state in mitigating any such violations.

For fiscal year 1995-96, appropriates \$309,963 and 3.6 FTE from the general fund to the department of natural resources for allocation to the state engineer, out of which amount \$75,011 and 1.2 FTE are appropriated to the department of law and \$8,870 to the department of personnel for allocation to the division of central services; for fiscal year 1996-97, appropriates \$701,836 and 9.5 FTE from the general fund to the state engineer, out of which amount \$250,038 and 3.0 FTE are appropriated to the department of law and \$21,288 to the division of central services. For fiscal year 1996-97, appropriates \$20,004 and 0.5 FTE from the general fund to the trial courts division in the judicial department.

**APPROVED** by Governor March 1, 1996  
**EFFECTIVE** March 1, 1996

**S.B. 96-153** Water conservation board - project authorization and deauthorization - studies - appropriations. Authorizes the Colorado water conservation board to expend moneys from the Colorado water conservation board construction fund on the following:

- Certain enumerated water projects;
- The Colorado river compact decision support system;
- The satellite monitoring system maintenance;
- Investigation of water resources in the lower South Platte river basin;

- South Platte river multi-objective management plan;
- Roaring Fork and Frying Pan rivers multi-objective management plan;
- Consolidated water resources information center;
- Analysis of the economic life of the Denver basin aquifer.

Appropriates \$480,000 from the Colorado water conservation board construction fund for the purpose of retaining a contractor to design the Colorado river compact decision support system and \$113,000 for the purpose of maintaining the satellite monitoring system.

Deauthorizes certain projects authorized in previous years. Changes the amounts authorized for certain projects in a previous year. Authorizes the Colorado water conservation board to adjust the interest rate of loans in cases of financial hardship. Specifies that security interests to secure loans from the Colorado water conservation board construction fund may be perfected and enforced in the same manner as security interests under the Colorado "Uniform Commercial Code - Secured Transactions".

**APPROVED** by Governor May 23, 1996  
**EFFECTIVE** May 23, 1996

**S.B. 96-223** Water conservancy districts - director election petitions. Reduces the percentage of elector signatures required for petitions relating to the election of a water conservancy district director from 15% to 10% of registered electors. Changes the qualification of electors, for the purpose of signing these petitions, from those persons who have lived in the district for one year and own real property in the district to those persons who are entitled to vote in general elections.

**APPROVED** by Governor May 23, 1996  
**EFFECTIVE** May 23, 1996

**H.B. 96-1044** Ground water - well permits - procedure in water court - reports by state engineer. Exempts wells in the Dakota aquifer from the general requirement that no new wells be constructed nor existing wells expanded outside the boundaries of a designated ground water basin without a permit from the state engineer. Allows an applicant for a water right or change of water right to proceed in water court without first applying to the state engineer for a well permit and having it issued, denied, or not acted upon for 6 months, but in lieu of such requirement,

imposes a requirement that the water court receive and consider a written consultation report on the application prepared by the state engineer or division engineer. Requires the water court to grant a decree unless construction and use of the proposed well will injuriously affect users of water under a vested water right or decreed conditional water right. Gives presumptive effect to findings of fact contained in the consultation report except in cases in which the state engineer or division engineer is a party to the action.

**APPROVED** by Governor April 16, 1996

**EFFECTIVE** April 16, 1996

**H.B. 96-1252** Augmentation water plans - terms for approval. Clarifies that a proposed plan for augmentation that relies on water that is, by contract or otherwise, of limited duration shall not be denied solely on the ground that the augmentation water is of a limited duration so long as the terms of the plan prevent injury to vested water rights.

**APPROVED** by Governor March 25, 1996

**EFFECTIVE** March 25, 1996

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## **PROPOSED STATE CONSTITUTIONAL AMENDMENTS**

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**H.C.R. 96-1006** Taxpayer's bill of rights - exclusion of unemployment compensation funds from "fiscal year spending" - exclusion of unemployment compensation charges from voter approval requirement - one-time reduction in base. For purposes of the constitutional limit on the fiscal year spending of state and local governments, amends the definition of "fiscal year spending" to exclude district expenditures and reserve increases from unemployment compensation funds. Excludes actions relating to charges imposed to fund unemployment compensation from the constitutional voter-approval requirement for tax increases. For the fiscal year commencing on and after January 1, 1997, but prior to January 1, 1998, requires district bases to be reduced by an amount equal to 80% of the amount of a district's fiscal year spending during the previous fiscal year from unemployment compensation funds.

**EFFECTIVE** upon the Governor's proclamation or thirty days after a canvas of the votes is completed, whichever occurs earlier.

**S.C.R. 96-4** County sheriffs - qualifications. Authorizes the general assembly to establish qualifications for the office of county sheriff, including training and certification requirements.

**EFFECTIVE** upon the Governor's proclamation or thirty days after a canvas of the votes is

completed, whichever occurs earlier.